

Mossotti, Chair
Scutchfield, Vice Chair
Kay
Stinnett
Akers
Gibbs
Lamb
Farmer
Bledsoe
Henson

A G E N D A

Planning & Public Safety Committee

April 14, 2015

1:00 P.M.

1. **February 10, 2015 Committee Summary** (1-4)
2. **Versailles Road Corridor Study – Henson** (5-32)
3. **Design Excellence – Kay** (33-99)
4. **Items Referred** (100)

“Planning and public safety committee, to which shall be referred matters relating to the division of planning and including, but not limited to, matters relating to housing, infill and redevelopment, purchase of development rights and historic preservation, and any related partner agencies and to which shall be referred matters relating to the department of public safety and its related divisions.”

- Council Rules & Procedures, Section 2.102 (1) Effective January 1, 2015. adopted by Urban County Council September 25, 2014

2015 Meeting Schedule

January 13	February 10
April 14	May 12
June 9	August 11
September 8	October 13
November 10	



Planning and Public Safety Committee Meeting
February 10, 2015
Summary and Motions

Chair Mossotti called the meeting to order 1:00 p.m. All Committee Members were present. Council Members Evans, Brown and Ford were also in attendance.

1. January 13, 2015 Committee Summary

A motion to Approve January 13, 2015 Committee Summary was made by Scutchfield, seconded by Henson. Motion passed without dissent.

2. Committee Structure & Organization

Paul Schoningher, Council Research Analyst, gave an overview of Robert's Rules of Order. Schoningher stated that Robert's Rules "give order and function while allowing for healthy debate and full participation."

3. Design Excellence Ordinance

Vice Mayor Kay gave a presentation of the Design Excellence Ordinance. Farmer stated the importance of having incentives to make this work, and questioned the addition of two positions. Kay stated having additional staff to help guide applicants through the process would be considered a significant incentive that will save time and money. Kay stated the Task Force considered cash incentives, but instead decided to have TIF (Tax Increment Financing) application fees to be absorbed by the city. Kay stated the conditions are open to review and modification.

Kay stated the Infill & Redevelopment Committee has been working in parallel on some of the same issues. Kay reported they have reinstituted the Vacant Lot Commission, among other changes, improving the way the city regulates development. Kay believes these changes will convince developers that the city is committed to simplifying the process, and is continuing to work on those types of incentives.

Farmer inquired if either of the two proposed positions, Project Facilitator or Design Excellence Officer, were more expedient to the implementation of the Ordinance. Kay stated the application of the guidelines would be extremely difficult without staff to manage them. Kay also noted the Project Facilitator would be of assistance to other departments during slow development periods.

In response to a question from Akers, Kay stated there has been significant turnover of membership on the Task Force Board, and the current draft was agreed upon by the current members. Akers inquired if the Project Facilitator would review applications for upcoming TIF projects. Kay stated that he envisions TIF applications going through the review process, with the assistance of the Design Officer. Akers inquired if there was a mechanism in place to determine the Ordinance's effect on downtown development. Kay stated this would be difficult if not impossible to measure, because development involves too many variables. Akers stated she would like more information about incentives.

Stinnett inquired about the status of the Task Force. Kay stated the proposal is their final recommendation and they are currently on hiatus. In response to Stinnett, Kay stated that government projects that fall within the project boundaries would not be required to adhere to the standards; Kay offered that if Council has interest in holding local government to these standards, this could be stipulated at a later time.

In response to a question from Stinnett about the role of the Downtown Development Authority (DDA), Kay stated the new Board would replace the Courthouse Overlay Board, and would have greater jurisdiction. Stinnett asked if the DDA could take on this role, as they had performed aspect of it in the past. Kay stated this is a possibility but feels that the DDA has a different mission.

Stinnett emphasized the importance of keeping the urban service boundary intact, stating that density is an important factor to be considered in the success of the proposal and that incentives to develop downtown should be considered.

Mossotti also inquired about incentives and asked when this part of the proposal would be finalized. Kay noted their dependence on the budget, which will be finalized in June, and the parking garage decision, which is due within 6-8 months. Mossotti stated she would like to hear input from the development committee. Kay stated that those who have been involved feel this is a positive effort and should go forward.

Lamb asked about the Downtown Development District (DDD) and how it related to the Design Excellence Ordinance. Kay stated it is a related effort that is consistent with the aims of Design Excellence but that does not intersect. Lamb asked if there could be collaboration between the two for incentives. Kay stated there was room for debate about the way in which resources are used to move towards a common goal.

Stinnett asked how many active projects there are downtown and how many would be impacted by this proposal. Kay stated he does not have data for this but stated there would be no shortage of work for those individuals. Farmer stated Council should collect some of their own data before approving this proposal. Stinnett would like to see more discussion about incentives

Akers questioned if the Infill & Redevelopment Committee should be included in this discussion for Council. Kay stated Infill & Redevelopment will not meet again until March, and that incentives are not on the agenda. Kay stated he would circulate the request to Committee. Gibbs stated his support for the proposal. Stinnett requested a list of the incentives that were discussed. Kay said he would send this information to Council members.

Bill Justice, Downtown Property Owner, voiced his concerns about incentives adding extra cost to taxpayers.

A motion to keep Design Excellence Ordinance in Committee was made by Farmer, seconded by Akers. Motion was passed without dissent.

4. Fire Code Amendments

Fire Marshall Farmer presented the need to update the Fire Code Amendments. Farmer stated the changes were overdue, as some of the ordinances have not been updated since 1946. Farmer explained the need to change some of the verbiage to align with the State Fire Marshall's Code.

A motion to move the Fire Code Amendments to Council was made by Farmer, seconded by Henson. Motion passed without dissent.

5. Taxi Cab Ordinance

Henson read over the proposed changes to the Taxi Cab Ordinance. Rick Curtis from Public Safety stated he has spoken with managers of the taxi cab companies. Henson stated she wanted to be sure that doing away with the 24/7 requirement would not hurt patrons without electronic devices. Lamb stated she would like to hear from the companies who would be affected and inquired if the companies had seen a copy of the drafted ordinance. Curtis stated they had not. Lamb stated this is a bad business practice and that affected parties should have the opportunity to review the material, and be allowed the opportunity to speak to the Committee.

Gibbs inquired how customers without a smart phone would find a cab. Curtis stated that a dispatcher would still be available; the requirement would only change that they would not have to operate from a central location.

Henson stated that reducing the number of taxis seemed fair as it would allow the companies and drivers to be more competitive. Akers agreed this would reduce regulations. In response to a question from Stinnett, Glenda George from Law stated that the single taxi cab company with one car would be grandfathered into the new ordinance. Stinnett also asked if meters are inspected on a regular basis, to which Curtis replied they are not.

Curtis explained that the apps are globally positioned to calculate for time stopped, etc. Stinnett stated his concern about the reliability of the applications and asked how often vehicles are currently inspected. Curtis stated the inspections are conducted randomly.

Ned Shehey, General Manager of Yellow Cab, stated there is no magic number of cabs that make a sustainable company. He also aired concern that for some customers not seeing a meter seems suspect, and he warned against changing the ordinances too fast. Shehey stated there is an electronic manifest available upon request and that the paper copy is not currently available in the cars. He also informed Yellow Cab is not ready at this time to move their local dispatch to Louisville, but projects they could be there within 5 years. Akers inquired about his reservations for the new ordinance and he stated that the industry would suffer if too many changes were made too quickly.

Don Daughtery, General Manager of Bluegrass Cab stated his company was on board with reducing the number of cabs requirement. Mr. Daughtery questioned why there are two different ordinances that regulate the ridesharing industry and the taxicab industries. He stated that all meters are sealed and locked upon installation and if they are not sealed they can be tampered with. Daughtery stated the apps allow for drivers to adjust the time, because they are not connected to the vehicle. He also noted the apps would be much harder to regulate than meters, and he is opposed to getting rid of meters. He also stated the paper manifest is a redundancy. In addition to random inspections, Daughtery stated the city has two service inspections every 6 months by an independent certified mechanic and he would like to see this continue. He stated that Lyft and Uber do not fall under this regulation and will not be inspected by someone the city regulates.

Lamb asked for clarification about the inspections to which Curtis replied that the mechanical inspections require a certified mechanic and the presence of a police officer to hold an inspection. Daughtery informed there are 4 mechanics in the city that also provide cab maintenance. Lamb

stated that if the numbers of cars are lowered, there will be a need for more inspections. Curtis stated this is correct and that he would like to see a time frame extension for compliance to the proposed ordinance.

A motion to move Taxi Cab Ordinance to Council was made by Henson, seconded by Akers. Motion passed by a 7:2 vote. (Yay: Akers, Bledsoe, Gibbs, Henson, Kay, Mossotti, Scutchfield. Nay: Lamb, Stinnett)

6. Building Inspection Civil Expenses

Gibbs stated this item is for Zoning Violation Ordinance Fines, rather than Building Inspection Civil Fines, as the agenda states. Craig Bencz, Council Research Analyst presented his research findings to the Committee. Scutchfield asked how many fines from each category occurred. Bencz stated that only 36 of the cases resulted in fines. Scutchfield asked if the cities researched were merged governments. Bencz said some of the cities are merged governments.

Gibbs said he was more interested in compliance than fines and commented that Lexington's fines are a bit lower than comparable cities. Gibbs stated he would not like to see the fines raised. Akers voiced her agreement with Gibbs.

Kay asked Commissioner Paulson about the geography of the violations. Paulson stated he could send a map to Committee if requested. Kay stated there had been more enforcement and a higher level of compliance. Paulson said they had been stricter about conditional uses and that those permits are inspected once a year. Stinnet stated this responsibility used to belong to Building Inspection and was enforced by criminal penalties. He stated that approach was not efficient and that Planning had been doing a great job with this issue.

A motion to remove Zoning Violation Ordinance Fines from Committee was made by Gibbs, seconded by Henson. Motion passed without dissent.

7. Items Referred

There was no discussion on this item.

A motion to adjourn was made by Lamb, seconded by Akers. Motion passed without dissent.

Meeting adjourned at 2:53 PM.

Versailles Road Corridor Study

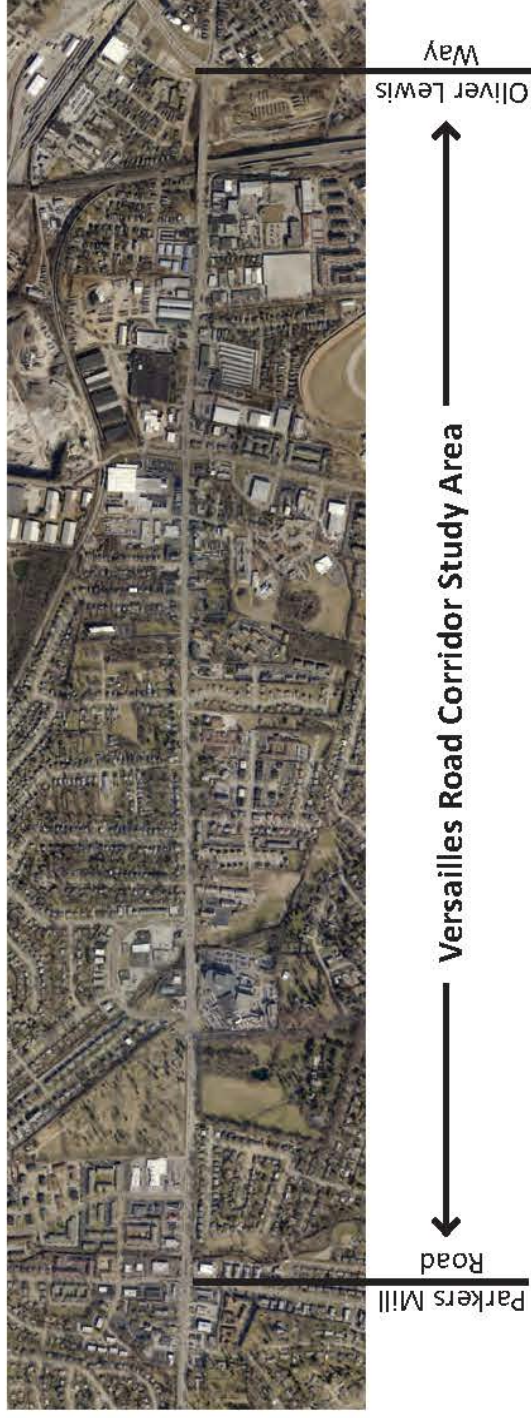
Council Presentation- Planning and
Public Safety Committee

April 14, 2015

Department of Planning, Preservation & Development
Division of Engineering

Versailles Road Corridor Study

- Prepared by EA Partners, PLC and CARMAN
 - Began work in June, 2014 and completed the study in February, 2015
 - 2.5 mile study area from Parkers Mill Road to Oliver Lewis Way



Versailles Road Characteristics

- Major Arterial
- State primary route
- Part of Federal Aid System and National Truck System
- Major commuter route
- Connects Lexington with Versailles, Bluegrass Airport, Keeneland, and Bluegrass Parkway



Versailles Road Characteristics, cont'd

- Serves as connector between neighborhoods, businesses, the University of Kentucky, and the Distillery District
- Traffic Volume
 - 25,000 Vehicles per day
 - The highest Lextran ridership for a corridor in Lexington
 - One of the highest levels of pedestrian traffic in Lexington



Study Objectives

- Developed in conjunction with studies prepared by the Kentucky Transportation Center with input from LFUCCG and stakeholders
 - Provide safer, friendlier environment for pedestrians and bicyclists
 - Encourage multi-modal usage
 - Maintain current corridor capacity and level of service

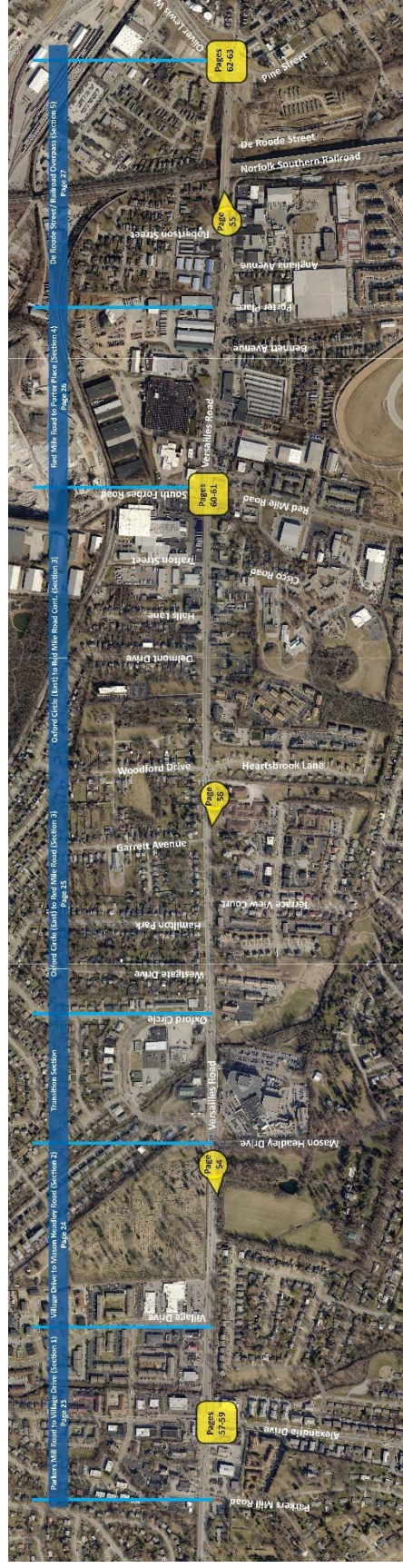
Study Objectives, cont'd

- Improve roadway drainage
- Provide visual enhancements to corridor
- Develop fundable projects
- Create a “Complete Street”



Proposed Improvements

- Study divided into five sections plus a transition section between Mason Headley and Oxford Circle East



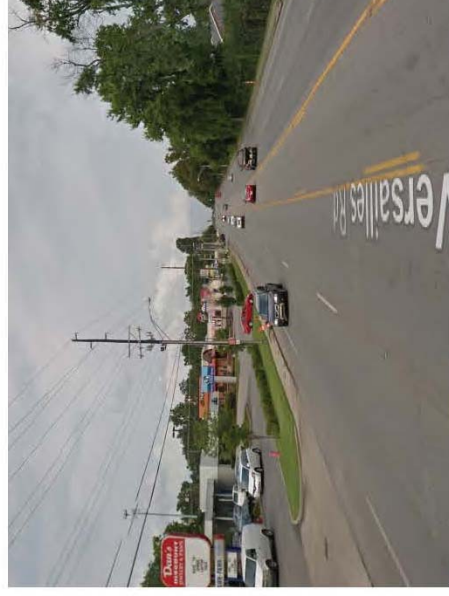
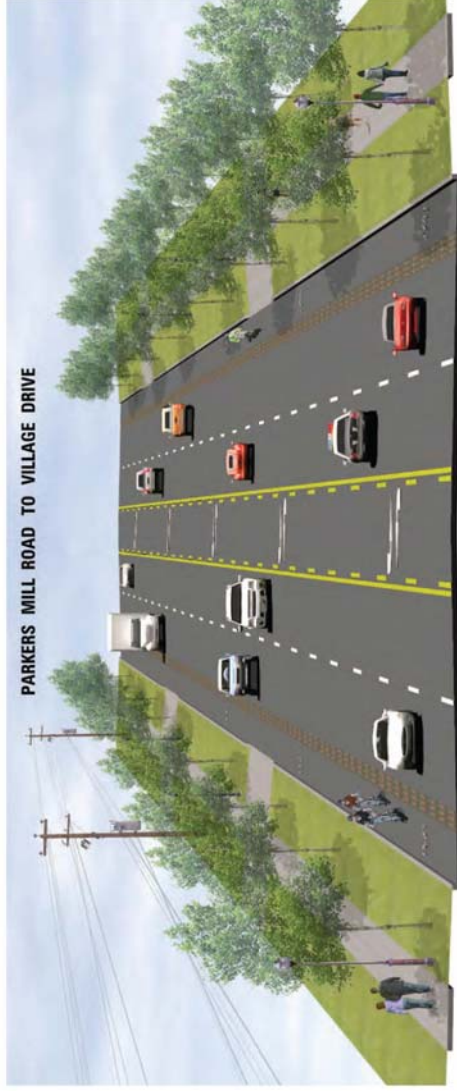
Proposed Improvements, cont'd

- Developed typical layout for each segment based on the available right-of-way
 - Recognized significant overhead utilities running along the north side of the corridor
 - Small amount of right-of-way acquisition: 33 properties



