

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

August 25, 2016

- I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: William Wilson, Chair; Will Berkley; Patrick Brewer; Mike Cravens; Karen Mundy; Mike Owens; Carolyn Plumlee; and Joseph Smith. Absent was David Drake.

Planning staff members present: Jim Duncan, Director; Bill Sallee; Traci Wade; Tom Martin; and Debbie Woods. Other staff members present were Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; Tracy Jones and Andrea Brown, Department of Law.

- II. **APPROVAL OF MINUTES** – No minutes were presented.

- III. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

1. **ZOTA 2016-3: AMENDMENTS TO ARTICLES 8-16 TO ALLOW RECREATIONAL FACILITIES AS PRINCIPAL USES IN THE B-1 ZONE** – petition for a Zoning Ordinance text amendment to Articles 8-16 to allow recreational facilities and uses operated by non-profit organizations.

REQUESTED BY: Transylvania University

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

The Zoning Committee Recommended: **Postponement**.

The Staff Recommends: **Disapproval**, for the following reasons:

1. The proposed "recreational facilities" land use was recently considered through a lengthy text amendment process which only recently culminated for recreational and tourism land uses across the entire county in every zoning category. Through that process, the question about recreational facilities and outdoor athletic fields was discussed by a Council Ad-hoc Work Group, the Planning Commission and the Urban County Council in depth. Some expansion of recreational uses was deemed appropriate, but outdoor recreation was determined to be appropriate in more intense business zones, such as the Highway Services Business (B-3) zone.
2. The proposed text amendment would introduce outdoor uses in a zone that is typically located in and near residential neighborhoods and where outdoor uses are currently not allowed due to noise, lighting, traffic and parking impacts. The proposed use is not generally compatible with the other uses within the Neighborhood Business (B-1) zone and generally does not the best use of the community's neighborhood business zoned land. Recreational facilities will not generate employment opportunities or personal services for the surrounding neighborhoods, or other revenue for the county like retail sales, restaurants, offices, banks, and other similar business uses.
3. The petitioner's proposed text amendment is not clear and is too broad, as proposed. The text is not clear about what other "uses" might be permitted by this text addition to the Zoning Ordinance. The proposal could be read to allow any use operated by a non-profit organization or to allow any accessory uses to the recreational facility. Additionally, if they must be "operated by a non-profit organization," this puts more pressure on the government to review the owner and operator's financial and/or business structure, which has less to do with the land use of the property.

Petitioner Representation: Dick Murphy, attorney, present representing the petitioner, said that the Zoning Committee recommended postponement and the petitioner would like to continue discussion with the staff. He said that the petitioner would like to request a one month postponement.

Action: A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 9-0 (Penn, and Richardson absent) to postpone ZOTA 2016-3 to the September 22, 2016, Planning Commission Subdivision Meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, August 4, 2016, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Carolyn Plumlee and Mike Owens. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee; Chris Woodall; Tom Martin; Traci Wade; Chris Taylor; Cheryl Gallt; Denice Bullock; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; Chris Schnelle, Division of Police; and Tracy Jones and Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, August 4, 2016, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Mike Cravens, David Drake and Carolyn Richardson. The Committee members reviewed applications and made recommendations as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
 - (d) Hearing closed and Commission votes on zone change petition and related plan(s)

B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. **CITY VIEW INVESTMENTS, LLC, ZONING MAP AMENDMENT & KIMBALL HOUSE SQUARE (AMD.) ZONING DEVELOPMENT PLAN**

- a. **MAR 2016-19: CITY VIEW INVESTMENTS, LLC** - petition to modify conditional zoning restrictions in a Mixed Use 2: Neighborhood Corridor (MU- 2), for 0.94 net (1.10 gross) acres, for property located at 275 S. Limestone.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. In addition, the Plan encourages a mixture of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes to modify the existing conditional zoning restrictions for property within the Kimball House Square mixed-use project in order to fit out the remaining first floor and basement space, which they own, as residential rather than commercial or office space. The petitioner proposes amending the maximum dwelling unit restriction for the MU-2 zone from 22 residential units to 30 residential units. A dimensional variance has also been requested to reduce the minimum percentage of non-residential square footage for the MU-2 zone.

The Zoning Committee Recommended: **Approval**.