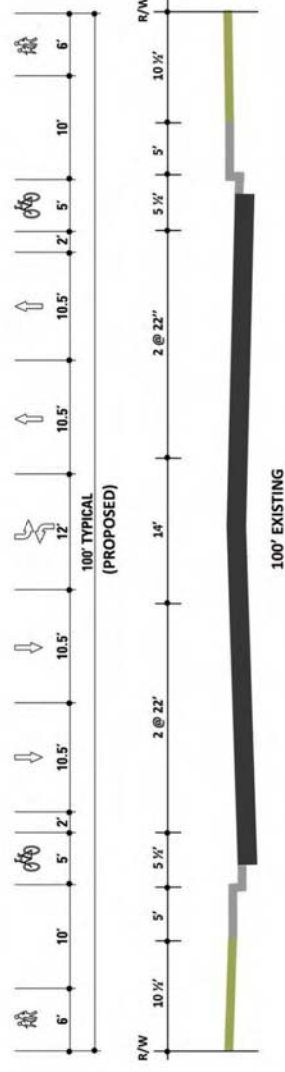
Proposed Improvements, cont'd

■ Parker's Mill to Village Drive



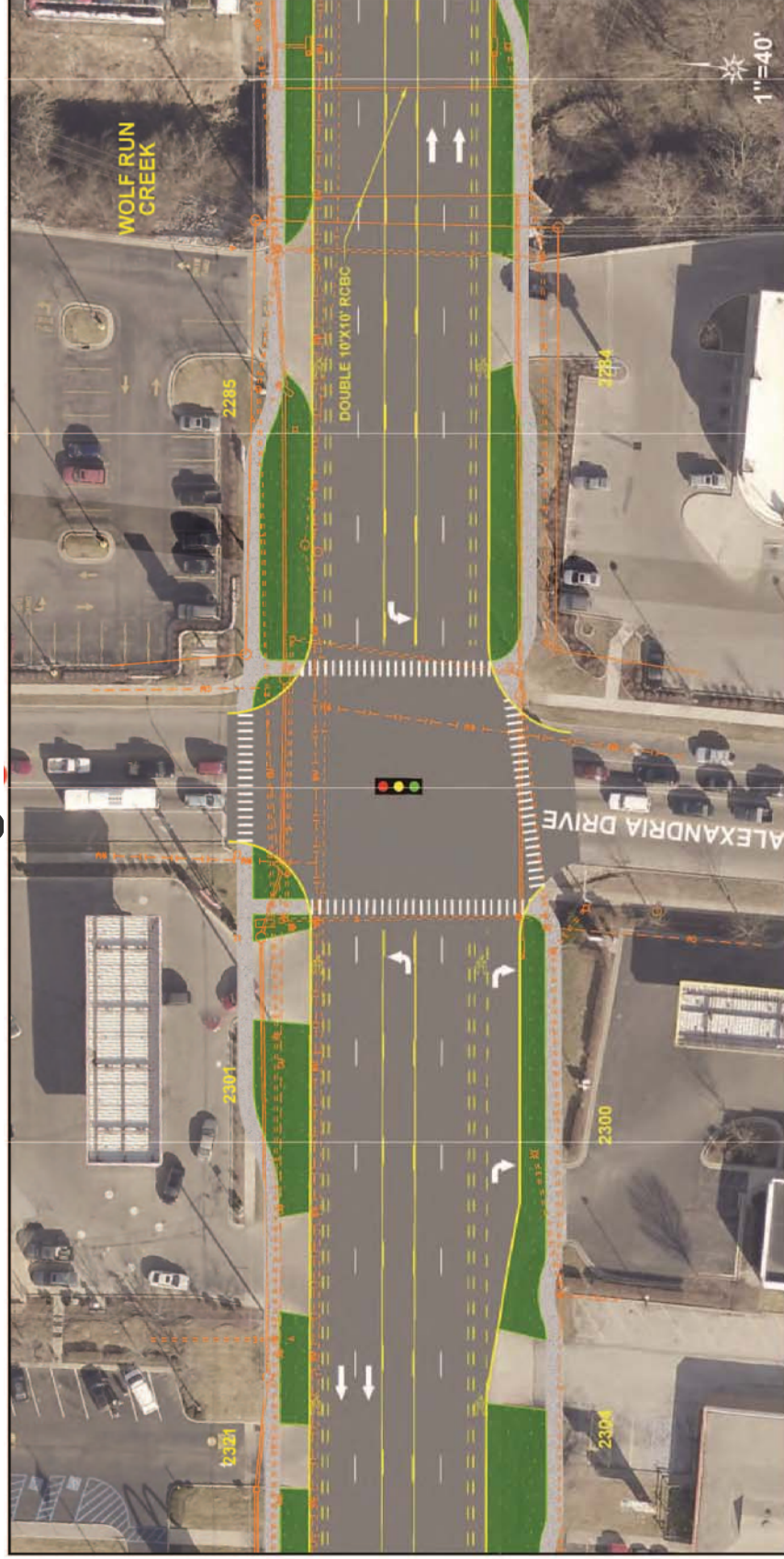
Features:

- 5 lanes of traffic (4 through lanes, 1 TWTL)
- Bike lanes with 2' wide traffic separator
- Landscape and utility strip
- 6' wide sidewalks on both sides of road
- Pedestrian scaled lighting
- Approximately 0.3 mile



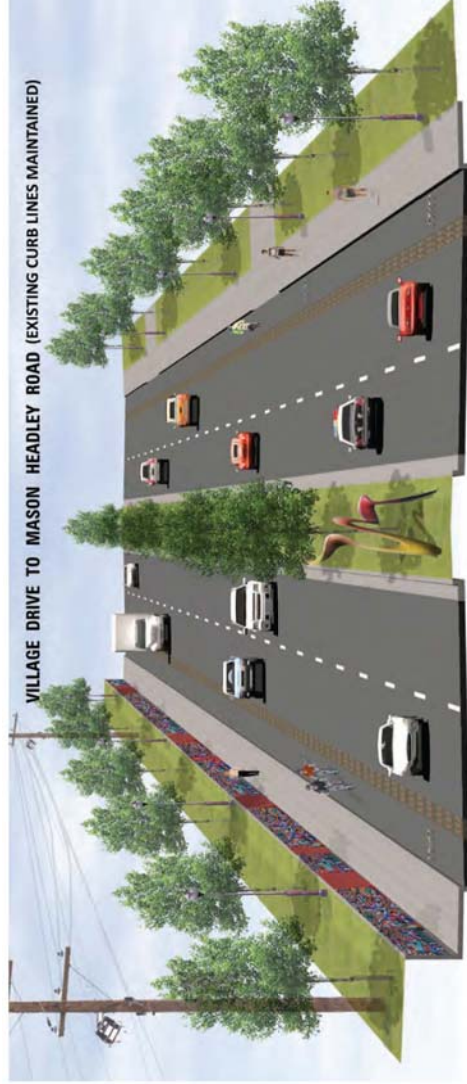
Proposed Improvements, cont'd

■ Parker's Mill to Village Drive



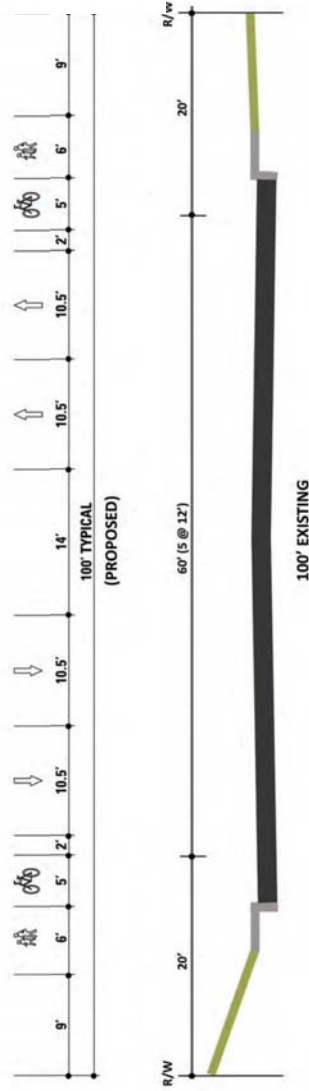
Proposed Improvements, cont'd

■ Village Drive to Mason Headley



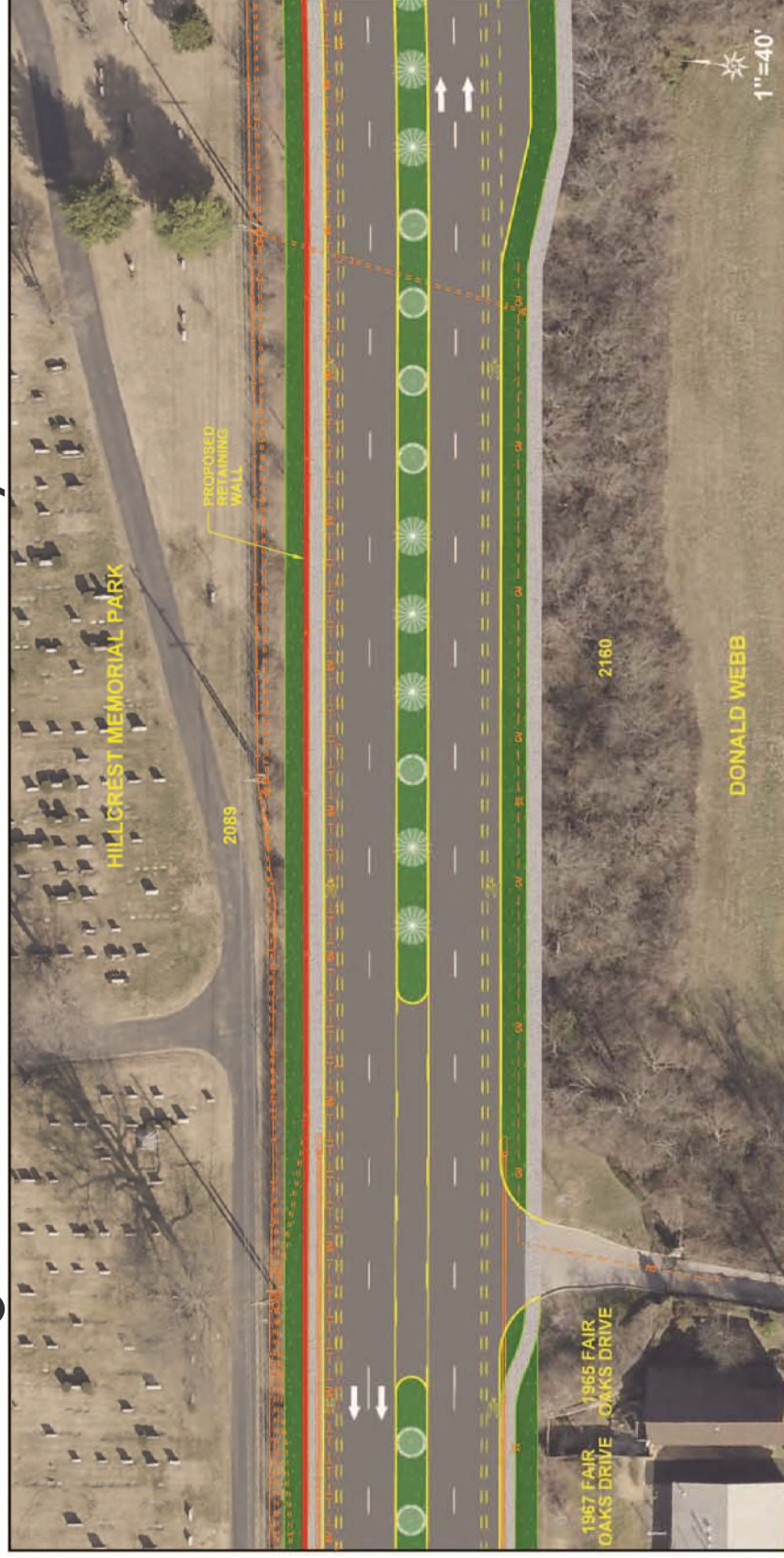
Features:

- 2 inbound lanes, 2 outbound lanes
- Planted median with art focal pieces
- Bike lanes with 2' wide traffic separator
- 6' wide sidewalks on both sides of road
- Planted area along edges of right-of-way
- Pedestrian scaled lighting
- Art wall on north side of road
- Approximately 0.3 mile



Proposed Improvements, cont'd

■ Village Drive to Mason Headley



Proposed Improvements, cont'd

Village Drive to Mason Headley



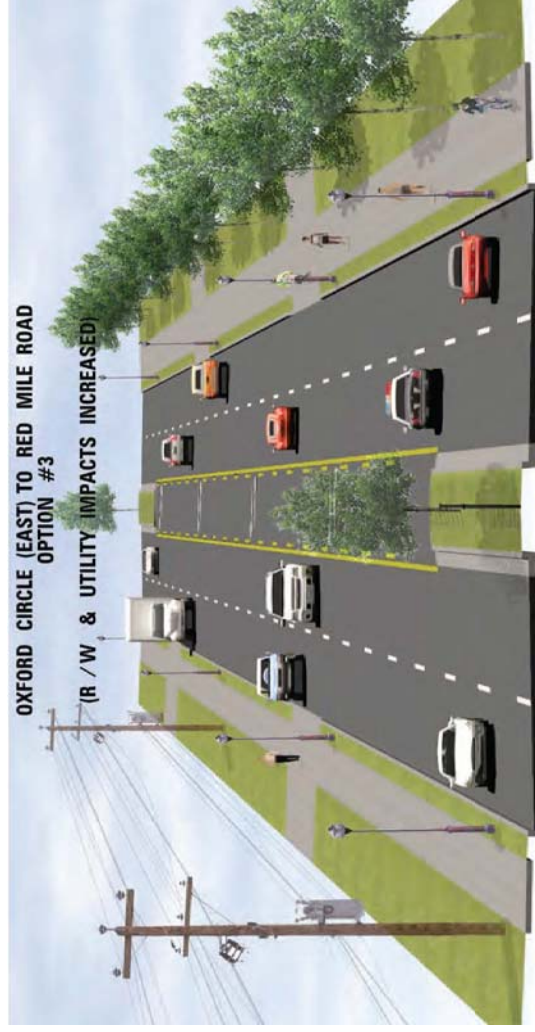
Features:

- Planted landscape median featuring ornamental trees and decorative fence
- Opportunities for public art incorporation
- Pedestrian scale lighting
- Decorative and artistic retaining wall
- Enhanced bicycle facilities on both sides of road



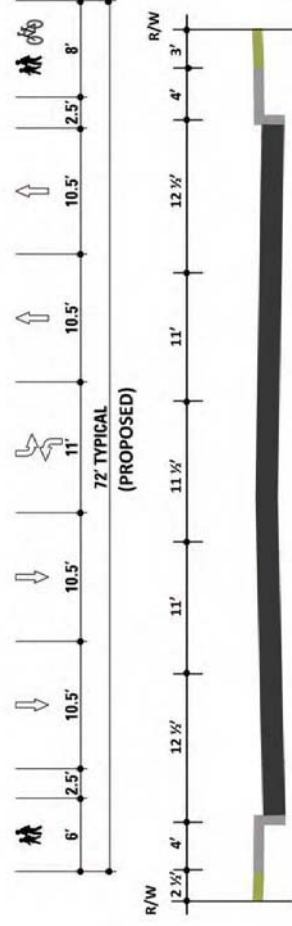
Proposed Improvements, cont'd

■ Oxford Circle (East) to Red Mile Road



Features:

- 2 inbound lanes, 2 outbound lanes
- Planted median with controlled left turns
- 6' wide sidewalks on north side of road
- 8' Shared Use path on south side of road
- Pedestrian scaled lighting
- Narrow landscape and utility strip
- Supplement existing tree planting on south side of road outside of right-of-way
- Approximately 0.9 mile

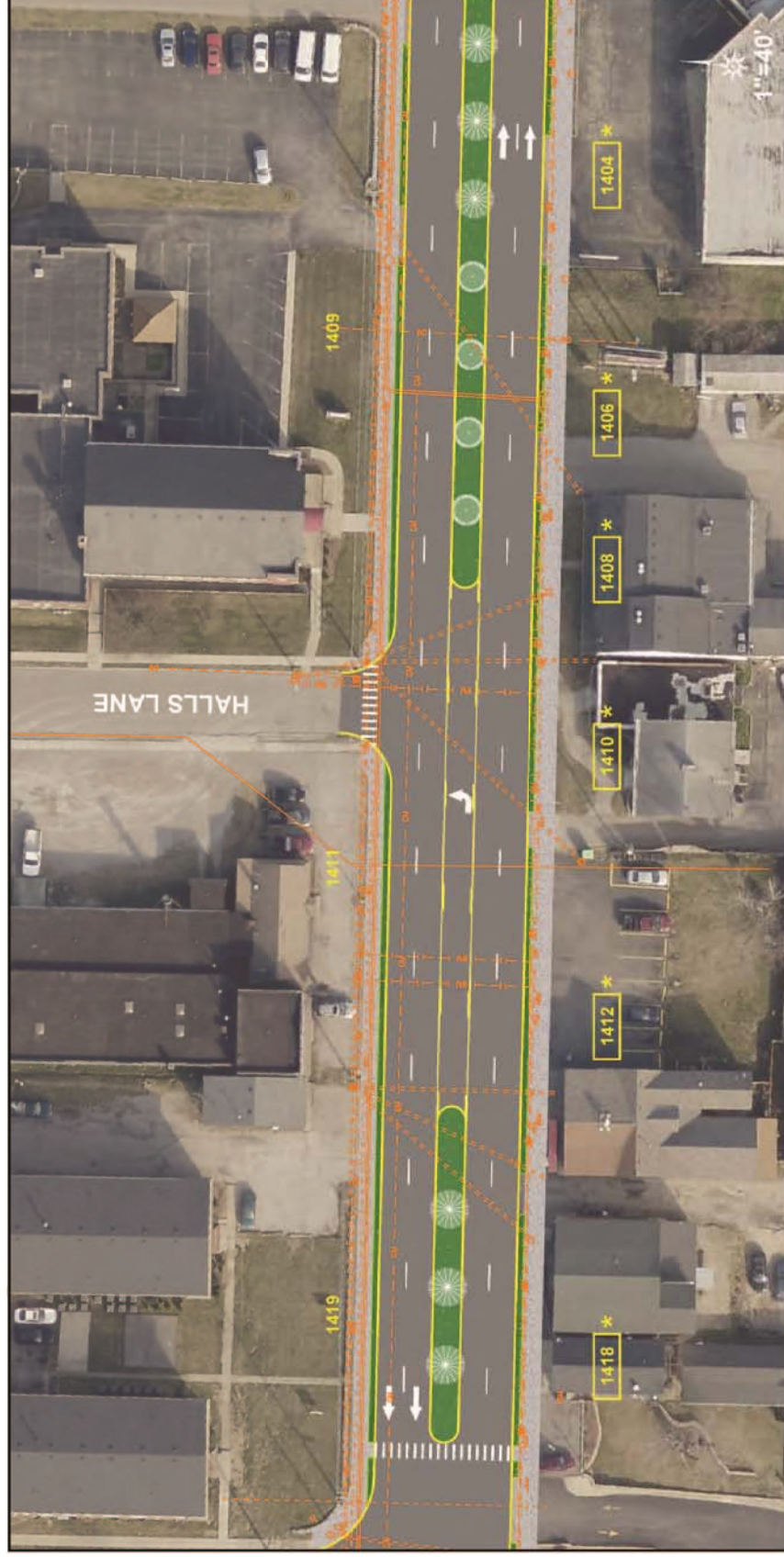


72' EXISTING
(1601 Versailles Rd.)