The Staff Recommends: **Approval**, for the following reasons:

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1. In accordance with Article 6-7(c) of the Zoning Ordinance, there have been unanticipated changes of an economic, physical, and social nature in the immediate area, since the time the current conditional zoning restrictions were imposed in 2007, which have substantially changed the basic character of the subject property. In particular:
 - a. There has been stronger demand for residential housing over the past decade in the South Hill residential district, as evidenced by the fact that mixed-use projects in the area such as The Lex and CentreCourt (in addition to the Kimball House) have experienced very little vacancy for residential spaces but more notable vacancy for non-residential spaces over this period.
 - b. Kimball House Square has 100% occupancy of the existing 22 on-site dwelling units. This is in spite of the fact that several financial institutions foreclosed on multiple units in the development less than five years ago, which is a testament to the strong demand for residential use and less demand for non-residential space.
 - c. The demand for office and retail uses over the past decade has been stronger in the core of downtown and in other locations throughout the community, judging by new and approved developments, than in the South Hill and South Limestone areas.
2. This recommendation is made subject to approval and certification of DP 2016-71: Kimball House Square (AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property's MU-2 zone shall now be restricted in the following manner, via conditional zoning:
 - a. The density shall not exceed 25 dwelling units in the MU-2 zone on South Limestone Street, and five units in the MU-2 zone on South Upper Street.

These restrictions are necessary and appropriate for the subject property in that the residential use of the subject property remains compatible with the density and uses in the surrounding neighborhood.

- b. ZDP 2016-71: KIMBALL HOUSE SQUARE (AMD) (9/4/16)* - located at 275 South Limestone.
(Planning Contact: T. Martin) **(Carman & Associates)**

Note: The purpose of this amendment is to revise the conditional zoning restrictions and revise the parking.

The Subdivision Committee and Staff Recommended: **Postponement**. The owner of the parking lot has not consented (in writing) to these changes.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property, altering the conditional zoning restrictions; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Correct note #8 to include required Chapter 16 reference.
9. Provided the Planning Commission grants the required variance.
10. Provided the Planning Commission makes a finding that the plan complies with Article 28-6 requirements.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change for 275 S. Limestone and stated that this application is for a modification of conditional zoning restrictions within a Mixed Use 2: Neighborhood Corridor (MU-2) zone. She said that one letter in opposition has been submitted to the staff. She also had a copy of the Condo Association consent letter, which was distributed to the Planning Commission for review. She said that there was originally a variance associated with this zone change request, which has been withdrawn by the applicant. There was also an issue related to the legal description that has been resolved. The staff had originally recommended postponement in July, but the applicant had modified their application and the staff made a different recommendation at the August Zoning Committee meeting.

Ms. Wade oriented the Planning Commission with the subject property which is located on S. Limestone; just a short distance to the northeast of the intersection of W. Maxwell and S. Limestone and does stretch over to S. Upper Street. The subject property is also located within a local historic district, the South Hill Historic District. The current conditional zoning restrictions on the property limit the density of the development. The S. Limestone area is mostly zoned as Neighborhood Business (B-1) between the University of Kentucky and downtown. The downtown area is mostly located within the Downtown Business (B-2) zone. The area accommodates a number of mixed use, retail, and restaurants, single and multi-family zones. The subject property is actually a re-use of several historic structures; it was rezoned in 2005 to modify the development from a hotel to a mixed-use project with the intent to have both R-4 and MU-2 zoning, with the MU-2

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fronting on S. Limestone. The intent was to use the first floor as commercial space and the upper level floors and the properties to the rear would be residential. As the applicant has found over the last ten years, this property has not been able to lease commercial any units. The applicant contends that it is an economic change in the subject property. The requirements KRS 100 and of the Zoning Ordinance is that the Planning Commission or the Council can amend the conditional zoning restrictions only if they find that there has been a major change of a social, physical, or economic nature to the subject property or within the immediate area that was not anticipated at the time the restriction was put in place and also that it has altered the basic character of the area, making the restriction improper or inappropriate.

Ms. Wade said the applicant originally wanted to modify the amount of residential to commercial to fall below what the Zoning Ordinance requires in terms of the 85/15 percent split. However, they have adjusted their development plan and have agreed to meet the 15 percent requirement of the Zoning Ordinance, which will still leave a good amount of square footage available on the basement and the first floor that they want to use for residential purposes rather than commercial purposes. The conditional zoning restrictions specifically limit the density of the property to 22 dwelling units in the main building and in the rear building. Their proposal is to leave the S. Upper Street property, which is complete and occupied with 5 dwelling units and to allow 25 dwelling units in this building, rather than 17, making a total of 30 dwelling units available to them in terms of density.