Proposed Improvements, cont'd

- Oxford Circle (East) to Red Mile Road



Proposed Improvements, cont'd

Oxford Circle (East) to Red Mile Road



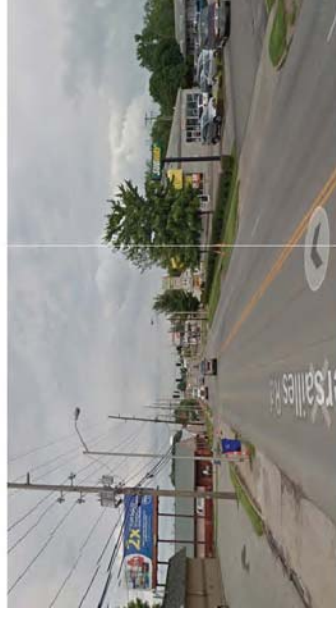
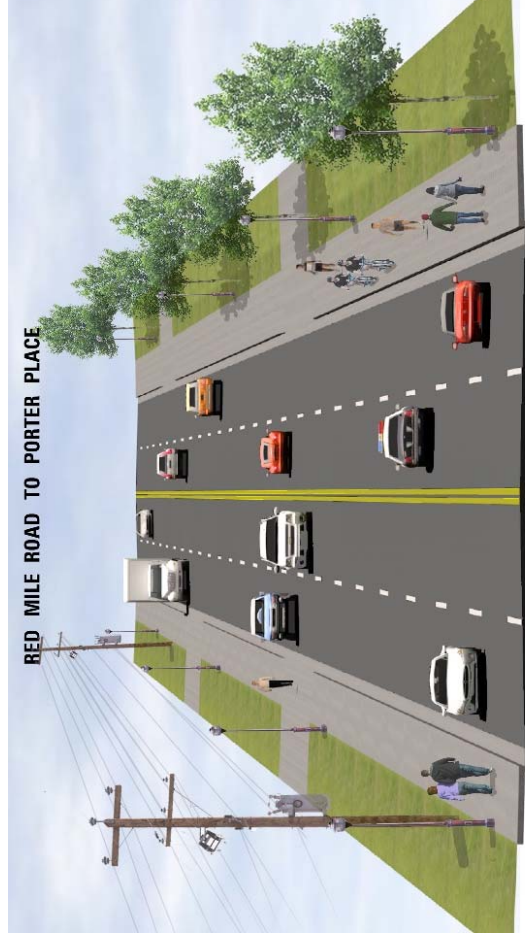
Features:

- 8' wide shared use path on south side of road
- Wider sidewalk on north side of road
- Planted medians with small shade trees
- Decorative fencing
- Pedestrian lighting
- Separation between roadway and pedestrian path



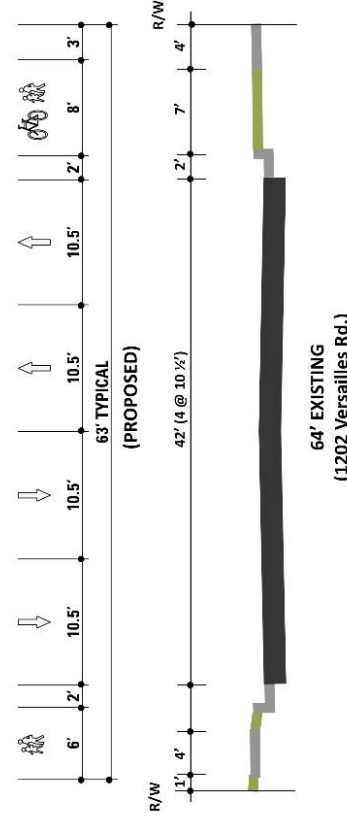
Proposed Improvements, cont'd

■ Red Mile Road to Porter Place



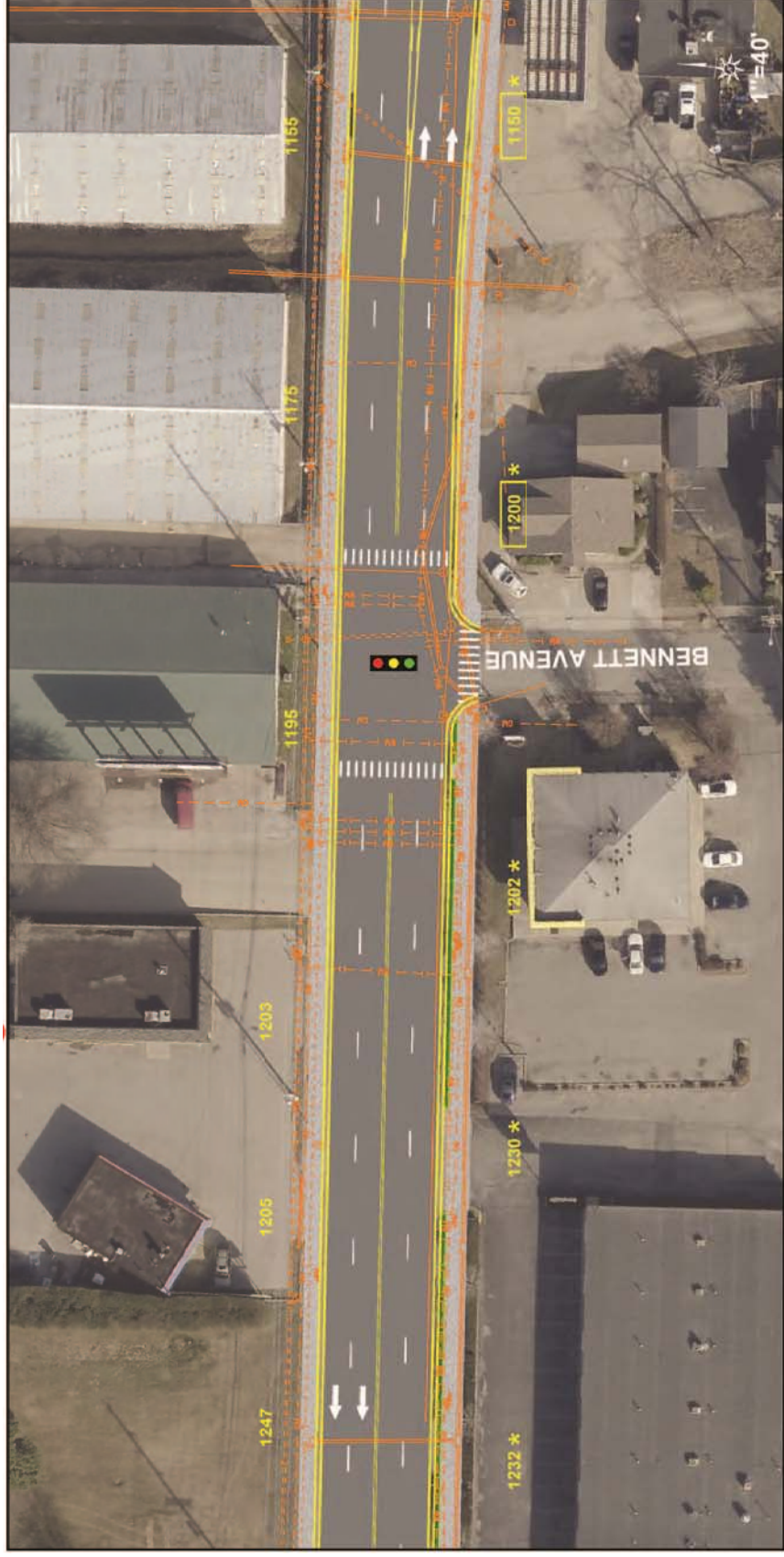
Features:

- 2 inbound lanes, 2 outbound lanes
- 6' wide sidewalks on north side of road
- 8' Shared Use path on south side of road
- Pedestrian scaled lighting
- Narrow landscape strip along south side of right-of-way
- Approximately 0.3 mile



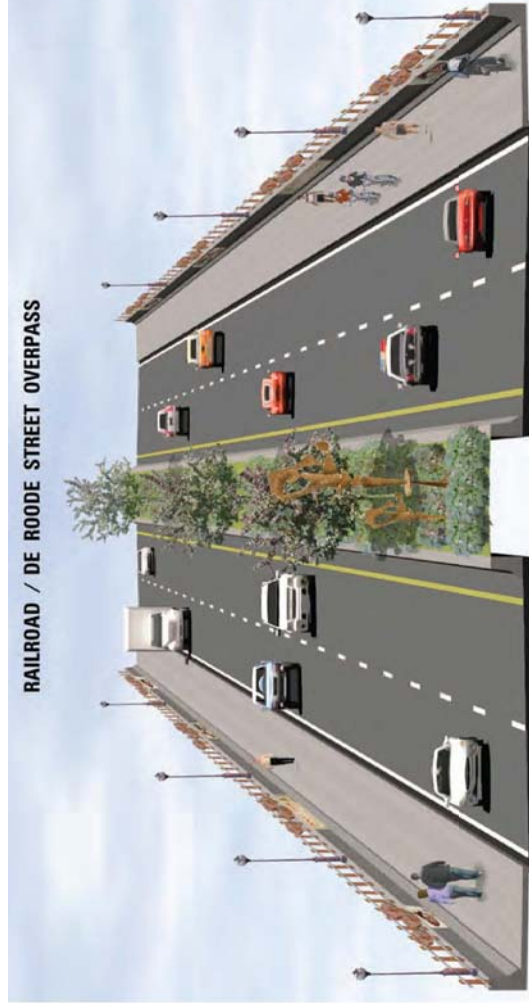
Proposed Improvements, cont'd

- Red Mile Road to Porter Place



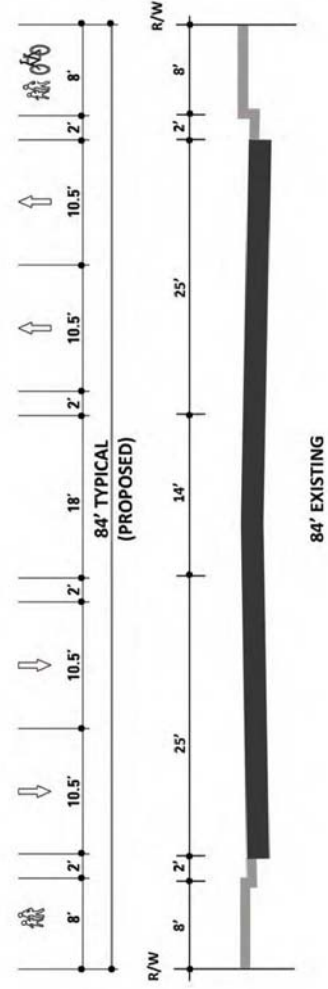
Proposed Improvements, cont'd

■ Railroad/ De Roode Street Overpass



Features:

- 2 inbound lanes, 2 outbound lanes
- Raised planted median with art pieces
- 8' wide sidewalks on north side of road
- 8' Shared Use path on south side of road
- Pedestrian scaled lighting
- Ornamental railing on bridge
- Approximately 0.4 mile (Porter Place to Oliver Lewis Way)



Proposed Improvements, cont'd

■ Railroad/ De Roode Street Overpass



Proposed Improvements, cont'd

DeRoode Street / Railroad Bridge



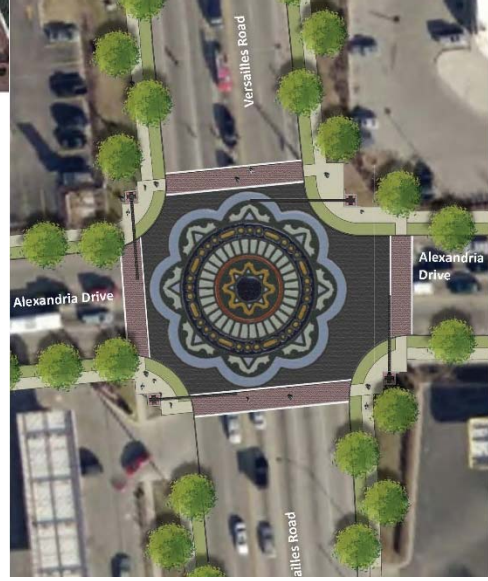
Features:

- Raised planter median walls
- Opportunities for public art incorporation
- Ornamental trees and planting palette
- Enhanced bridge walls with decorative railing
- Pedestrian lighting



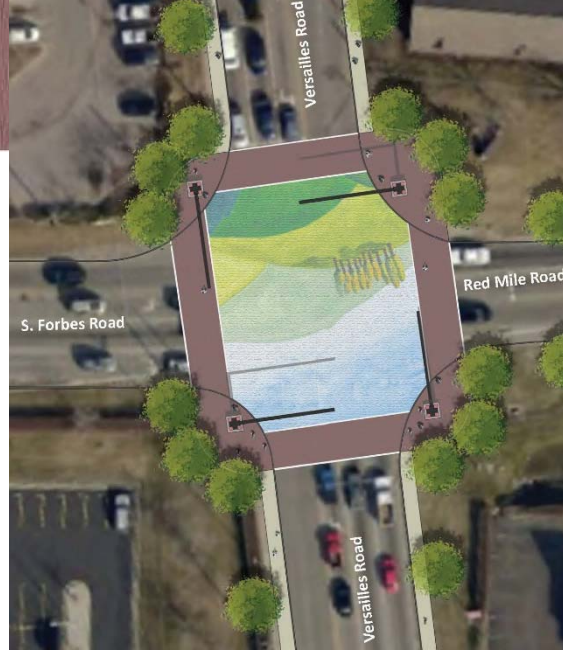
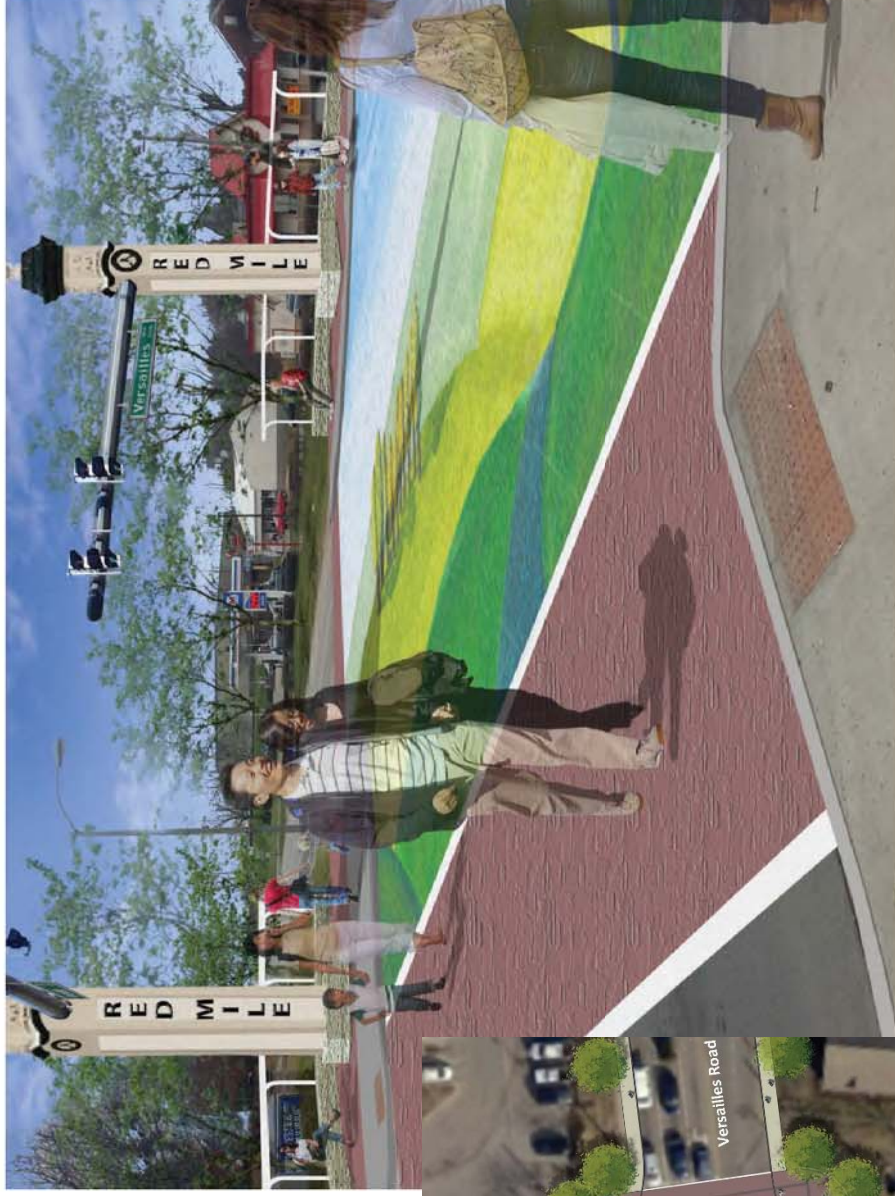
Intersection Enhancements, cont'd

Alexandria Drive



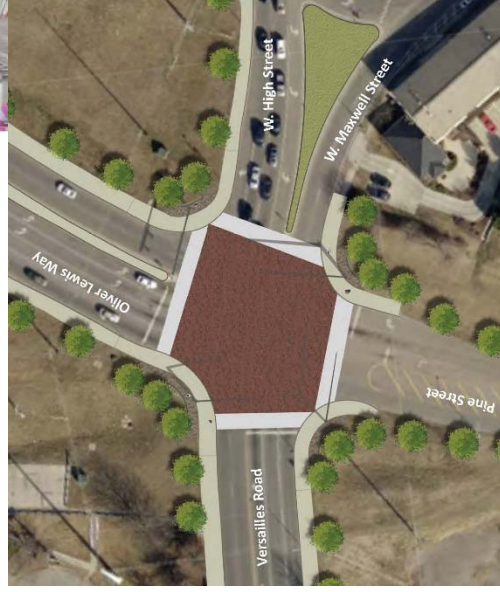
Intersection Enhancements, cont'd

Red Mile Road



Intersection Enhancements, cont'd

Oliver Lewis Way



Implementation

- Inclusion on KYTC (6-yr) Highway Plan
- Apply for funding
 - Various sources at the Federal, State and Local level
- Design and Construct in fundable phases

Project Phasing and Estimated Costs

- Phase 1
 - Village Drive to Mason Headley \$3,300,000
 - Porter Place to Oliver Lewis Way \$3,800,000
- Phase 2
 - Parkers Mill to Village Drive \$3,200,000
- Phase 3
 - Mason Headley to Oxford Cir (East) \$1,500,000
 - Oxford Cir (East) to Red Mile \$10,200,000



Project Phasing and Estimated Costs, cont'd

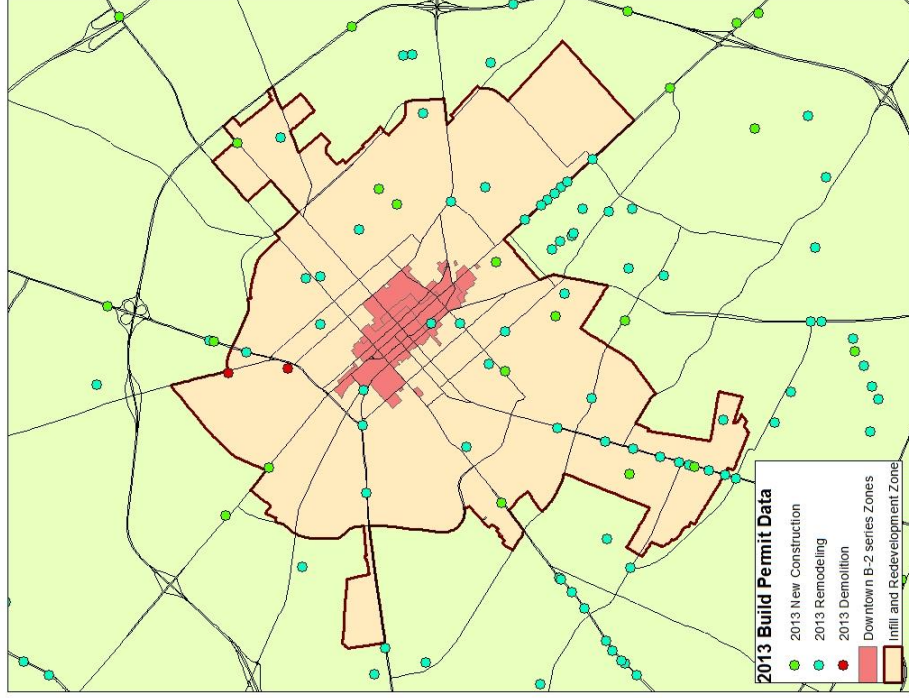
- Phase 4
 - Red Mile to Porter Place \$3,500,000
- Total Estimated Costs \$25,500,000



Questions?