Ms. Wade said that there is a heavy demand for residential uses in the S. Limestone corridor. The current mixed use properties in the area have been primarily residential and much less commercial even though the Zoning Ordinance could allow a much greater mix. The applicant cited nearby Center Court and The Lex development that have also had the same issue of commercial units not being occupied. She said that the South Hill area is a popular residential area for students, professionals, and retirees because of its location.

Ms. Wade said that the staff does agree with the applicant's justification that there has been a change for this property and the area that was not anticipated when the original restrictions were put in place and is recommending approval of this request as did the Zoning Committee three weeks ago. The staff recommends that the density shall not exceed 25 dwelling units in the MU-2 zone on S. Limestone, which encompasses 5 buildings on the development plan, and 5 dwelling units on the MU-2 zone on S. Upper Street. The restrictions remain necessary to limit the density in order for it to remain compatible with the surrounding neighborhood. The zone change is also contingent on the Development Plan being certified.

Development Plan Presentation - Mr. Martin presented the staff report on this final development plan. On a rendering of the plan, he pointed out the subject property, noting the building orientation and the parking spaces all located to the interior of the development. He said that this development will not be making any physical changes to the building, the parking, or to the site. The applicant did locate three additional parking spaces that were not originally on the plan.

Mr. Martin also mentioned that the staff had originally recommended postponement and is now recommending approval, as things have moved through and clarified with the zoning and with the submittal of this revised plan. The staff is recommending approval and is recommending that the Planning Commission strike condition number 9 as it refers to the variance, which is no longer being requested.

Mr. Martin had distributed to the Planning Committee a finding that is required under Article 28-6 of the Zoning Ordinance for mixed-use documents. He said that every mixed-use proposal is subject to this finding, which addresses the site and building criteria under Article 28-6(b-g). He said this criteria addresses parking, parking locations, building articulation, lighting, and other issues that are relevant to the design of a mixed-use project.

Mr. Martin said that the property was rezoned in 2005 and a final development plan was submitted certified in 2006. He said that it complied with the mixed-use zone requirements at that time and this plan does as well.

Commission Comments – Mr. Owens said that there was letter circulating to the Planning Commission that stated there were problems with proposed parking. He asked what the recommended number of parking spaces is. Mr. Martin replied that there are 74 parking spaces provided according to the development plan and seven of those are off site. They were granted a reduction in their overall parking, but they are meeting the requirement for parking. He said that there could be issues with movement on any site with interior parking. Mr. Owens said that three parking spaces had been found. Mr. Martin said that there were three parking spaces that were not originally on the development plan. Mr. Owens said that there is usually a recommendation of the number of spaces needed. Mr. Martin said that the staff evaluates what is required and what is provided and the staff has pointed out on some development plans in the past, that they are under parked, which was not the situation when this plan was originally approved.

Petitioner Presentation – Nathan Billings, attorney, was present representing the petitioner. He replied to Mr. Owens question regarding parking on site. He said that during the process of the application, he discovered something that he has never seen before. This development plan, which includes two zones, MU-2 and R-4, is part of a condominium association. This condominium association was created by a document called a Master Deed, where parcels of land are submitted into a common property regime. He said that there is an additional parcel of land, next to the subject property, that isn't on the development plan and that belongs to this association. This Master Deed includes seven additional parking

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spaces on that parcel. He said that in the past, the Planning Commission has approved off-site leased spaces to comply with parking. This is better than leased spaces because these spaces will never be taken away from the owners. A copy of the parking drawing was submitted to the staff during the proposal and the development plan has also been updated with a note to show additional off-site parking spaces. He said that currently under the Zoning Ordinance that 69 parking spaces are required and they have 74 total parking spaces.

Mr. Billings said that this is an unusual proposal, and it's technically called a zone change; but it doesn't really change the designation for the overall property. It will not change anything on the exterior of the units, which is from the unfinished drywall in, except that they can now use more of those units for residential and less for office/commercial use. He said that they will still need to comply with 15 percent of the square footage to meet office or retail or related uses that are allowed by the Zoning Ordinance and the Master Deed. The Master Deed is actually more restrictive on the use of these units than the Zoning Ordinance.