Building Permit Data Review

- 2013
- This map shows the Infill & Redevelopment Boundary.
- In general, Rehab & Remodeling has outpaced new construction by about a 3:2 ratio



2010	Fayette County	Near Downtown	B-2 Specific
Total Records	1836	18	2
New Const.	1118	2	0
Rehab.	636	12	2 (116 Mechanic St – Retail Remodel) (145 Rose St – Office Remodel)
Demo.	82	4	0

2011	Fayette County	Near Downtown	B-2 Specific
Total Records	1598	19	0
New Const.	461	3	0
Rehab.	1062	16	0
Demo.	75	3	0

2012	Fayette County	Near Downtown	B-2 Specific
Total Records	2048	17	0
New Const.	820	0	0
Rehab.	1110	15	0
Demo.	118	2	0

2013	Fayette County	Near Downtown	B-2 Specific
Total Records	2052	19	0
New Const.	718	0	0
Rehab.	1242	13	0
Demo.	94	6	0

2014	Fayette County	Near Downtown	B-2 Specific
Total Records	1864	32	2
New Const.	701	9	1 (107 W Vine – Parking Structure)
Rehab.	1070	18	1 (169 Deweese St – Apartment Remodel)
Demo.	95	5	0

2015 Jan/March	Fayette County	Near Downtown	B-2 Specific
Total Records	426	20	1
New Const.	143	13	0
Rehab.	256	3	1 (190 Spruce St – Church Remodel)
Demo.	27	4	0

Building Permit Data Review

- Within the B-2, B-2A, & B-2B zoned properties, there were very few Building Inspection records that qualify in the categories of New Development, Remodeling, or Demolition.
- *Editor's Note: The majority of the records over this period in the B-2 zoned areas are for uses such as sidewalk cafés, canopies, or Zoning Compliance Permits, which were not studied as a part of this project.

Building Permit Data Review

- Even though the Near Downtown Area numbers seem small compared to the majority of the permit records, consider this...
- The Near Downtown Area shown is 0.6% of the total Fayette County Area.
- In general, all of the permit records in the Downtown Area are nearly even (or in excess) of this ratio.

Inventory of Incentives from IR Steering Committee and Downtown Design Excellence Task Force

Scope:

This report contains an inclusive list of incentives explored in a major or minor way by the Infill and Redevelopment Steering Committee. All incentives were discussed for their possible contribution to stimulating greater developer output or investment. Incentives are placed in three categories: economic, process, or regulatory actions.

Economic Incentives:

Enacted

- 1) *Encourage Tax Increment Financing*—Utilize the innovative funding tool to incentivize prime redevelopment areas that need significant, upfront infrastructure and environmental improvements
- 2) *Employ Vacant Property Tax*—Apply a tax to discourage continuation of vacant and blighted properties
- 3) *Affordable Housing Trust Fund*—Provide an Affordable Housing Trust Fund that will increase purchasing power for residential housing

In Progress

- 4) *Build Public Garages*—The Lexington Parking authority is creating a ten-year capital plan for new garages and other public parking facilities

Given Major Consideration

- 5) *Fund TIF Application*—LFUCG can pay for the upfront cost of a TIF application
- 6) *Assist with Parking Capacity*—LFUCG can build or help privately finance parking garage construction by using i.) payment-in-lieu-of-parking ii.) TIF iii.) special property tax district and/or iv.) industrial revenue bond
- 7) *Create Commercial Parking Zones*—LFUCG can create commercial parking zones, providing alternatives to the current parking requirements in the Infill and Redevelopment Area
- 8) *Fund Infrastructure Upgrades*—LFUCG could fund infrastructure rehabilitation and upgrades in older areas

Given Minor Consideration

- 9) *Use Revolving Pre-Development Fund*—Support applications for TIF or other state incentives as appropriate; repaid out of project costs
- 10) *Support Economic Development Land Bank: Office*—Acquire and prepare development parcels for new commercial offices
- 11) *Support Economic Development Land Bank: Neighborhood*—Acquire and prepare neighborhood parcels for new neighborhood business
- 12) *Deploy Redevelopment Fund*—Establish redevelopment fund to competitively provide gap-financing in the form of below-market or forgivable debt for residential, hospitality, and commercials projects
- 13) *Leverage Publicly-Held Properties for Economic Development*—Review and make available appropriate publicly held properties in Infill and Redevelopment Zone for redevelopment program
- 14) *Adjust Fee Structure for Sewer*—Provide a graduated or installment method of payment on sewer tap-on fees within the Infill and Redevelopment Zone
- 15) *Enhance Live Where You Work Program*—Publicize the existing program and revise the guidelines and requirements to encourage more participation
- 16) *Highlight Federal and State Historic Tax Credits*—Publicize and support applications for tax incentives
- 17) *Use Tax Abatement*—Consider programs that abate local taxes for infill/redevelopment projects
- 18) *Establish Miscellaneous Incentives*—Incentives should also be considered for relocating industrial uses to more appropriate locations, to facilitate the use of street-level space that maximizes pedestrian orientation and to help reface storefronts, particularly along Corridors.
- 19) *Create Green Standards*—Local designation of green development and possible financial incentives for these developments
- 20) *Create a Land Bank*—LUFCG/DDA acquires property and then either develops it unilaterally or partners with a developer
- 21) *Support Two-Way Streets*—Cut down on through-traffic, make streets safer, and make retail more viable
- 22) *Allow Payment-in-Lieu-of-Taxes*—Company makes a fixed, yearly contribution to the city or school system, usually at a lower rate than they would normally pay

- 23) *Provide Rehabilitated Historic Building Tax Abatement*—Provide a special assessment for property taxes on historic buildings that have been substantially rehabilitated under local guidelines
- 24) *Create a PDR-Style Downtown Program*—Infill and redevelopment protects the farmland
- 25) *Fund Ground Floor Renovation Incentives*—Provide grants/low-interest loans tied to renovating older buildings to retail-ready
- 26) *Provide Interior Rehabilitation Grants*—Support renovating infill buildings
- 27) *Create Economic Development Investment Fund*—The Downtown Development Authority accepts proposals for downtown projects and decides how to allocate resources, such as for a land bank, revolving loans, façade improvement grants, etc.
- 28) *Fund Acquisition of Land*—LFUCG could provide funding for acquiring land within the Infill and Redevelopment Zone for economic development
- 29) *Waive Permitting Fees*—LFUCG can review and propose fee waivers or restructuring of permitting fees with the Infill and Redevelopment Area
- 30) *Housing Rehab Incentive*—LFUCG could offer a housing rehabilitation incentive
- 31) *Provide Rental Housing Vouchers*—Publicly funded vouchers could be used to make rental units more marketable in the infill area.
- 32) *CAP fee amortization*—The fee presumes the end use and can be high if the building will not initially be used to capacity, which can deter development.
- 33) *Grants for façade rehabilitation*—Provide small grants or loans to businesses to improve the façade of existing buildings.

Process Incentives:

Enacted

- 1) *Foster Proactive Culture Across Development Divisions*—Move the Courthouse Area Design Review Board under the Planning Department

Given Major Consideration

- 2) *Recreate Infill Facilitator Position*—Specialist on planning and permitting processes to assist with streamlining permitting process

- 3) *Create Design Excellence Officer Position*—Approve/assist DE projects & provide urban design support as needed for other projects in the city
- 4) *Streamline Process*—Provide a comprehensive permit review that engages all approval bodies at once; divisions will share computer systems
- 5) *Improve Processing Speed for Large Projects*—Create separate processes for large and small projects
- 6) *Expand Staff-Level Approval*—Clearly define and expand the areas where staff approval is applicable and add language to governing regulations.

Regulatory Incentives:

On Hold Due to Pending Litigation

- 1) *Change Waste Vehicle Size/Standards*—Smaller vehicles/different standards for downtown collection can better accommodate the density and alleviate existing design difficulties.
- 2) *Remove Waste Fee*—If standards and vehicles don't change, remove the fee for those who are not served.
- 3) *Explore Compactor Service*—Explore public and private hauling options for providing compactor service.
- 4) *Increase Waste Management Options*—Allow more waste options for developments in I/R area by amending ordinances as needed; provide exemption standards; develop guidelines regarding capacity for multistream waste management; amend pick-up standards; and engage private hauling contracts for limited types of trash collection.

Given Major Consideration

- 5) *Use Sewer Infrastructure Pricing*—Use incremental/tiered fee corresponding to density
- 6) *Amend Parking Requirements*—Reduce requirements on commercial uses outside B2; and consider use of commercial parking zones to allow a commercial area to collectively assess parking needs and permit the use of shared parking
- 7) *Reduce Hotel Parking Requirements*—Typically only 65% of available spaces are utilized at any one time, and a change in zoning ordinance could address this
- 8) *Provide Flexibility for Small or Irregular Lots*—Allowing greater flexibility in setbacks, lot sizes and other requirements for infill areas, provided they are compatible with the surrounding context

Inventory of Incentives from the Downtown Design Excellence Task Force

Scope:

This report contains an inclusive list of incentives explored in a major or minor way by the Downtown Design Excellence Task Force from 2014 – 2015, a period in which incentives received focused attention. All incentives were discussed for their possible contribution to stimulating greater developer output or investment. Incentives are placed in three categories: economic, process, or regulatory actions.

Economic Incentives:

Enacted

- 1) *Encourage Tax Increment Financing*—Utilize the innovative funding tool to incentivize prime redevelopment areas that need significant, upfront infrastructure and environmental improvements

In Progress

- 2) *Build Public Garages*—The Lexington Parking authority is creating a ten-year capital plan for new garages and other public parking facilities

Given Major Consideration

- 3) *Fund TIF Application*—LFUCG can pay for the upfront cost of a TIF application

Given Minor Consideration

- 4) *Use Revolving Pre-Development Fund*—Support applications for TIF or other state incentives as appropriate; repaid out of project costs
- 5) *Support Economic Development Land Bank: Office*—Acquire and prepare development parcels for new commercial offices
- 6) *Support Economic Development Land Bank: Neighborhood*—Acquire and prepare neighborhood parcels for new neighborhood business
- 7) *Deploy \$1 Million, Revolving Redevelopment Loan Fund*—Establish redevelopment fund to competitively provide gap-financing in the form of below-market or forgivable debt for residential, hospitality, and commercials projects

- 8) *Leverage Publicly-Held Properties for Economic Development*—Review and make available appropriate publicly held properties in Infill and Redevelopment Zone for redevelopment program
- 9) *Adjust Fee Structure for Sewer*—Provide a graduated or installment method of payment on sewer tap-on fees within the Infill and Redevelopment Zone
- 10) *Provide Rental Housing Vouchers*—Publicly funded vouchers could be used to make rental units more marketable in the infill area.
- 11) *CAP fee amortization*—The fee presumes the end use and can be high if the building will not initially be used to capacity, which can deter development.
- 12) *Grants for façade rehabilitation*—Provide small grants or loans to businesses to improve the façade of existing buildings.

Process Incentives:

In Progress

- 1) *Recreate Infill Project Manager Position*—A specialist on planning and permitting processes to assist with streamlining permitting process; funding for position expected to be included in FY2016 Budget
- 2) *Create Design Excellence Officer Position*—Approve/assist DE projects & provide urban design support as needed for other projects in the city; funding for position expected to be included in FY2016 Budget
- 3) *Streamline Process*—Provide a comprehensive permit review that engages all approval bodies at once; divisions will share computer systems

Regulatory Incentives:

On Hold Due to Pending Litigation

- 1) *Increase Waste Management Options*—Allow more waste options for developments in I/R area by amending ordinances as needed; provide exemption standards; develop guidelines regarding capacity for multistream waste management; amend pick-up standards; and engage private hauling contracts for limited types of trash collection.

Given Major Consideration

- 1) *Amend Parking Requirements*—Consider use of commercial parking zones to allow a commercial area to collectively assess parking needs and permit the use of

shared parking

Inventory of Incentives from IR Steering Committee

Scope:

This report contains an inclusive list of incentives explored in a major or minor way by the Infill and Redevelopment Steering Committee and the Downtown Design Excellence Task Force. All incentives were discussed for their possible contribution to stimulating greater developer output or investment. Incentives are placed in three categories: economic, process, or regulatory actions.

Economic Incentives:

Enacted

- 1) *Encourage Tax Increment Financing*—Utilize the innovative funding tool to incentivize prime redevelopment areas that need significant, upfront infrastructure and environmental improvements
- 2) *Employ Vacant Property Tax*—Apply a tax to discourage continuation of vacant and blighted properties
- 3) *Affordable Housing Trust Fund*—Provide an Affordable Housing Trust Fund that will increase purchasing power for residential housing

In Progress

- 4) *Build Public Garages*—The Lexington Parking authority is creating a ten-year capital plan for new garages and other public parking facilities

Given Major Consideration

- 5) *Fund TIF Application*—LFUCG can pay for the upfront cost of a TIF application
- 6) *Assist with Parking Capacity*—LFUCG can build or help privately finance parking garage construction by using i.) payment-in-lieu-of-parking ii.) TIF iii.) special property tax district and/or iv.) industrial revenue bond
- 7) *Create Commercial Parking Zones*—LFUCG can create commercial parking zones, providing alternatives to the current parking requirements in the Infill and Redevelopment Area
- 8) *Fund Infrastructure Upgrades*—LFUCG could fund infrastructure rehabilitation and upgrades in older areas

Given Minor Consideration

- 9) *Use Revolving Pre-Development Fund*—Support applications for TIF or other state incentives as appropriate; repaid out of project costs
- 10) *Support Economic Development Land Bank: Office*—Acquire and prepare development parcels for new commercial offices
- 11) *Support Economic Development Land Bank: Neighborhood*—Acquire and prepare neighborhood parcels for new neighborhood business
- 12) *Deploy Redevelopment Fund*—Establish redevelopment fund to competitively provide gap-financing in the form of below-market or forgivable debt for residential, hospitality, and commercials projects
- 13) *Leverage Publicly-Held Properties for Economic Development*—Review and make available appropriate publicly held properties in Infill and Redevelopment Zone for redevelopment program
- 14) *Adjust Fee Structure for Sewer*—Provide a graduated or installment method of payment on sewer tap-on fees within the Infill and Redevelopment Zone
- 15) *Enhance Live Where You Work Program*—Publicize the existing program and revise the guidelines and requirements to encourage more participation
- 16) *Highlight Federal and State Historic Tax Credits*—Publicize and support applications for tax incentives
- 17) *Use Tax Abatement*—Consider programs that abate local taxes for infill/redevelopment projects
- 18) *Establish Miscellaneous Incentives*—Incentives should also be considered for relocating industrial uses to more appropriate locations, to facilitate the use of street-level space that maximizes pedestrian orientation and to help reface storefronts, particularly along Corridors.
- 19) *Create Green Standards*—Local designation of green development and possible financial incentives for these developments
- 20) *Create a Land Bank*—LUFCG/DDA acquires property and then either develops it unilaterally or partners with a developer
- 21) *Support Two-Way Streets*—Cut down on through-traffic, make streets safer, and make retail more viable
- 22) *Allow Payment-in-Lieu-of-Taxes*—Company makes a fixed, yearly contribution to the city or school system, usually at a lower rate than they would normally pay

- 23) *Provide Rehabilitated Historic Building Tax Abatement*—Provide a special assessment for property taxes on historic buildings that have been substantially rehabilitated under local guidelines
- 24) *Create a PDR-Style Downtown Program*—Infill and redevelopment protects the farmland
- 25) *Fund Ground Floor Renovation Incentives*—Provide grants/low-interest loans tied to renovating older buildings to retail-ready
- 26) *Provide Interior Rehabilitation Grants*—Support renovating infill buildings
- 27) *Create Economic Development Investment Fund*—The Downtown Development Authority accepts proposals for downtown projects and decides how to allocate resources, such as for a land bank, revolving loans, façade improvement grants, etc.
- 28) *Fund Acquisition of Land*—LFUCG could provide funding for acquiring land within the Infill and Redevelopment Zone for economic development
- 29) *Waive Permitting Fees*—LFUCG can review and propose fee waivers or restructuring of permitting fees with the Infill and Redevelopment Area
- 30) *Housing Rehab Incentive*—LFUCG could offer a housing rehabilitation incentive

Process Incentives:

Enacted

- 1) *Foster Proactive Culture Across Development Divisions*—Move the Courthouse Area Design Review Board under the Planning Department

Given Major Consideration

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- 6) *Reduce Hotel Parking Requirements*—Typically only 65% of available spaces are utilized at any one time, and a change in zoning ordinance could address this
- 7) *Provide Flexibility for Small or Irregular Lots*—Allowing greater flexibility in setbacks, lot sizes and other requirements for infill areas, provided they are compatible with the surrounding context

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Recd by KG
Date: 4/11/14

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

IN RE: ZOTA 2014-2: AMENDMENTS TO ARTICLES 8-17, 8-18, & 8-19 & ARTICLE 27 TO IMPLEMENT "DESIGN EXCELLENCE" – petition for a Zoning Ordinance text amendment to implement, in part, the "Design Excellence" program.