Mr. Billings said that in 2012, his clients approached him about owning their five units on the first floor and unit 10 of the basement. His clients purchased these units in 2010 and haven't been able to use them and decided that they needed to find a solution. He consulted with an architect who had developed some residential plans and considered an application for a conditional zone change and after meeting with the staff for the pre-application meeting, they decided to wait for the recession to pass. He said that technically this is a legal issue, and that there isn't anything outside of their unit that is going to be changed by this plan. He said that Mr. Martin had mentioned the certification under Article 28-6(b-g), nothing outside of his client's drywall will be affected. There are some issues that will need to be worked out with the condominium association in this process regarding the paying of dues and assessments but that doesn't affect anything outside of their units.

Mr. Billings said that the original plan was filed with a variance, which has been withdrawn. He said that they have resolved, with the staff, the parking and the detail of the calculations of the square foot analysis. He said that he is seeking the approval for the modification of the existing conditional zoning restrictions to allow his clients to increase the number of residential units and to approve the associated development plan and to continue to maintain a modified conditional zoning restriction on the property.

Mr. Billings distributed to the Planning Commission proposed findings for the zone change.

Chairman's Comments – Mr. Owens questioned if our legal department agreed with the findings that were provided by staff or by Mr. Billings. Ms. Jones said that the findings provided by staff have already been reviewed, and that she hasn't seen the findings from Mr. Billings. Chairman, Mr. Wilson stated that the Planning Commission will rely on the findings from the staff for the official document. Mr. Billings stated that the two documents are the same, just on a single page.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Drake absent) to approve MAR 2016-19: CITY VIEW INVESTMENTS, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Ms. Mundy, carried 10-0 (Drake absent) to approve ZDP 2016-71: KIMBALL HOUSE SQUARE (AMD), for the reasons provided by the staff with the revised staff recommendations for 9 total conditions, deleting number 9 and noting the findings for compliance with Article 28-6(b-g).

2. RML CONSTRUCTION, LLP, ZONING MAP AMENDMENT RML-CITATION (HILLENMEYER INTEREST, LTD.) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-16-00004: RML CONSTRUCTION, LLP – petition for a zone map amendment from a Light Industrial (I-1) zone to a Wholesale and Warehouse (B-4) zone, for 12.03 net (15.75 gross) acres, and a Planned Neighborhood Residential (R-3) zone to a Wholesale and Warehouse (B-4) zone, for 2.24 net (4.0 gross) acres, for property located at 2551 Leestown Road and (a portion of) 745 Greendale Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes a rezoning to a Wholesale and Warehouse Business (B-4) zone in order to construct an automobile service station and three office/warehouses buildings for a total of 33,200 square feet of space, and associated off-street parking areas.

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The Zoning Committee Recommended: **Approval**.

The Staff Recommends: **Approval**, for the following reasons:

1. A restricted Warehouse and Wholesale Business (B-4) zone is in agreement with the policies general concepts, policies and guiding principles of the 2013 Comprehensive for the following reasons:
 - a. The site has been an underutilized/vacant site after more than a decade. The property should be considered for a possible change to an alternative zone for great utility and function in order to better serve the needs of the community and the immediate neighborhood within the Urban Service Area.
 - b. The proposed zoning and land use are generally compatible with the nearby industrial land uses to the south and would be less intense near the planned residential land use to the north. Conditional zoning restrictions to limit lighting and the most intense uses that may disturb residents are appropriate for the subject property north of Sandersville Road in order to ensure land use compatibility.
 - c. The proposed redevelopment will be able to use the existing infrastructure and transportation networks, which are adequate to serve the uses, including Citation Boulevard, along with the future connection of Sandersville Road through the site. The proposed B-4 zone can accommodate a number of small businesses that would provide important services within a neighborhood node, which is desirable near residential areas. These are consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 6: "Improving a Desirable Community."
 - d. The proposed land use will not impair existing environmental conditions on the site. This is consistent with the guiding principles of the Comprehensive Plan, specifically Chapter 4: "Protecting the Environment."
 - e. The proposed B-4 zone would be a step down from the existing I-1 zone to the south, and would eliminate the possibility of the most intense land uses being located along Sandersville Road across from a new neighborhood.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00007: RML-Citation (Hillenmeyer Interest, Ltd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the portion of the subject property adjacent to residential zoning:
 - a. Prohibited Uses:
 1. Shops for major automobile and truck repairing or electroplating.
 2. Laundry, clothes cleaning or dyeing shop.
 3. Ice plant.
 4. Tire re-treading and recapping.
 5. Machine shop.
 6. Processors of agricultural products.
 7. Establishments and lots for the display, rental, sale and repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles such as mini-bikes, motorcycles, bicycles, boats or supplies for such items.
 8. Truck terminals and freight yards.
 9. Establishments for the display and sale of precut, prefabricated or shell homes.
 10. Carnivals.
 11. Outdoor storage within 200' of Citation Blvd. or within 200' of a residential zone.
 - b. Other Use Restrictions:
 1. Any outdoor lighting shall be shielded and directed away from any residential zones.
 2. A fifteen-foot (15') landscape buffer shall be established along the northern property boundary, where adjacent to a residential zone. One tree every 20 feet of linear distance shall be planted along the boundary selected from Group A or B of the Planting Manual. These trees shall be planted in two rows so that they are staggered within the buffer area.

These restrictions are necessary and appropriate in order to ensure compatibility of the proposed development with the proposed residential neighborhood to the north of this location.

- b. PLN-MJDP-16-00007: RML-CITATION (HILLENMEYER INTEREST, LTD.) (9/29/16)* - located at 2551 Leestown Road and 745 Greendale Road.
(EA Partners)

Note: This purpose of this amendment is to revise the zoning and development for the property.

The Subdivision Committee and Staff Recommended: **Postponement**, There were some questions regarding the proposed development on Lot 5.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.

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2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Dimension exterior walls of all buildings, and C-store canopy.
8. Denote that conflict between lot line and easement will be resolved at time of Final Development Plan.
8. Denote access apron dimensions.
9. Denote 25' floodplain setback line, on plan.
10. Clarify parking generator by use per Article 8-21(n) of the Zoning Ordinance for warehouse and C-store uses.
11. Remove "no limitation" notations from site statistics.
12. Denote subdivision name in Plan Title.
13. Discuss landscaping and lighting restrictions adjacent to R-3 zone.
14. Discuss private street vs. access easement for access to Lot 5.
15. Discuss proposed uses for Lot 5.
16. Discuss stormwater detention location for this development, and its timing.
17. Discuss provision of vehicular access and use for the area south of the floodplain on Lot 5.
18. Discuss access into warehouse portion of proposed buildings.

Staff Zoning Presentation – Ms. Wade presented the staff report on this zone change for 2551 Leestown Road and a portion of 745 Greendale Road and stated that this application is for a rezoning from Light Industrial (I-1) zone and a Planned Neighborhood Residential (R-3) zone to a Wholesale and Warehouse Business (B-4) zone. The subject property is actually located along the new Citation Blvd. A majority of its frontage is on Citation Blvd. and the planned continuation of Sandersville Road is planned through the subject property, which will continue across Citation Blvd. She displayed an aerial view of the subject property.

Ms. Wade said that the I-1 parcel was rezoned in 1994 and the R-3 parcel was rezoned by Ball Homes in 2004. Both of these parcels have remained vacant for more than a decade. She said that now that Citation Blvd. is complete and has provided access between Leestown Road and Newtown Pike, that there has been some interest by landowners in the area and in offering other services that are not directly available to the residential areas in this vicinity. She said that the areas to the south and the east of the subject property are already zoned as I-1 and the property to the west and north are zoned as R-3. She said that residential is planned across Citation Blvd. and to the north of Sandersville Road.

Ms. Wade said that the applicant is proposing the rezoning to the B-4 zone in order to construct approximately 64,000 square feet of both office/warehouse space and an automobile service station. The applicant contends that this proposal is in agreement with the 2013 Comprehensive Plan based on land use change considerations developed by the staff following the adoption the Comprehensive Plan. The applicant believes that the existing combination of I-1 and R-3 zones are inappropriate at this intersection and that B-4 zone will be more appropriate at this location along a minor arterial and a collector street. The applicant believes that the proposed zone will be compatible with and enhance adjoining land uses, enable the development of a critical vehicular connection, Sandersville Road, will redevelop under-utilized land for greater utility or function, and will utilize the existing infrastructure. She said that the applicant also believes that the proposed zone change will not impair any existing environmental conditions of this site and it will provide for neighborhood oriented business and amenities in the area.