Having considered the above matter on **March 27, 2014**, at a Public Hearing and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reasons:

1. The proposed text amendment is the first step in implementing the "Design Excellence" program, as developed by the Design Excellence Task Force, an Urban County Council appointed group. The Design Excellence Task Force was tasked with creating an approach to improve the overall design aesthetic of the downtown area.
2. The proposed changes to Articles 8 and 27 will create a new Downtown Area Design Excellence Board to review applications for redevelopment, rehabilitation and demolition that result in an exterior change to a property within the three downtown business zones (Downtown Business [B-2], Downtown Frame Business [B-2A], and Lexington Center Business [B-2B]), utilizing yet-to-be adopted design standards and guidelines.

ATTEST: This 11th day of April, 2014.


Secretary, Christopher D. King

MIKE OWENS
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Traci Wade, Senior Planner.**

OBJECTIONS _____

- NONE

OBJECTORS _____

- NONE

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Blanton, Cravens, Drake, Mundy, Owens, Penn, Plumlee,
Smith, and Wilson

NAYS: (0)

ABSENT: (1) Brewer

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **Approval** of **ZOTA 2014-1** carried.

Enclosures: Initiating Resolution
Text recommended by the Planning Commission
Staff Report
Applicable excerpts of minutes of above meeting

RESOLUTION NO. 38 -2014

A RESOLUTION INITIATING VARIOUS ZONING ORDINANCE TEXT AMENDMENTS TO ARTICLE 8-17, DOWNTOWN BUSINESS (B-2) ZONE; ARTICLE 8-18, DOWNTOWN FRAME BUSINESS (B-2A) ZONE; ARTICLE 8-19, LEXINGTON CENTER BUSINESS (B-2B) ZONE; AND ARTICLE 27, COURTHOUSE AREA DESIGN OVERLAY ZONE, TO AUTHORIZE, IN PART, THE "DESIGN EXCELLENCE" PROGRAM.

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

Section 1 - That Zoning Ordinance text amendments to Article 8-17, Downtown Business (B-2) zone; Article 8-18, Downtown Frame Business (B-2A) zone; Article 8-19, Lexington Center Business (B-2B) zone; and Article 27, Courthouse Area Design Overlay zone; be initiated to authorize, in part, the "Design Excellence" program as attached hereto;

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

PASSED URBAN COUNTY COUNCIL: February 13, 2014

/s/ Jim Gray
MAYOR

ATTEST:

/s/ Meredith Nelson
CLERK OF URBAN COUNTY COUNCIL
85-14;TWJ:X\Cases\PLANNING\13-LE0001\LEG\00424789.DOC

PROPOSED AMENDMENTS 11-4-2013**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; 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 and tailoring.
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. Cable television system signal distribution centers and studios.
15. Animal hospitals or clinics, 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.
16. Athletic club facilities.
17. Adult arcades, massage parlors, adult book stores, 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.

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.

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

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.

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. See Special Provisions

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

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. See Special Provisions

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.~~
- 3.1. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
2. No building permits shall be issued within a B-2 zone except in compliance with the provisions of Article 27. The Downtown Design Excellence Board shall be empowered to fully regulate building heights, setbacks, and other design features in compliance with the provisions of the adopted guidelines.
3. For any property zoned B-2 which is within an H-1 Overlay District, the rules and procedures outlined in Article 13 shall take precedent and the property shall not be subject to 8-17(o)(2).

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

8-18(a) Intent - This zone is intended to accommodate existing and proposed development in the transitional "frame," which surrounds the downtown core area, by providing for comparable and compatible uses while anticipating the future expansion of the downtown core area.

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

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

8-18(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

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

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

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

8-18(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-2 zone.

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

8-18(f) Minimum Lot Size - No limitation.

8-18(g) Minimum Lot Frontage - No limitation.

8-18(h) Minimum Front Yard - 10 feet - No limitation.

8-18(i) Minimum Each Side Yard - No limitation, except that side street side yard shall be ten (10) feet.

8-18(j) Minimum Rear Yard - No limitation.

8-18(k) Minimum Usable Open Space - No limitation, except that residential uses shall provide usable open space equal to not less than ten percent (10%) of only those floors occupied by dwelling units.

8-18(l) Maximum Lot Coverage - No limitation.

8-18(m) Maximum Height of Building - Up to 12 stories under Special Provisions below, that buildings up to ten (10) stories shall be permitted if the Planning Commission approves a development plan; and for every story in excess of three (3) stories, one percent (1%) of the total lot 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.

8-18(n) Off-Street Parking (See Article 16 for additional parking regulations.)

~~Twenty-five percent (25%)~~ Ten percent (10%) of the least parking area required in any zone, other than the B-2 or B-2B zones which permit the principal or a similar use. Off-street loading and unloading areas shall be as required in Article 16.

8-18(o) Special Provisions

1. No building permits shall be issued within a B-2A zone except in compliance with the provisions of Article 27. The Downtown Area Design Board shall be empowered to fully regulate building heights up to the 12-story limit, setbacks, and other design features in compliance with the provisions of the adopted guidelines.
2. For any property zoned B-2A which is within an H-1 Overlay District, the rules and procedures outlined in Article 13 shall take precedent and the property shall not be subject to 8-17(o)(1).

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, barber shops, shoe repair, dressmaking or tailoring.
12. Retail sale of plant, nursery or greenhouse products, or agricultural produce.
13. Hotels or motels.
14. Any type of residential use.
15. Antique shops.
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.
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.
18. Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstery; repair of household appliances.
19. Bookstores, except as prohibited under Section 8-19(e).
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.
21. Computer and data processing centers.
22. Telephone exchanges, radio and television studios.
23. Cable television system signal distribution centers and studios.
24. Private clubs, except as prohibited under Section 8-19(e)(7, 8 and 9).
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.
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.
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.
11. The above- or below-ground storage of any flammable material in gaseous form including compressed natural gas.
12. Pawnshops, except as permitted herein.

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. See Special Provisions

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

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

8-19(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).

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

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

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.

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

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

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.~~

1. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
2. No building permits shall be issued within a B-2B zone except in compliance with the provisions of Article 27. The Downtown Area Design Board shall be empowered to fully regulate building heights, setbacks, and other design features in compliance with the provisions of the adopted guidelines.
3. For any property zoned B-2B which is within an H-1 Overlay District, the rules and procedures outlined in Article 13 shall take precedent and the property shall not be subject to 8-17(o)(2).

ARTICLE 27
PROPOSED AMENDMENTS 11-25-2013

DOWNTOWN AREA DESIGN
EXCELLENCE BOARD {COURTHOUSE
AREA DESIGN OVERLAY ZONE}

27-1 INTENT - The intent of the Downtown Area Design Excellence Board {Courthouse Area Design Overlay Zone} is to encourage growth and redevelopment in the downtown area, while preserving and protecting the unique features and characteristics of the area in conformity with the Comprehensive Plan and the design standards and guidelines for the Downtown {Courthouse Area} Area adopted by the Lexington-Fayette Urban County Council.

27-2 APPLICATION OF REGULATIONS - The classifications and regulations hereunder shall be established in addition to the zone classifications and regulations for the B-2, B-2A, and B-2B zones as provided under Article 8 herein, [as shown on the zoning map atlas for the subject areas. Except as provided herein below, the use, dimensions and other requirements for said zones, as provided in the Zoning Ordinance, shall apply. Where there are conflicts between the procedures and regulations within the Zoning Ordinance, the more restrictive shall apply.]

27-3 DEFINITIONS - As used in this Article, the following terms shall mean:

AUTHORIZATION PERMIT - A document which certifies the findings of the Board or the Design Excellence {Review} Officer that the work proposed by the applicant is appropriate. The Authorization shall also delineate any conditions imposed by the Board or Officer in approving the request. In order to grant an Authorization, the Board or Officer shall consider all circumstances related to the proposal, and may grant the Authorization if it finds that the proposed

changes are consistent with the adopted Downtown {Courthouse} Area Design Excellence Standards and Guidelines.

BOARD - The Downtown {Courthouse} Area Design Excellence {Review} Board of the Lexington-Fayette Urban County Government.

DEMOLITION - Any act that destroys, in whole or in part, a building or structure; or which results in the moving of any building or structure.

DESIGN EXCELLENCE {REVIEW} OFFICER - The employee of the Lexington-Fayette Urban County Government assigned {by the Chief Administrative Officer} to carry out the duties and functions of the officer as defined herein. This individual shall {demonstrate expertise and/or} have a professional degree in architecture, design, or a similar field so as to be qualified to carry out such duties. The term "officer" when used in this Article refers to the Design Excellence {Review} Officer.

EXTERIOR CHANGE - Rehabilitation or replacement which is not ordinary maintenance and repair. New construction of any building element, addition, building or structure is an exterior change. Demolition of any building element, addition, building or structure is an exterior change.

(1) EXTERIOR CHANGE includes, but is not limited to:

(a) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF BUILDING ELEMENTS.

(1) Rehabilitating large amounts of existing building elements when repairs are made with materials of the same size, shape, style,

configuration, texture and material color;

(2) Rehabilitating/replacing existing building elements when changes are made in materials, style or configuration;

(3) Installing new building elements;

(4) Replacing missing building elements and/or materials;

(5) Painting a structure or material not previously painted;

(6) Removing paint from a material previously painted.

(b) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF SITE ELEMENTS

(1) Rehabilitating large amounts of existing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Rehabilitating or replacing existing site elements when changes are made in materials, style or configuration;

(3) Installing new site elements;

(4) Replacing missing site elements or materials;

(5) Painting a site element not previously painted;

(6) Removing paint from a site

element which has been painted;

(7) Removing trees with trunks more than 10" in diameter;

(8) Major landscaping projects, including installation, relocation or redesign of new or existing site elements;

(9) Disturbing fields, archaeological and other land features by demolition or new construction on sites.

ORDINARY MAINTENANCE AND REPAIR - The correction of minor deterioration to site and building elements and structures when changes are made with the same materials with the same size, shape, configuration, style, texture and material color.

(1) ORDINARY MAINTENANCE AND REPAIR includes the following activities:

(a) ROUTINE MAINTENANCE AND REPAIR OF BUILDING ELEMENTS

(1) Repairing small amounts of existing building materials and elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

(2) Painting a structure or material that is already painted;

(3) Caulking and weather stripping windows and doors.

(b) ROUTINE MAINTENANCE, REPAIR AND INSTALLATION OF SITE ELEMENTS

- (1) Repairing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;
- (2) Pruning trees and shrubbery and removal of trees less than 10" in diameter;
- (3) Planting vegetable and flower gardens, except as part of a major landscaping plan;
- (4) Planting shrubs and trees, except as part of a major landscaping plan;
- (5) Installing temporary signs (real estate, political, etc.);
- (6) Installing building numbers and mailboxes.

27-4 DOWNTOWN {COURTHOUSE} AREA DESIGN EXCELLENCE {REVIEW} BOARD

27-4(a) ESTABLISHMENT - The Downtown {Courthouse} Area Design Excellence Board {Review Commission} is established to review and decide applications in compliance with the provisions of this Article.

27-4(b) MEMBERSHIP - The Downtown {Court House} Area Design {Review} Excellence Board shall consist of seven (7) {five (5)} voting members, including the Chair {chairman}, appointed by the Mayor and approved by Council. The Board shall:

- (1) Include only members who are residents of Fayette County;
- (2) Have at least three (3) members that are design-related professionals: one (1)

shall be an architect, one (1) shall be a landscape architect, and the other design professional could include the professions of architecture, historic preservation, urban design or related disciplines such as urban planning or landscape architecture.

(3) One (1) member that is a resident within a B-2, B-2A or B-2B zoning category;

(4) One (1) member that is a business owner within a B-2, B-2A or B-2B zoning category;

(5) One (1) member that is a real estate agent or broker or developer within a B-2, B-2A, OR B-2B zoning category; and

(6) One (1) citizen-at-large.

~~{All members must be residents of Fayette County. At least two (2) of the five (5) members shall be design or preservation-related professionals. These include the professions of architecture, history, archaeology, architectural history, historic preservation, urban design or related disciplines such as urban planning or landscape architecture. One (1) member shall be an employee of the Lexington Fayette urban County Government who is not the Design Review Officer; one (1) member shall be a representative of the banking or financial community; and one (1) member shall be a property or business owner within the Court House Area overlay Zoning District.}~~

When the Downtown {Court House} Area Design Excellence {Review} Board reviews an issue, and that field is not represented on the Downtown {Courthouse} Area Design Excellence {Review} Board, the Downtown {Courthouse} Area Design Excellence

~~[Review]~~ Board may ~~[shall]~~ seek expert advice before rendering its decision.

27-4(c) ETHICS - The Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board shall prepare and keep on file, available for public inspection, the members' qualifications. Article 16, the Code of Ethics of the Lexington-Fayette Urban County Government Charter, shall apply to members of the Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board.

27-4(d) OFFICERS - The Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board shall annually elect one (1) of its members to be Chair ~~[chairman]~~ and one (1) of its members to be Vice-Chair ~~[Vice-Chairman]~~. The Secretary of the Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board shall be the Design Excellence ~~[Review]~~ Officer, who shall also serve as a non-voting member of the Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board.

27-4(e) LENGTH OF TERM - The terms of Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board members shall be as follows:

- (1) Members shall serve a term of four (4) years. ~~[except that the membership of those representing particular organizations or offices shall be deemed to have terminated upon their leaving their respective memberships or positions]~~
- (2) Terms shall be staggered in such manner to allow the appointment or reappointment of at least one-half of the membership every two (2) years.
- (3) Term of membership shall extend from July 1 of one year through and

until June 30 of the designated year.

- (4) Vacancies, when they occur during a term of office, shall be filled for the unexpired term in the manner prescribed for original appointment.
- (5) Members may serve consecutive terms but must go through the reappointment process to do so. The maximum length of membership shall be two terms, or eight years, whichever is longer.
- (6) Any member may be removed from office by a majority of the Council of the Lexington-Fayette Urban County Government.

27-4(f) COMPENSATION - The members shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, subject to sufficient funds being appropriated by the Lexington-Fayette Urban County Council for this purpose.

27-4(g) BYLAWS - The Downtown ~~[Court House]~~ Area Design Excellence ~~[Review]~~ Board shall adopt bylaws for the transaction of its business and the transactions of the business of all of its sub-committees.

(1) MEETINGS - At least one (1) meeting shall be held each month, and special meetings called as provided in KRS 61.825. [Regular meetings shall be held and special meetings may be held as specified in the bylaws.] Minutes of all meetings and records of all proceedings, including the number of votes for and against each question and the record of the vote of each member, shall be kept and made available for public inspection.

(2) ANNUAL REPORT - The Downtown

~~{Court House}~~ Area Design Excellence ~~{Review}~~ Board shall prepare a written annual report, which shall be kept and made available for public inspection.

(3) QUORUM - A simple majority of the total membership of the Downtown ~~{Courthouse}~~ Area Design Excellence ~~{Review}~~ Board shall constitute a quorum for the transaction of business. ~~{The chair man votes only in case of a tie}.~~

(4) ATTENDANCE - Each member shall be required to attend meetings regularly as defined in the bylaws. Failure to do so may result in removal from the Downtown ~~{Court House}~~ Area Design Excellence ~~{Review}~~ Board.

~~{The Court House Area Design Review Board shall have the power to establish sub-committees as it deems necessary, from both within and without its membership, and to receive assistance in its work from outside individuals, groups and organizations. The Court House Area Design Review Board may give special recognition to outside individuals, groups and organizations.}~~

27-4(h) JURISDICTION - The jurisdiction of the Downtown ~~{Court House}~~ Area Design Excellence ~~{Review}~~ Board shall include all necessary and implied powers as shall be described herein with respect to the regulation of the B-2, B-2A or B-2B Zones ~~{Court House Area Overlay Zone}~~.

27-4(i) POWERS AND DUTIES - In addition to such other powers, duties and authorities as are set forth in this Article, the Downtown ~~{Court House}~~ Area Design Excellence ~~{Review}~~ Board shall, in order to accomplish the purpose of this Article, perform duties that include, but are not limited to, the following:

(1) ~~{5}~~ Review and decide applications for Authorization Permits as provided herein below.

~~{Present to the Lexington Fayette Urban County Council and the Planning Commission annually a report containing (i) a statement of goals and objectives for the county for the next ensuing five year period; (ii) any financial records pertaining to the Court House Area Design Review Board's operation.}~~

(2) ~~{{6}}~~ Periodically review the adopted design standards and guidelines and make recommendations to the Urban County Council for changes to design standards and guidelines.

(3) ~~{2}~~ Cooperate with and advise the Lexington- Fayette Urban County Council and other government agencies, departments, commissions and offices with regard to such matters as may be appropriate with respect to the Downtown ~~{Court House}~~ Area.

(4) ~~{3}~~ Form sub-committees as necessary from both within and without its membership, and to receive assistance in its work from outside individuals, groups and organizations. The Downtown Area Design Excellence Board may give special recognition to outside individuals, groups and organizations.

~~{{4} Establish criteria for which applications may be acted upon by the Design Review Officer, and which cases require both a preliminary and final review by the Board.}~~

~~{DESIGNATION OF THE COURT HOUSE AREA DESIGN ZONE (CA) To further the goals and purposes of this Article and the preservation, protection, perpetuation and use of~~

~~the Court House Area, the Urban County Council shall have the authority to designate properties protected by a zoning overlay district to be known as the CA zone. The procedures to establish such zoning shall comply with all applicable state statutes and requirements contained in this Zoning Ordinance for the creation of a zoning district as a zoning map amendment.]~~

27-5 [27-6] AUTHORIZATION PERMITS

~~[An Authorization Permit shall be required before a person may undertake any exterior changes on a property or structure within a zone protected by a CA overlay. Ordinary maintenance and repair as defined under Article 27-3(f) may be undertaken without an Authorization Permit, provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces, and provided that the work does not change the exterior appearance of the building.]~~

27-5(a) [27-6(a)] WHERE REQUIRED - An Authorization Permit shall be required prior to the initiation of any new construction on; any exterior change to; the demolition of all or 25% or more of, any building, structure or sign; the construction of any drive-thru or drop-off on any premises in a B-2, B-2A or B-2B zone [protected by a CA overlay]. Ordinary maintenance and repair as defined under Article 27-3 may be undertaken without an Authorization Permit, provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces, and provided that the work does not change the exterior appearance of the building. In no case shall an Authorization Permit be required to change the paint color of a previously painted surface.

[27-6(b)] PROCEDURES FOR ISSUANCE OF AN AUTHORIZATION PERMIT FOR

EXTERIOR CHANGES AND NEW CONSTRUCTION]

27-5(b) STAFF REVIEW OF SMALL SCALE REHABILITATION, ADDITIONS, NEW CONSTRUCTION AND DEMOLITION PROJECTS

~~[27-6(b)(2) AUTHORIZATIONS ISSUED BY THE DESIGN REVIEW OFFICER - An Authorization issued by the Design Review officer is intended to expedite approval of routine applications for exterior changes without full hearing and action by the Board.] The application for an Authorization Permit shall be reviewed by the Design Excellence Officer for the following issues unless the Officer refers the matter to the Board or the applicant requests Board review.~~

(1) Rehabilitations - the minimum square footage of the existing building is less than 10,000 square feet and the building has not been designated outstanding or significant by the Downtown Building Inventory; and the modification of the exterior is less than 50% of the existing building.