Ms. Wade said that the staff agrees with the applicant's contention that it is in agreement with the Comprehensive Plan at this location. She said that the staff noted in the staff report that the B-4 zone can accommodate some neighborhood-oriented businesses, like an animal clinic, garden centers, automobile service centers, and also the office/warehouse projects. She said that the B-4 zone would act as a step down between the Light Industrial and the residential. She said that the staff had concerns, when reviewing this application, about the buffer between the B-4 zone and the residential to the north of Sandersville Road, where it will be adjacent to single-family residential. The staff suggested conditional zoning restrictions at the Zoning Committee meeting, which made a recommendation of approval for this proposed zone change. She said that the findings and the conditional zoning restrictions are listed on the staff report, with a number of prohibited uses.

Development Plan Presentation - Mr. Martin presented the staff report on the preliminary development plan and said that there was a staff exhibit (pink handout) with the revised recommendations for this plan. On a rendering of the revised plan, he oriented the Planning Commission of the area for development. He said that the two office buildings will have parking in the rear of the building with a 15 foot buffer area between the subject property and the adjacent R-3 zone. The applicant is proposing a gas station along with an office/warehouse building behind it, with the parking to the rear, on the location. He said that originally, the staff had some concerns with the property including the fact that the applicant didn't have any development proposed on the remaining lot. He said that there is a sink hole in that location, which will be addressed at the Final Development Stage, with a study to determine the extent of the sink hole. He said that it may or may not have a significant impact on the development of the site. He pointed out the 100-year FEMA flood plain that runs through the rear portion of the property.

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Mr. Martin said that the revised conditions are mostly typical, with a few clean up conditions. He clarified condition number 8, the parking generator. The office/warehouse has a 60/40 square footage breakdown and that parking generator has to reflect that difference in use, one is 1/200 and the other is 1/600 square feet. He said that the convenience store will have its own generator. He said that there is a slight math discrepancy with this plan and that resulted in the condition to clarify or add 17 parking spaces. There is plenty of room to do so if they want to adjust the plan. He said that the staff is recommending approval of this revision.

Commission Comments – Mr. Penn asked if there is any consideration being given to the direction the buildings will face, and asked if they will they face Citation Blvd. Mr. Martin replied that at the Final Development Plan stage the plan will be reviewed for the building articulation and the appearance that it will present to Citation Blvd.

Petitioner Presentation – Bruce Simpson, attorney, was present representing the petitioner. He said that the applicant agrees with the staff's recommendations on the zone change and the development plan's revised conditions with the provision to clarify and denote the issues that Mr. Martin had mentioned, at the Final Development stage.

Zoning Action – A motion was made by Mr. Berkley, seconded by Ms. Cravens, and carried 10-0 (Drake absent) to approve PLN-MAR-16-00004: RML CONSTRUCTION, LLP, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Mr. Smith, carried 10-0 (Drake absent) to approve PLN-MJDP-16-00007: RML-CITATION (HILLENMEYER INTEREST, LTD.), subject to the 10 conditions provided by the staff.

C. FULL PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

2. ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE– petition for a Zoning Ordinance text amendment to Articles 23A-10 to allow for a number of new land uses within the Expansion Area.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Available from the staff
(Note: Text underlined is an addition, and text ~~stricken through~~ is a deletion to the current Zoning Ordinance.)

The Zoning Committee Recommended: **Referral** to the Full Planning Commission.

The Staff Recommends: **Approval**, for the following reasons:

1. The proposed text amendment to Article 23A-10 has been discussed and considered by a committee of government and real estate professionals, land owners, and others, who agreed that additional uses and greater design flexibility were needed in the ED zone.
2. The relaxation of building height and floor area limitations in the ED zone will provide more flexibility for future ED developments, while maintaining the intent of this zone to foster future job creation.
3. New principal and "supportive" uses will mean that future ED projects can meet the intent of this zone, while allowing the necessary mixture of uses that can contribute to successful developments in the future for these EAMP lands.

Staff Zoning Presentation – Mr. Sallee presented the staff report on this proposed amendment to Article 23A-10 of the Zoning Ordinance regarding new uses in the Economic Development (ED) zone. He said that the staff has received one communication regarding this text amendment, from Walt Gaffield, the President of the Fayette County Neighborhood Council. Mr. Gaffield expressed concern regarding this proposed ZOTA, and Mr. Sallee circulated his letter to the Planning Commission.