(2) Additions - the minimum square footage of the existing building is less than 10,000 square feet and the building has not been designated outstanding or significant by the Downtown Building Inventory; and the addition is less than 25% of the square footage of the existing building.

(3) New Construction - the development site size is less than .75 acres, the building footprint is less than 30,000 square feet, or the building height is less than 96 feet or eight stories (whichever is greater).

(4) Demolitions - the building has not been designated outstanding or significant by the Downtown Building Inventory and the demolition is less than 25% of the existing principle structure or is an accessory structure.

The Board may also review and delegate additional items to the responsibility of the Design Excellence [Review] Officer for

review and issuance of Authorization Permits. The delegation of these items shall be reviewed by the Board at a public hearing and recorded in the minutes of the Board.

The procedure to obtain an Authorization Permit is specified herein below.

~~PROCEDURES FOR ISSUANCE OF AN AUTHORIZATION PERMIT BY THE DESIGN EXCELLENCE OFFICER~~

- (1) FILING - Depending on the scope of work of the project, the Design Excellence Officer shall require the submission of any or all of the following: application and proposal summary, site analysis, site plan, floor plans(s), elevations, sections, and renderings. [The applicant shall file sufficient information as to accurately depict the location, design and scope of the work to be done.] The Officer shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required.
- (2) REVIEW - The Officer shall review the application for compliance with the adopted standards and guidelines and consult with other Divisions, as appropriate, to ensure proper review. Upon determination that all requirements of the standards and guidelines have been met and that the application complies with the requirements of the Board, the Design Excellence [Review] Officer shall approve the application and issue the Authorization Permit. If any question arises as to compliance, or if the Design Excellence [Review]

Officer or applicant feels that the application raises issues deserving review by the full Board, the application shall be referred to the Board for action.

- (3) AUTHORIZATION PERMIT ISSUANCE - Upon approval by the Design Excellence [Review] Officer, the Officer shall issue the Authorization Permit and notify the applicant. In addition, the Officer shall forward a copy of the Authorization and application materials to the Division of Building Inspection.

~~27-6(b) PROCEDURES FOR ISSUANCE OF AN AUTHORIZATION PERMIT FOR EXTERIOR CHANGES AND NEW CONSTRUCTION~~ Authorization Permits specified herein below.]

27-5(c). BOARD REVIEW OF LARGE SCALE REHABILITATIONS, ADDITIONS, NEW CONSTRUCTION, DRIVE-THRU, DROP-OFFS, AND DEMOLITIONS

The application for Authorization Permit shall be reviewed by the Board at a public hearing if:

- (1) Rehabilitations - the minimum square footage of the existing building is 10,000 square feet or greater or the building has been designated outstanding or significant by the Downtown Building Inventory; and the modification of the exterior is 50% or greater of the existing building; or
- (2) Additions - the minimum square footage of the existing building is 10,000 square feet or greater or the building has been designated outstanding or significant by the Downtown Building Inventory; and the addition is 25% or greater of the square footage of the existing building; or
- (3) New Construction - the development site size is .75 acres or greater, the building

footprint is 30,000 square feet or greater, or the building height 96 feet or eight stories or more (whichever is greater); or

(4) Demolition - the building has been designated outstanding or significant by the Downtown Building Inventory or the demolition is 25% or more of the existing principle structure;

(5) the plan contains a drive-thru or drop-off; or

(6) The matter has been referred to the Board by the Design Excellence Officer or the applicant has requested Board review.

~~[27-6(b)(1) AUTHORIZATION PERMITS ISSUED BY THE BOARD]~~

~~All application for Authorization Permits shall be reviewed by the Board at a public hearing, except those applications for work which have been specifically delegated to the Design Review Officer under 27-6(b)(2).~~

~~[In addition, the Board shall review all applications for Authorizations referred by the Design Review Officer or those requested for public hearing by the applicant.]~~

The procedure to obtain an Authorization Permit is specified herein below.

~~(1)(a) PRE-FILING~~

~~CONFERENCE - Prior to formal filing, the applicant shall meet with the Design Excellence [Review] Officer to discuss preliminary design concepts, applicable procedures, submittal documents, and similar matters. [The Office shall determine whether the matter can be approved by the Officer as specified under 27-6(b)(2). If the Officer determines that full Board approval is necessary, the Officer shall further determine if~~

~~preliminary Board review is required, or if the applicant may proceed directly to final action by the Board.~~

~~[(b)]PRELIMINARY BOARD REVIEW - Where determined to be necessary by the Officer, the Board shall first consider the application at a preliminary review meeting. This meeting shall not be considered a hearing, and notice shall not be required. The extent of the review shall be concept plans on building mass and scale. The Board will provide comments to the applicant for the applicant to consider for final Board review.~~

~~[(e)]FINAL BOARD REVIEW - Final Board review shall be considered a public hearing as specified under Article 27-6(b)(1)(f) and will be subject to the notice requirements of Article 27-6(b)(1)(e). Authorization permits may only be issued by the Board after action at a hearing.]~~

~~(2) [d] FILING MATERIALS - Depending on the scope of work of the project, the Board shall require the submission of any or all of the following: application and proposal summary, site analysis, site plan, floor plans(s), elevations, sections, and renderings. [The Board, where it deems necessary in order to review a particular application, may require the submission of any or all of the following items: architectural plans, plot plans, landscaping plans, plans for off street parking, elevations of all portions of proposed additions to structures, photographs, elevations, or perspective drawings showing the proposed structure and existing~~

~~structures that are within one hundred (100) feet or are substantially related to it visually or by reason of function, traffic generation or other characteristics.]~~

Should the Board find that the material submitted is not adequate for the proper review of the proposal, the Board shall promptly notify the applicant and state the specific information that will be required. In such cases, the applicant shall not be deemed to have made a bona fide application to the Board until the specific information is submitted.

- (3)-(e) NOTICE - Notice of the time, place and reason for holding a public hearing shall be given by first class letter at least fourteen (14) days in advance of the public hearing to owners of all properties located within two hundred (200) feet of the subject property. It shall be the obligation of the Design Review Officer to prepare, certify and mail all notice as required herein.

Further, the Board shall give notice of the time, place and reason for holding a public hearing by publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

- (4)-(f) BOARD PUBLIC HEARING - After notice, the Board shall consider the request for an Authorization Permit at a public hearing. Prior to the ~~[At the]~~ hearing, the Board shall receive the

written report of the Officer ~~[orally and/or in writing.]~~ and shall allow the applicant, protestors and other interested citizens to testify and rebut evidence presented by others, provided the Chair ~~[Chairman]~~ shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

In its review of material submitted, the Board shall examine the architectural design and the exterior surface treatment of the proposed construction on the site in question and its relationship to other structures within the area, the relationship of the proposed construction to the design of the building, and other pertinent factors affecting the appearance and efficient functioning of the structure.

The Board shall not consider any interior arrangement. The Board shall make no requirements except for the purpose of preventing development incongruous in scale, design or materials to the district.

In reviewing proposals, the Board shall utilize the adopted design standards and guidelines ~~[and criteria adopted by the Court House Area Design Review Board.]~~ These standards and guidelines shall form the basis of any action by the Board.

1. The Board shall vote to approve all or part of the application or disapprove all or part of the application within sixty (60) days after the completed application is filed. The Board shall be required to make written findings regarding what Standards and Guidelines were followed and which were not, with

reasons for any variance. ~~[to support any action of approval/disapproval, indicating the specific provisions of the adopted design standards and guidelines that support the action.]~~

(5) ~~(a)~~ AUTHORIZATION

PERMIT ISSUANCE - The Design Excellence ~~[Review]~~ Officer shall promptly issue the Authorization Permit in accordance with the action of the Board. Copies of the Authorization and the application materials shall be forwarded to the Division of Building Inspection and/or the Division of Housing Maintenance, as appropriate.

27-5(d) [27-6(d)] MULTI-PHASE BOARD REVIEW - Multi-phase Board review shall be required for large scale new construction. The applicant shall first obtain Board approval for site, building mass, parking, and scale and subsequent approvals for all other design standards and guidelines. The standards and guidelines approved in the initial review will not be reviewed in subsequent proceedings unless a material change has been made. The applicant may have as many Board reviews as needed to complete the project. The applicant may also receive both approvals in one (1) Board review.

27-5(e) [27-6(e)] AUTHORIZATION PERMITS FOR DEMOLITION - The Division of Building Inspection shall issue no permit which would result in the demolition of any or all of a structure within a B-2, B-2A or B-2B zone ~~[zone protected by a CA overlay]~~ unless and until an Authorization Permit has been issued by the Design Review Officer or approved by the Board at a public hearing, and a building permit has been approved for an allowed use.

27-5(e)(1) [27-6(e)(1)] PROCEDURES - ~~[The~~

~~procedure for review of an Authorization Permit for demolition shall be as set forth in Article 27-5(e) [27-6(b)(2)] above.]~~ The Design Excellence Officer or the Board ~~[shall hear evidence concerning the application at its public hearing and]~~ may approve an Authorization Permit for demolition only if one of the following conditions is determined to exist:

- (a) The application is for demolition of an addition, for a portion of a building or for an accessory structure which is not significant to the principal structure, site, streetscape, or district; and the approval of the application would not adversely affect those parts of a building, site, or district which are significant.
- (b) The application is for the demolition or moving of a building, or portion of a building, which does not contribute to the character of, and will not adversely affect the character of the property, the streetscape and the downtown district ~~[in a zone protected by a CA overlay]~~.
- (c) No reasonable economic return can be realized from the property, and the denial of the application would result in the taking of the property without just compensation. In order to make this claim, ~~[if the owner wishes to make a claim that the denial of the permit would amount to a taking of the property without just compensation]~~ the applicant shall submit to the Board, not less than twenty (20) days prior to the public hearing, the following information:

1. For all property:

- (a) The amount paid for the property, the date of purchase and the party from whom

purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;

- (b) The assessed value of the land and improvements thereon, according to the two (2) most recent assessments recorded in the office of the Property Valuation Administrator;
- (c) The two most recent real estate tax bills;
- (d) Annual debt service for the previous two (2) years recorded by the lending agency;
- (e) All appraisals obtained within the previous two (2) years by the owner in connection with his purchases, financing or ownership of the property;
- (f) Listings of the property for sale or rent, price asked and offers received, if any;
- (g) Any consideration by the owner as to profitable adaptive uses for the property.

2. For income-producing property: In addition to the information required in Sec. 27-5(e)(1)(c)(1), the applicant must also provide information of:

- (a) Annual gross income from

the property for the previous two (2) years;

- (b) Itemized operating and maintenance expenses for the previous two (2) years;
- (c) Annual cash flow for the previous two (2) years.

- 3. The Board may require that the property owner furnish such additional information as the Board believes is relevant to its determination of taking without just compensation and may provide, in appropriate instances, that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information that cannot be obtained, and shall describe the reasons why such information cannot be obtained.

Should the Board find that the material submitted is not adequate for the proper review of the proposal, the Board shall promptly notify the applicant and state specifically the information that the Board requires.

Deterioration of historic buildings attributable to the owner's failure to provide proper maintenance over an extended period of time will not be considered a mitigating circumstance in evaluations of economic hardship. Such

"hardship" will be considered "self-imposed", restoration costs to remediate such neglect will not be considered.

27-5(e)(2) [27-6(e)(2)] ACTION

Notwithstanding any other provision of this Article, the Board, after hearing evidence at its public hearing, may vote to postpone action to approve or deny an appeal for a reasonable period of time not to exceed one (1) year from the filing date of application in order to conduct studies, surveys and/or gather information concerning the following:

- (a) Alternatives which may be or may become available, including restoration, rehabilitation, adaptive reuse, or other alternatives to demolition; and
- (b) Study the question of economic hardship for the applicant, including whether the structure can be put to reasonable beneficial use without the approval of the demolition; and whether the applicant can obtain a reasonable return from his/her existing building and offering the property at fair-market value to party willing to renovate the building. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application, giving the facts and reasons for its decision.

27-5(e)(3) [27-6(d)] EFFECT OF AUTHORIZATION PERMIT - Upon receipt of the Authorization Permit from the Design Review Officer, a 7-day waiting period shall begin in which no demolition activity may be undertaken by the applicant or its agents, and no demolition permits may be issued. Upon completion of the waiting period, the

Division of Building Inspection shall issue a demolition or wrecking permit, in accord with the Authorization Permit, provided that a building permit has been issued and the application meets all other requirements of law. In the instance an applicant is required to and has obtained a building permit for new construction on the site, no mandatory waiting period shall apply, and the Division of Building Inspection shall issue a building permit upon receipt of the Authorization Permit from the Design Excellence [Review] Officer, provided the application meets all other requirements of law.

~~[The Division of Building Inspection shall enforce all provisions of the Authorization, including any conditions thereof, and shall inspect the property at regular intervals to insure strict compliance. The Building Inspector who inspects the site shall be governed by the design guidelines adopted by the Court House Area Design Review Board and shall receive technical assistance from the Officer in this inspection.]~~

27-5(f) [27-6(f)] AUTHORIZATION PERMIT VALID FOR ONE YEAR FROM DATE OF ISSUANCE - The property owner shall obtain permits, when required, and commence work on all work authorized by the Authorization Permit within one (1) year from the issuance of the Authorization.

27-6 [27-6(e)] FAILURE OF BOARD OR DESIGN EXCELLENCE OFFICER TO ACT - Upon failure of the Board or the Design Excellence Officer to take final action upon any application within sixty (60) days after the completed application has been filed; and unless a documented mutual [written] agreement between the Board and the applicant has been made for an extension of time, the application shall be deemed to be approved and an Authorization Permit shall be issued to the applicant, and a copy of said

Authorization transmitted to the Division of Building Inspection. ~~for the Division of Code Enforcement, as appropriate.~~

~~[27-7 APPEALS] Any person or entity claiming to be injured or aggrieved by any decision of the Board to Approve or deny any request for an Authorization Permit may appeal such decision to the Planning Commission within thirty (30) days of the Board's action. Such appeal shall be in writing and shall fully state the grounds upon which the appeal is sought. Upon receipt of the appeal, the Secretary to the Planning Commission shall notify the Design Review Officer, who shall promptly transmit the entire record of the Board, including tapes and transcripts, if any. In addition, within five (5) days of the filing of the appeal, the Secretary to the Planning Commission shall, by certified mail, notify the applicant of the appeal, if the applicant is not the appellant. The Commission shall then hold a de novo hearing on the appeal and render a decision within ninety (90) days of the date of filing the appeal.~~

PROCEDURE FOR THE DE NOVO PUBLIC HEARING

~~NOTICE All parties to the appeal, including the Board, shall be notified of the time, place and reason for the public hearing by first class letter at least fourteen (14) days in advance. In addition, notice of the appeal shall be given by one publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty one (21) days nor later than seven (7) days before the public hearing.~~

~~ACTION BY THE PLANNING COMMISSION After notice, as required above, the Commission shall conduct a public hearing and vote to approve or deny the appeal. At the hearing, the Planning commission shall allow its staff, Design Review Officer, the Board members, the appellant, protestors, and~~

~~other interested citizens to testify and rebut the evidence presented, provided that the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence. In its deliberations, the Planning Commission shall give due consideration to the decision of the Board and the finding and conclusions reflected in the Board's record and shall apply the adopted design guidelines.]~~

27-7(a) [27-7(b)] APPEAL TO THE FAYETTE CIRCUIT COURT - Any person or entity claiming to be injured or aggrieved by any order of the Downtown Area Design Excellence Board ~~[Planning Commission]~~ to affirm, modify or set aside the Authorization Permit and/or final decision of the Board may appeal from the Board's ~~[Planning Commission's]~~ action to the Fayette Circuit Court within thirty (30) days of that order in the manner as established in KRS 100.347. All orders of the Board ~~[Planning Commission]~~ which have not been appealed within thirty (30) days shall become final.

27-7(b) [27-7(e)] CONSIDERATION BY THE BOARD OF PREVIOUSLY DENIED APPEALS - In the event the appeal of an applicant is denied by the Board, the building, or any portion thereof, which was the subject of the applicant's application, shall not be included in a subsequent application to the Board for an Authorization Permit and/or final decision until the expiration of one (1) year from the date of the order of the Board ~~[Planning Commission]~~.

However, before the expiration of one (1) year, the Board may allow the filing of an application for an Authorization Permit and/or final decision if the Board finds that there are new facts or conditions not considered previously, or that there has been a change in the adopted guidelines which has substantially altered the character of the request. In such cases, after the evidence is presented by the

applicant, the Board shall vote to approve or deny such a request for a new hearing. The Board's reconsideration of the application shall take into consideration the new evidence presented. The Board's decision need not be restricted to the new evidence. If the new evidence is withdrawn at any time during the reconsideration by the applicant, the Board shall have no authority to reconsider the application.

27-8 ENFORCEMENT - The Design Excellence Officer shall be responsible for reviewing construction authorized under the provisions of this Article to determine compliance. Matters involving violations shall be administered under the authority ascribed to the Director of the Division of Planning as Zoning Administrator under Article 5 of the Zoning Ordinance.

~~[COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS - in order to prevent purposeful neglect of structures within zone protected by CA overlays, all properties shall comply with the BOCA, adopted Basic Property Maintenance Code, as well as all other applicable codes, statutes, and regulations. To accomplish this, the Design Review Officer shall quarterly consult with appropriate enforcement officials and compile and forward to the Board and the court House area Design Review Board a list of those properties in zone with CA overlays which have been found to be in violation of the BOCA Basic Property Maintenance Code.]~~

March 27, 2014

Minutes
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3. **ZOTA 2014-2: AMENDMENTS TO ARTICLES 8-17, 8-18, & 8-19 & ARTICLE 27 TO IMPLEMENT "DESIGN EXCELLENCE"** – petition for a Zoning Ordinance text amendment to implement, in part, the "Design Excellence" program.

REQUESTED BY: URBAN COUNTY COUNCIL

PROPOSED TEXT: *(Proposed text is available upon request from the Division of Planning)*

The Zoning Committee Recommended Approval, for the reasons provided by staff.

The Staff Recommends Approval for the following reasons:

1. The proposed text amendment is the first step in implementing the "Design Excellence" program, as developed by the Design Excellence Task Force, an Urban County Council appointed group. The Design Excellence Task Force was tasked with creating an approach to improve the overall design aesthetic of the downtown area.
2. The proposed changes to Articles 8 and 27 will create a new Downtown Area Design Excellence Board to review applications for redevelopment, rehabilitation and demolition that result in an exterior change to a property within the three downtown business zones (Downtown Business [B-2], Downtown Frame Business [B-2A], and Lexington Center Business [B-2B]), utilizing yet-to-be adopted design standards and guidelines.

Staff Presentation: Ms. Wade presented the staff report, explaining that the proposed amendments to parts of Article 8 and all of Article 27 would replace the existing Courthouse Area Design Review Board with the Downtown Area Design Excellence Board. She displayed a map of the proposed Design Excellence area boundary, noting that it includes all of the B-2 zoning areas.

Ms. Wade stated that the Design Excellence Task Force (DETF) was established in the summer of 2010, with the goal of creating a way to develop better building design in the downtown and other business areas. The DETF met numerous times and considered several other approaches to achieving design excellence, but determined that the best way would be to use the three Downtown Business zones as the area in which Design Excellence is enforced. The three Downtown Business zones are proposed to be modified, along with the creation of a Design Excellence Board and drafting the rules by which they will review projects within the defined area. In addition, the Courthouse Area Overlay Zone will be dissolved, in order avoid a duplication of effort. Ms. Wade said that the Urban County Council will also consider staffing changes, new initiatives, and the adoption of Design Guidelines, which are currently in draft format. She noted that the DETF has reviewed the proposed Design Guidelines numerous times as part of their working group. The DETF is also proposing new incentives, which will be presented to Council in the near future.

Ms. Wade stated that the proposed changes to the Zoning Ordinance are only one portion of the Design Excellence program; the Council will "hold" those changes until the rest of the pieces are ready to move forward, collectively. She said that, in general, the text amendment establishes the process for the review of redevelopment, rehabilitation, and demolition of structures in the downtown area, through Article 27. The proposed changes to Article 8 modify the lot, yard, and height requirements, and the special provisions sections of each of the downtown zones. Those changes also note that, in any case where a Historic District (H-1) overlay exists along with a B-2 zone, the H-1 Design Guidelines and process would take precedence over new design excellence Design Guidelines for the B-2 zones.

Ms. Wade stated that the proposed text amendment for the B-2A zone includes two changes that are not reflected in the B-2 or B-2B zones. Specifically, building height will be allowed up to 12 stories; currently the text limits it to three stories, or up to 10 stories with Planning Commission approval. In addition, off-street parking requirements would be reduced in the B-2A zone.

With regard to the proposed changes to Article 27, Ms. Wade said that the Design Excellence Board will have seven members, rather than the five that serve on the Courthouse Area Design Review Board (CHADRB). The Board would be representative of design professionals; a resident within the boundary; a business owner within the boundary; a real estate person or developer within the boundary; and a member at-large. The new Board will have the authority to review applications for redevelopment and demolition, using the new Design Guidelines upon their adoption. Ms. Wade noted that one of the specific improvements intended with the changes to Article 27 is to allow more staff-level approval, rather than focusing on Board approval. The proposed changes list the criteria by which the staff can evaluate projects; beyond the scope of staff evaluation, a project would be required to be reviewed by the Board. Other changes to Article 27 include the appeal process for the Design Excellence Board, which will involve appeals to Fayette Circuit Court, rather than the Planning Commission. Enforcement language will be updated to assign a Design Excellence Officer the responsibility of reviewing construction and determining compliance. In addition, clarification was added to denote that economic hardship cannot be claimed based on deferred maintenance of historic buildings.

Ms. Wade stated that, after reviewing the proposed text forwarded from the Council, the staff found that some of the areas that should have been underlined were not. For clarification, the staff identified those areas so that the changes would be

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

March 27, 2014

clear and concise. The staff and the Zoning Committee recommended approval of the proposed text changes, for the reasons provided as listed in the staff report and on the agenda.

Commission Question: Mr. Penn asked if BOAR appeals in the Design Excellence boundary area would be heard by the Planning Commission, or the Design Excellence Board. Ms. Wade answered that, if the appeal involved the action of the BOAR, appeals would still need to be heard by the Planning Commission.

Mr. Owens asked Ms. Wade to outline the changes presented in the Staff Alternative text. Ms. Wade answered that the changes involved primarily missing underlining, or rearranging the text. She said that there were also two small changes that were proposed by the staff of the Downtown Development Authority. The first, on page 27-5, would keep the words "any part of" and not add "25% or more." This section of the Ordinance would require authorization permits when there is an exterior change or any type of demolition. Ms. Wade explained that the next two sections define the 25% break point in proposed demolition to denote what is large-scale and what is small-scale, which could qualify as a staff approval; so that information is not needed in Section 27-5(a). She said that the second proposed change occurs on page 8, and refers to multi-phase Board review. The DDA staff suggests that a clarification be added that would direct the reader to a Section above that outlines the guidelines for a large-scale new construction project.

Ms. Blanton asked if the text that refers to "any exterior change" would include painting, or new windows. Ms. Wade answered that it would not include painting the exterior of a building that was painted before, which is specified in an earlier section.

Ms. Wade noted that the staff had received a letter of support from the Fayette Alliance for this amendment, which she entered into the record.

Citizen Comment: No one in the audience wished to speak about this proposal.

Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 10-0 (Brewer absent) to approve the Staff Alternative Text of ZOTA 2014-2, including the two changes proposed by the Downtown Development Authority, for the reasons provided by staff.

Urban County Planning Commission
200 East Main Street, Lexington, KY

Planning Services Section
Zoning Text Amendments

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2014-2: AMENDMENTS TO ARTICLES 8-17, 8-18, 8-19, AND ARTICLE 27 TO IMPLEMENT "DESIGN EXCELLENCE"

REQUESTED BY: URBAN COUNTY COUNCIL

PROPOSED TEXT: See Attached
(Note: Underlined text indicates an addition, and ~~stricken-through text~~ indicates a deletion to the current Zoning Ordinance.)

STAFF REVIEW:

In mid-February 2014, The Urban County Council initiated a text amendment to the downtown business zones (Articles 8-17, 8-18 and 8-19) and to the Courthouse Area Design Overlay Zone (Article 27) of the Zoning Ordinance in order to authorize, in part, the "Design Excellence" program. By state statute, when the Council initiates a text amendment, the Urban County Planning Commission has 60 days in which to review the ordinance amendment, hold a public hearing and make a recommendation to the Council.

The Design Excellence Task Force was originally established as the "Form-Based Code/Design Guideline Task Force" in the summer of 2010. The group is made up of the Mayor, Vice-Mayor, several Council members, members of the public, and other government representatives. The Task Force has met numerous times to discuss options for achieving the goal of design excellence for the Urban County. Although other approaches were considered, the Task Force determined that the preferred approach would be to utilize the existing downtown business zones (B-2, B-2A and B-2B) to establish a new boundary within which further design standards and guidelines would apply. This approach also requires the dissolution of the existing Courthouse Area Overlay Zone, because it would be a duplication of effort with a similar goal, only on a slightly smaller scale. Adopting design guidelines, as well as possible staffing changes and new incentives, have also been endorsed by the Design Excellence Task Force over the past two years. The proposed text amendment to the Zoning Ordinance is only a part of the much larger approach to "design excellence" that has been discussed for Lexington-Fayette Urban County.

In general, the text amendment establishes the process for review of redevelopment and rehabilitation (including demolition) of structures in the downtown area (Article 27), and modifies the "lot, yard and height requirements" and the "special provisions" sections of each of the downtown business zones to require compliance with Article 27, noting that H-1 Overlay District guidelines would take precedence where any overlap exists. Additionally, in the B-2A zone, the maximum height limit for buildings is proposed to be increased to 12 stories and the off-street parking requirements reduced to ten percent (10%) of the other required parking in any other zone (besides B-2 or B-2B). Currently, the height of a building in this zone is limited to 3 stories (35 feet), or up to 10 stories with Planning Commission approval, and the parking requirement is twenty-five percent (25%) of the required parking otherwise required in other zones.

As noted above and more specifically, the text amendment will abolish the Courthouse Area Design Overlay Zone and the associated Courthouse Area Design Review Board, and in its place create the Downtown Area Design Excellence Board. The new Design Excellence Board will have authority to review applications for redevelopment, rehabilitation and demolition that result in exterior changes to properties within the three downtown business zones (Downtown Business [B-2], Downtown Frame Business [B-2A], and Lexington Center Business [B-2B]), utilizing yet-to-be adopted design standards and guidelines. The proposed modifications to Article 27 create a 7-member board, which must include design-related professionals, a resident from within the zoning boundary, a business owner from within the zoning boundary, a real estate professional or developer with the zoning boundary and a member-at-large. In addition, the changes to Article 27 provide very specific parameters for when the Design Excellence Officer (staff to the Board) reviews an application for small scale projects, and when the Board must hold a public hearing (involving large scale projects). Otherwise, the review procedures will remain very similar to the current procedures for the Courthouse Area Design Review Board. The goal is to have a greater percentage of projects eligible for staff review and approval in comparison with the existing Court House Area requirements.

-2-

Other proposed modifications to Article 27 that should be noted are: (1) appeals to Board action will be made to the Fayette Circuit Court, rather than the Planning Commission; (2) enforcement language will be updated to assign the Design Excellence Officer the responsibility of reviewing construction and determining compliance with Authorizations, and the Director of the Division of Planning (Zoning Administrator) will be the appropriate entity to address violations, rather than the Division of Building Inspection; and (3) clarify that "economic hardship" cannot be claimed based on deferred maintenance of historic buildings.

After careful review of the text initiated by the Urban County Council, the staff noticed a few typos that should be corrected prior to action by the Planning Commission (see attached staff alternative text).

The Staff Recommends: **Approval** for the following reason:

1. The proposed text amendment is the first step in implementing the "Design Excellence" program, as developed by the Design Excellence Task Force, an Urban County Council appointed group. The Design Excellence Task Force was tasked with creating an approach to improve the overall design aesthetic of the downtown area.
2. The proposed changes to Articles 8 and 27 will create a new Downtown Area Design Excellence Board to review applications for redevelopment, rehabilitation and demolition that result in an exterior change to a property within the three downtown business zones (Downtown Business [B-2], Downtown Frame Business [B-2A], and Lexington Center Business [B-2B]), utilizing yet-to-be adopted design standards and guidelines.

TLW/BJR/WLS/CDK

3/4/14

Planning Services/Staff Reports/ZOTA/ 2014/ZOTA 2014-1.doc

ORDINANCE NO. _____-2014

AN ORDINANCE AMENDING ARTICLES 8-17, 8-18 & 8-19 & ARTICLE 27 OF THE ZONING ORDINANCE TO IMPLEMENT “DESIGN EXCELLENCE”. (URBAN COUNTY PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered text amendments to Articles 8-17, 8-18 & 8-19 & Article 27 of the Zoning Ordinance to implement “Design Excellence”; and

WHEREAS, the Planning Commission did hold a public hearing on this proposed text amendment on March 27, 2014; and

WHEREAS, the Planning Commission did recommend APPROVAL of the text amendment by a vote of 10-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Articles 8-17, 8-18 & 8-19 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

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; 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 and tailoring.
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. Cable television system signal distribution centers and studios.
15. Animal hospitals or clinics, 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.
16. Athletic club facilities.

17. Adult arcades, massage parlors, adult book- stores, 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.

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 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.

8-17(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 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 500 feet from a residential zone.
7. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
8. Circuses, provided all structures are located not less than 200 feet from any residential zone; and further provided that all structures for housing animals shall be 200 feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
9. Automobile and vehicle refueling stations, provided such use conforms to all requirements of Article 16.
10. Day shelters.

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.

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 - See Special Provisions.

8-17(i) Minimum Each Side Yard - See Special Provisions.

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

8-17(k) Minimum Usable Open Space - No limitation.

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

8-17(m) Height of Building - See Special Provisions.

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 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. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
2. No building permits shall be issued within a B-2 zone except in compliance with the provisions of Article 27. The Downtown Design Excellence Board shall be empowered to fully regulate building heights, setbacks, and other design features in compliance with the provisions of the adopted guidelines.
3. For any property zoned B-2 which is within an H-1 Overlay District, the rules and procedures outlined in Article 13 shall take precedent and the property shall not be subject to Section 8-17(o)(2).

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

8-18(a) Intent - This zone is intended to accommodate existing and proposed development in the transitional "frame," which surrounds the downtown core area, by providing for comparable and compatible uses while anticipating the future expansion of the downtown core area.

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

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

8-18(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

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

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

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

8-18(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-2 zone.

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

8-18(f) Minimum Lot Size - No limitation.

8-18(g) Minimum Lot Frontage - No limitation.

8-18(h) Minimum Front Yard - No limitation.

8-18(i) Minimum Each Side Yard - No limitation.

8-18(j) Minimum Rear Yard - No limitation.

8-18(k) Minimum Usable Open Space - No limitation.

8-18(l) Maximum Lot Coverage - No limitation.

8-18(m) Maximum Height of Building – Up to 12 stories under Section 8-18(o) Special Provisions below.

8-18(n) Off-Street Parking (See Article 16 for additional parking regulations.)

Ten percent (10%) of the least parking area required in any zone, other than the B-2 or B-2B zones which permit the principal or a similar use. Off-street loading and unloading areas shall be as required in Article 16.

8-18(o) Special Provisions:

1. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
2. No building permits shall be issued within a B-2A zone except in compliance with the provisions of Article 27. The Downtown Area Design Excellence Board shall be empowered to fully regulate building heights up to the 12-story limit, setbacks, and other design features in compliance with the provisions of the adopted guidelines.
3. For any property zoned B-2A which is within an H-1 Overlay District, the rules and procedures outlined in Article 13 shall take precedent and the property shall not be subject to Section 8-18(o)(2).

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, barber shops, shoe repair, dressmaking or tailoring.
12. Retail sale of plant, nursery or greenhouse products, or agricultural produce.
13. Hotels or motels.
14. Any type of residential use.
15. Antique shops.
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.
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.
18. Establishments engaged in blueprinting, printing, publishing, and lithography; interior decoration and upholstering; repair of household appliances.
19. Bookstores, except as prohibited under Section 8-19(e).
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.
21. Computer and data processing centers.

22. Telephone exchanges, radio and television studios.
23. Cable television system signal distribution centers and studios.
24. Private clubs, except as prohibited under Section 8-19(e)(7, 8 and 9).
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 25 square feet per child.
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 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 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.
11. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

8-19(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.
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.
11. The above- or below-ground storage of any flammable material in gaseous form including compressed natural gas.
12. Pawnshops, except as permitted herein.

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 - See Special Provisions.

8-19(i) Minimum Each Side Yard - See Special Provisions.

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

8-19(k) Minimum Usable Open Space - No limitation.

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

8-19(m) Height of Building - See Special Provisions.

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 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. Redevelopment of any site shall comply with the Downtown Streetscape Master Plan for Lexington, Kentucky.
2. No building permits shall be issued within a B-2B zone except in compliance with the provisions of Article 27. The Downtown Area Design Excellence Board shall be empowered to fully regulate building heights, setbacks, and other features in compliance with the provisions of the adopted guidelines.
3. For any property zoned B-2B which is within an H-1 Overlay District, the rules and procedures outlined in Article 13 shall take precedent and the property shall not be subject to Section 8-19(o)(2).

Section 2- That Article 27 of the Lexington-Fayette Urban County Government Zoning Ordinance is hereby amended to read as follows:

DOWNTOWN AREA DESIGN EXCELLENCE BOARD

27-1 INTENT - The intent of the Downtown Area Design Excellence Board is to encourage

growth and redevelopment in the downtown area, while preserving and protecting the unique features and characteristics of the area in conformity with the Comprehensive Plan and the design standards and guidelines for the Downtown Area adopted by the Lexington-Fayette Urban County Council.

27-2 APPLICATION OF REGULATIONS - The classifications and regulations hereunder shall be established in addition to the zone classifications and regulations for the B-2, B-2A, and B-2B zones as provided under Article 8 herein.

27-3 DEFINITIONS - As used in this Article, the following terms shall mean:

AUTHORIZATION PERMIT - A document which certifies the findings of the Board or the Design Excellence Officer that the work proposed by the applicant is appropriate. The Authorization shall also delineate any conditions imposed by the Board or Officer in approving the request. In order to grant an Authorization, the Board or Officer shall consider all circumstances related to the proposal, and may grant the Authorization if it finds that the proposed changes are consistent with the adopted Downtown Area Design Excellence Standards and Guidelines.

BOARD - The Downtown Area Design Excellence Board of the Lexington-Fayette Urban County Government.

DEMOLITION - Any act that destroys, in whole or in part, a building or structure; or which results in the moving of any building or structure.

DESIGN EXCELLENCE OFFICER - The employee of the Lexington-Fayette Urban County Government assigned to carry out the duties and functions of the officer as defined herein. This individual shall have a professional degree in architecture, design, or a similar field so as to be qualified to carry out such duties. The term “officer” when used in this Article refers to the Design Excellence Officer.

EXTERIOR CHANGE - Rehabilitation or replacement which is not ordinary maintenance and repair. New construction of any building element, addition, building or structure is an exterior change. Demolition of any building element, addition, building or structure is an exterior change.

(1) EXTERIOR CHANGE includes, but is not limited to:

(a) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF BUILDING ELEMENTS.

- (1) Rehabilitating large amounts of existing building elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;
- (2) Rehabilitating/replacing existing building elements when changes are made in materials, style or configuration;
- (3) Installing new building elements;
- (4) Replacing missing building elements and/or materials;
- (5) Painting a structure or material not previously painted;
- (6) Removing paint from a material previously painted.

(b) MAJOR REHABILITATION, REPLACEMENT AND INSTALLATION OF SITE ELEMENTS

- (1) Rehabilitating large amounts of existing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;

- (2) Rehabilitating or replacing existing site elements when changes are made in materials, style or configuration;
- (3) Installing new site elements;
- (4) Replacing missing site elements or materials;
- (5) Painting a site element not previously painted;
- (6) Removing paint from a site element which has been painted;
- (7) Removing trees with trunks more than 10" in diameter;
- (8) Major landscaping projects, including installation, relocation or redesign of new or existing site elements;
- (9) Disturbing fields, archaeological and other land features by demolition or new construction on sites.

ORDINARY MAINTENANCE AND REPAIR - The correction of minor deterioration to site and building elements and structures when changes are made with the same materials with the same size, shape, configuration, style, texture and material color.

(1) ORDINARY MAINTENANCE AND REPAIR includes the following activities:

(a) ROUTINE MAINTENANCE AND REPAIR OF BUILDING ELEMENTS

- (1) Repairing small amounts of existing building materials and elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;
- (2) Painting a structure or material that is already painted;
- (3) Caulking and weather stripping windows and doors.

(b) ROUTINE MAINTENANCE, REPAIR AND INSTALLATION OF SITE ELEMENTS

- (1) Repairing site elements when repairs are made with materials of the same size, shape, style, configuration, texture and material color;
- (2) Pruning trees and shrubbery and removal of trees less than 10" in diameter;
- (3) Planting vegetable and flower gardens, except as part of a major landscaping plan;
- (4) Planting shrubs and trees, except as part of a major landscaping plan;
- (5) Installing temporary signs (real estate, political, etc.);
- (6) Installing building numbers and mailboxes.

27-4 DOWNTOWN AREA DESIGN EXCELLENCE BOARD

27-4(a) ESTABLISHMENT - The Downtown Area Design Excellence Board is established to review and decide applications in compliance with the provisions of this Article.

27-4(b) MEMBERSHIP – The Downtown Area Design Excellence Board shall consist of seven (7) voting members, including the Chair, appointed by the Mayor and approved by Council. The Board shall:

- (1) Include only members who are residents of Fayette County;

- (2) Have at least three (3) members that are design-related professionals: one (1) shall be an architect, one (1) shall be a landscape architect, and the other design professional could include the professions of architecture, historic preservation, urban design or related disciplines such as urban planning or landscape architecture.
- (3) One (1) member that is a resident within a B-2, B-2A or B-2B zoning category;
- (4) One (1) member that is a business owner within a B-2, B-2A or B-2B zoning category;
- (5) One (1) member that is a real estate agent or broker or developer within a B-2, B-2A, OR B-2B zoning category; and
- (6) One (1) citizen-at-large.

When the Downtown Area Design Excellence Board reviews an issue, and that field is not represented on the Downtown Area Design Excellence Board, the Downtown Area Design Excellence Board may seek expert advice before rendering its decision.

27-4(c) ETHICS - The Downtown Area Design Excellence Board shall prepare and keep on file, available for public inspection, the members' qualifications. Article 16, the Code of Ethics of the Lexington-Fayette Urban County Government Charter, shall apply to members of the Downtown Area Design Excellence Board.

27-4(d) OFFICERS - The Downtown Area Design Excellence Board shall annually elect one (1) of its members to be Chair and one (1) of its members to be Vice-Chair. The Secretary of the Downtown Area Design Excellence Board shall be the Design Excellence Officer, who shall also serve as a non-voting member of the Downtown Area Design Excellence Board.

27-4(e) LENGTH OF TERM - The terms of Downtown Area Design Excellence Board members shall be as follows:

- (1) Members shall serve a term of four (4) years.
- (2) Terms shall be staggered in such manner to allow the appointment or reappointment of at least one-half of the membership every two (2) years.
- (3) Term of membership shall extend from July 1 of one year through and until June 30 of the designated year.
- (4) Vacancies, when they occur during a term of office, shall be filled for the unexpired term in the manner prescribed for original appointment.
- (5) Members may serve consecutive terms but must go through the reappointment process to do so. The maximum length of membership shall be two terms, or eight years, whichever is longer.
- (6) Any member may be removed from office by a majority of the Council of the Lexington-Fayette Urban County Government.

27-4(f) COMPENSATION - The members shall serve without compensation but shall be reimbursed for expenses necessarily incurred in the performance of their duties, subject to sufficient funds being appropriated by the Lexington-Fayette Urban County Council for this purpose.

27-4(g) BYLAWS - The Downtown Area Design Excellence Board shall adopt bylaws for the transaction of its business and the transactions of the business of all of its sub-committees.

- (1) MEETINGS - At least one (1) meeting shall be held each month, and special meetings called, as provided in KRS 61.825. Minutes of all meetings and records of all proceedings, including the number of votes for and against each question and the record of the vote of each member, shall be kept and made available for public inspection.

- (2) ANNUAL REPORT - The Downtown Area Design Excellence Board shall prepare a written annual report, which shall be kept and made available for public inspection.
- (3) QUORUM - A simple majority of the total membership of the Downtown Area Design Excellence Board shall constitute a quorum for the transaction of business.
- (4) ATTENDANCE - Each member shall be required to attend meetings regularly as defined in the bylaws. Failure to do so may result in removal from the Downtown Area Design Excellence Board.

27-4(h) JURISDICTION - The jurisdiction of the Downtown Area Design Excellence Board shall include all necessary and implied powers as shall be described herein with respect to the regulation of the B-2, B-2A or B-2B Zones.

27-4(i) POWERS AND DUTIES - In addition to such other powers, duties and authorities as are set forth in this Article, the Downtown Area Design Excellence Board shall, in order to accomplish the purpose of this Article, perform duties that include, but are not limited to, the following:

- (1) Review and decide applications for Authorization Permits as provided herein below.
- (2) Periodically review the adopted design standards and guidelines and make recommendations to the Urban County Council for changes to design standards and guidelines.
- (3) Cooperate with and advise the Lexington- Fayette Urban County Council and other government agencies, departments, commissions and offices with regard to such matters as may be appropriate with respect to the Downtown Area.
- (4) Form sub-committees as necessary from both within and without its membership, and to receive assistance in its work from outside individuals, groups and organizations. The Downtown Area Design Excellence Board may give special recognition to outside individuals, groups and organizations.

27-5 AUTHORIZATION PERMITS

27-5(a) WHERE REQUIRED – An Authorization Permit shall be required prior to the initiation of any new construction on; any exterior change to; the demolition of all, or any part of, any building, structure or sign; the construction of any drive-thru or drop-off; on any premises in a B-2, B-2A or B-2B zone. Ordinary maintenance and repair as defined under Article 27-3 may be undertaken without an Authorization Permit, provided that the work involves repairs to existing features of a building or the replacement of elements of a building with identical pieces, and provided that the work does not change the exterior appearance of the building. In no case shall an Authorization Permit be required to change the paint color of a previously painted surface.

27-5(b) STAFF REVIEW OF SMALL SCALE REHABILITATION, ADDITIONS, NEW CONSTRUCTION AND DEMOLITION PROJECTS

The application for an Authorization Permit shall be reviewed by the Design Excellence Officer for the following issues unless the Officer refers the matter to the Board or the applicant requests Board review.

- (1) Rehabilitations - the minimum square footage of the existing building is less than 10,000 square feet and the building has not been designated outstanding or significant by the Downtown Building Inventory; and the modification of the exterior is less than 50% of the existing building.
- (2) Additions - the minimum square footage of the existing building is less than 10,000 square feet and the building has not been designated outstanding or significant by the Downtown Building Inventory; and the addition is less than 25% of the square footage of the existing building.

- (3) New Construction - the development site size is less than .75 acres, the building footprint is less than 30,000 square feet, or the building height is less than 96 feet or eight stories (whichever is greater).
- (4) Demolitions - the building has not been designated outstanding or significant by the Downtown Building Inventory and the demolition is less than 25% of the existing principle structure or is an accessory structure,

The Board may also review and delegate additional items to the responsibility of the Design Excellence Officer for review and issuance of Authorization Permits. The delegation of these items shall be reviewed by the Board at a public hearing and recorded in the minutes of the Board.

The procedure to obtain an Authorization Permit is specified herein below.

- (a) FILING – Depending on the scope of work of the project, the Design Excellence Officer shall require the submission of any or all of the following: application and proposal summary, site analysis, site plan, floor plans(s), elevations, sections, and renderings. The Officer shall review the information and promptly notify the applicant if the material is not adequate for review and advise the applicant what specific information will be required.
- (b) REVIEW - The Officer shall review the application for compliance with the adopted standards and guidelines and consult with other Divisions, as appropriate, to ensure proper review. Upon determination that all requirements of the standards and guidelines have been met and that the application complies with the requirements of the Board, the Design Excellence Officer shall approve the application and issue the Authorization Permit. If any question arises as to compliance, or if the Design Excellence Officer or applicant feels that the application raises issues deserving review by the full Board, the application shall be referred to the Board for action.
- (c) AUTHORIZATION PERMIT ISSUANCE - Upon approval by the Design Excellence Officer, the Officer shall issue the Authorization Permit and notify the applicant. In addition, the Officer shall forward a copy of the Authorization and application materials to the Division of Building Inspection.

27-5(c) BOARD REVIEW OF LARGE SCALE REHABILITATIONS, ADDITIONS, NEW CONSTRUCTION, DRIVE-THRUS, DROP-OFFS, AND DEMOLITIONS -

The application for Authorization Permit shall be reviewed by the Board at a public hearing if:

- (1) Rehabilitations - the minimum square footage of the existing building is 10,000 square feet or greater or the building has been designated outstanding or significant by the Downtown Building Inventory; and the modification of the exterior is 50% or greater of the existing building; or
- (2) Additions - the minimum square footage of the existing building is 10,000 square feet or greater or the building has been designated outstanding or significant by the Downtown Building Inventory; and the addition is 25% or greater of the square footage of the existing building; or
- (3) New Construction - the development site size is .75 acres or greater, the building footprint is 30,000 square feet or greater, or the building height is 96 feet or eight stories or more (whichever is greater); or
- (4) Demolition - the building has been designated outstanding or significant by the Downtown Building Inventory or the demolition is 25% or more of the existing principle structure;
- (5) The plan contains a drive-thru or drop-off; or
- (6) The matter has been referred to the Board by the Design Excellence Officer or the

applicant has requested Board review.

The procedure to obtain an Authorization Permit is specified herein below.

- (a) PRE-FILING CONFERENCE - Prior to formal filing, the applicant shall meet with the Design Excellence Officer to discuss preliminary design concepts, applicable procedures, submittal documents, and similar matters.
- (b) FILING MATERIALS - Depending on the scope of work of the project, the Board shall require the submission of any or all of the following: application and proposal summary, site analysis, site plan, floor plans(s), elevations, sections, and renderings

Should the Board find that the material submitted is not adequate for the proper review of the proposal, the Board shall promptly notify the applicant and state the specific information that will be required. In such cases, the applicant shall not be deemed to have made a bona fide application to the Board until the specific information is submitted.

- (c) NOTICE - Notice of the time, place and reason for holding a public hearing shall be given by first class letter at least fourteen (14) days in advance of the public hearing to owners of all properties located within two hundred (200) feet of the subject property. It shall be the obligation of the Design Review Officer to prepare, certify and mail all notice as required herein.

Further, the Board shall give notice of the time, place and reason for holding a public hearing by publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing.

- (d) BOARD PUBLIC HEARING - After notice, the Board shall consider the request for an Authorization Permit at a public hearing. Prior to the hearing, the Board shall receive the written report of the Officer. At the hearing, the Board shall allow the applicant, protestors and other interested citizens to testify and rebut evidence presented by others, provided the Chair shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

In its review of material submitted, the Board shall examine the architectural design and the exterior surface treatment of the proposed construction on the site in question and its relationship to other structures within the area, the relationship of the proposed construction to the design of the building, and other pertinent factors affecting the appearance and efficient functioning of the structure.

The Board shall not consider any interior arrangement. The Board shall make no requirements except for the purpose of preventing development incongruous in scale, design or materials to the district.

In reviewing proposals, the Board shall utilize the adopted design standards and guidelines. These standards and guidelines shall form the basis of any action by the Board.

The Board shall vote to approve all or part of the application or disapprove all or part of the application within sixty (60) days after the completed application is filed. The Board shall be required to make written findings regarding what Standards and Guidelines were followed and which were not, with reasons for any variance.

- (e) AUTHORIZATION PERMIT ISSUANCE - The Design Excellence Officer shall promptly issue the Authorization Permit in accordance with the action of the Board. Copies of the Authorization and the application materials shall be forwarded to the Divisions of Planning and Building Inspection and/or the Division of Code Enforcement, as appropriate.

27-5(d) MULTI-PHASE BOARD REVIEW – Multi-phase Board review shall be required for

large scale new construction, as defined in Section 27-5(c)3. The applicant shall first obtain Board approval for site, building mass, parking, and scale and subsequent approvals for all other design standards and guidelines. The standards and guidelines approved in the initial review will not be reviewed in subsequent proceedings unless a material change has been made. The applicant may have as many Board reviews as needed to complete the project. The applicant may also receive both approvals in one (1) Board review.

27-5(e) AUTHORIZATION PERMITS FOR DEMOLITION - The Division of Building Inspection shall issue no permit which would result in the demolition of any or all of a structure within a B-2, B-2A or B-2B zone unless and until an Authorization Permit has been issued by the Design Excellence Officer or approved by the Board at a public hearing, and a building permit has been approved for an allowed use.

27-5(e)(1) PROCEDURES – The Design Excellence Officer or the Board may approve an Authorization Permit for demolition only if one of the following conditions is determined to exist:

- (a) The application is for demolition of an addition, for a portion of a building or for an accessory structure which is not significant to the principal structure, site, streetscape, or district; and the approval of the application would not adversely affect those parts of a building, site, or district which are significant.
- (b) The application is for the demolition or moving of a building, or portion of a building, which does not contribute to the character of, and will not adversely affect the character of the property, the streetscape and the downtown district.
- (c) No reasonable economic return can be realized from the property, and the denial of the application would result in the taking of the property without just compensation. In order to make this claim, the applicant shall submit to the Board, not less than twenty (20) days prior to the public hearing, the following information:

1. For all property:

- (a) The amount paid for the property, the date of purchase and the party from whom purchased, including a description of the relationship, if any, between the owner and the person from whom the property was purchased;
- (b) The assessed value of the land and improvements thereon, according to the two (2) most recent assessments recorded in the office of the Property Valuation Administrator;
- (c) The two most recent real estate tax bills;
- (d) Annual debt service for the previous two (2) years recorded by the lending agency;
- (e) All appraisals obtained within the previous two (2) years by the owner in connection with his purchases, financing or ownership of the property;
- (f) Listings of the property for sale or rent, price asked and offers received, if any;
- (g) Any consideration by the owner as to profitable adaptive uses for the property.

2. For income-producing property:

In addition to the information required in Section 27-5(e)(1)(c)(1), the applicant must also provide information of:

- (a) Annual gross income from the property for the previous two (2) years;
- (b) Itemized operating and maintenance expenses for the previous two (2) years;
- (c) Annual cash flow for the previous two (2) years.

3. The Board may require that the applicant furnish such additional information as the Board believes is relevant to its determination of taking without just compensation and may provide, in appropriate instances, that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information that cannot be obtained, and shall describe the reasons why such information cannot be obtained.

Should the Board find that the material submitted is not adequate for the proper review of the proposal, the Board shall promptly notify the applicant and state specifically the information that the Board requires.

Deterioration of historic buildings attributable to the owner's failure to provide proper maintenance over an extended period of time will not be considered a mitigating circumstance in evaluations of economic hardship. Such "hardship" will be considered "self-imposed," restoration costs to remediate such neglect will not be considered.

27-5(e)(2) ACTION - Notwithstanding any other provision of this Article, the Board, after hearing evidence at its public hearing, may vote to postpone action to approve or deny an appeal for a reasonable period of time not to exceed one (1) year from the filing date of application in order to conduct studies, surveys and/or gather information concerning the following:

- (a) Alternatives which may be or may become available, including restoration, rehabilitation, adaptive reuse, or other alternatives to demolition; and
- (b) Study the question of economic hardship for the applicant, including whether the structure can be put to reasonable beneficial use without the approval of the demolition; and whether the applicant can obtain a reasonable return from his/her existing building and offering the property at fair-market value to party willing to renovate the building. If economic hardship or the lack of a reasonable return is not proved, the Board shall deny the demolition application, giving the facts and reasons for its decision.

27-5(e)(3) EFFECT OF AUTHORIZATION PERMIT - Upon receipt of the Authorization Permit from the Design Review Officer, a 7-day waiting period shall begin in which no demolition activity may be undertaken by the applicant or its agents, and no demolition permits may be issued. Upon completion of the waiting period, the Division of Building Inspection shall issue a demolition or wrecking permit, in accord with the Authorization Permit, provided that a building permit has been issued and the application meets all other requirements of law. In the instance an applicant is required to and has obtained a building permit for new construction on the site, no mandatory waiting period shall apply, and the Division of Building Inspection shall issue a building permit upon receipt of the Authorization Permit from the Design Excellence Officer, provided the application meets all other requirements of law.

27-5(f) AUTHORIZATION PERMIT VALID FOR ONE YEAR FROM DATE OF ISSUANCE - The property owner shall obtain permits, when required, and commence work on all work authorized by the Authorization Permit within one (1) year from the issuance of the Authorization.

27-6 FAILURE OF BOARD OR DESIGN EXCELLENCE OFFICER TO ACT - Upon failure of the Board or the Design Excellence Officer to take final action upon any application within sixty (60) days after the completed application has been filed; and unless a documented mutual agreement between the Board and the applicant has been made for an extension of time, the application shall be deemed to be approved and an Authorization Permit shall be issued to the applicant, and a copy of said Authorization transmitted to the Divisions of Planning and of Building Inspection.

27-7 APPEALS –

27-7(a) APPEAL TO THE FAYETTE CIRCUIT COURT - Any person or entity claiming to

be injured or aggrieved by any order of the Downtown Area Design Excellence Board to affirm, modify or set aside the Authorization Permit and/or final decision of the Board may appeal from the Board's action to the Fayette Circuit Court within thirty (30) days of that order in the manner as established in KRS 100.347. All orders of the Board which have not been appealed within thirty (30) days shall become final.

27-7(b) CONSIDERATION BY THE BOARD OF PREVIOUSLY DENIED APPEALS - In the event the appeal of an applicant is denied by the Board, the building, or any portion thereof, which was the subject of the applicant's application, shall not be included in a subsequent application to the Board for an Authorization Permit and/or final decision until the expiration of one (1) year from the date of the order of the Board.

However, before the expiration of one (1) year, the Board may allow the filing of an application for an Authorization Permit and/or final decision if the Board finds that there are new facts or conditions not considered previously, or that there has been a change in the adopted guidelines which has substantially altered the character of the request. In such cases, after the evidence is presented by the applicant, the Board shall vote to approve or deny such a request for a new hearing. The Board's reconsideration of the application shall take into consideration the new evidence presented. The Board's decision need not be restricted to the new evidence. If the new evidence is withdrawn at any time during the reconsideration by the applicant, the Board shall have no authority to reconsider the application.

27-8 ENFORCEMENT – The Design Excellence Officer shall be responsible for reviewing construction authorized under the provisions of this Article to determine compliance. Matters involving violations shall be administered under the authority ascribed to the Director of the Division of Planning as Zoning Administrator under Article 5 of the Zoning Ordinance.

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

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

Clerk of Urban County Council

Published:

370-14:TWJ:X:\Cases\PLANNING\14-LE0001\LEG\00436223.DOC

Planning & Public Safety Committee Referrals

Items	Referred By	Date Referred	Status
H-1 Notification Process	Farmer	1.19.13	November 2014
Greenway Manual & Plan	Mossotti	10.8.13	May 2015
Explore Providing Assistance to Low Income Homeowners with Code Compliance	Akers	12.5.13	May/Nov. 2014
Code Enforcement Fines	Gibbs	2.11.14	May/Nov. 2014
Building Inspection Civil Offenses	Gibbs	2.11.14	Nov. 2014, Feb. 2015
Design Excellence Ordinance	Kay	4.22.14	April 2015
Downtown Traffic Study	Farmer	4.13.12	May 2015
Taxi Cab Ordinance	Henson	2.11.14	Dec. 2014, Jan. 2015
Merge Division of Emergency Management (DEM) into Fire & Em. Management Services	Public Safety Link	6.19.14	Winter-Spring 2015
Ridesharing Regulations	Henson	6.22.14	Feb 2015
Scrap Metal Dealers UCG Code 13.54-3	Farmer	6.23.14	Spring 2015
Sky Lanterns	Farmer	6.24.14	Spring 2015
Status of Small Area Plans	Stinnett	2.3.15	May 2015
Versailles Rd Corridor Study	Henson	3.10.15	April 2015