Mr. Sallee said the Economic Development land is a land use recommendation for two general areas under the Expansion Area Master Plan, which is part of the Comprehensive Plan. He displayed a map of the two primary locations for economic development land. One of the locations is in Expansion Area 3, which is bounded by the Urban Service boundary, by Newtown Pike, Interstates I-75 and I-64, and by Russell Cave Road. The other area is in the Expansion Area 2, which is bounded by Interstate I-75, Winchester Road, and Polo Club Blvd.

Mr. Sallee said that because these are part of the 2013 Comprehensive Plan there is a specific goal to evaluate barriers and opportunities in order to promote economic development within these lands in the Expansion Area. The intent of the ED zone is shown in the Zoning Ordinance in the section that is proposed for amendment. The purpose of the zone is to provide land within the Expansion Area for employment opportunities, compatible with the overall character of the Expansion Area.

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Mr. Sallee said that in these two Expansion Areas about 90 percent of the area is zoned, which in the staff's estimation is approximately 500 acres. He said that 350 acres in Expansion Area 3 is recommended for Economic Development land use and approximately 200 acres in Expansion Area 2 with 60-70 percent of that has already been rezoned.

Mr. Sallee said that the Commissioner of the Department of Planning, Preservation, and Development had established a workgroup to evaluate the current restrictions in the ED zone. Several major issues were discussed, but only two that were relevant to the Planning Commission's consideration of the ZOTA. The first is why has this particular zone developed at a slow rate compared to other developments in the Expansion Area. The second is what changes are most likely to lead to increased use of this zone. Mr. Sallee said that the land in the Expansion Area comprises about 50 percent of our available and vacant employment land in the community.

Mr. Sallee said that the workgroup reached several conclusions; to increase the number of permitted uses in the zone; to allow supportive uses to accompany other ED zone uses; to allow the residential uses; to increase the Floor Area Ratio; and the height and to decrease the open space requirements. He said that there was one unresolved issue, which was how much of this land should be considered for supportive uses. He said that there were also several new permitted uses recommended, such as breweries, wineries and distilleries; nursing homes, assisted living facilities; flex space projects; office/warehouse; agricultural research and experimental facilities.

Mr. Sallee said that supportive uses are considered principle permitted uses under the text amendment, but they are limited. They may only be provided either concurrently or after other principle economic development zone uses are provided in a development. He said that supportive uses are the bulk of the change that is proposed in this text amendment. He said that all supportive uses are limited under this text amendment to a maximum of 15 percent of the Floor Area Ratio allowed for development in ED zones. Some of the new uses allowed as supportive uses in the ED zone under this text amendment include restaurants, libraries, barber shops, hotels, travel agencies, pharmacies, medical supply stores, banks, nurseries, service stations, animal hospitals, and private clubs. He said that residential uses are also permitted under this text amendment and will have restrictions such as a limit of 15 percent of the allowable Floor Area Ratio for all supportive uses. These new uses would include multi-family residential, dwelling units above the first floor, and townhouses.

Mr. Sallee said that this text amendment also addresses Floor Area Ratio, building height, and open space. Under this text amendment, the Floor Area Ratio would increase from 0.75 to 1.0. The amendment also proposes a major increase to the allowable building height. The current ED zone is limited to a maximum of 90' for a single building. This text amendment will increase that to 120' in height. There is no change from the current 25% minimum requirement for open space in the zone. However, the text is being modified to allow that open space to be clustered on a number of lots and reviewed on a development plan basis rather than being required on each and every lot in an ED development area. He said that this will be a much more flexible approach to providing open space in an ED zone without allowing a wholesale change to the concept that originally led to the creation of this zone, which was to require that some open space be provided in these developments.

Mr. Sallee said that the staff is recommending approval of this text amendment for the reasons listed in the staff report. He said that the Zoning Committee recommended referral of this text amendment, to the full Planning Commission.

Commission Comments – Ms. Mundy said that there was to be a Community Center (CC) zone area near the Winchester, Polo Club, and Costco area. She asked with this change, will that CC zone be eliminated. Mr. Sallee replied that the CC zone in this area of Polo Club and Man 'o War Blvd. has moved to be more oriented to the interstate interchange, whereas the Expansion Area Master Plan had shown that land use on the opposite side of Polo Club Blvd., away from the interstate. He said that the two acreages are very close and the zone that was eliminated was the Transition Area (TA) zone. Ms. Mundy asked for clarification of the previously recommended CC zone location. Mr. Sallee pointed it out on the displayed map; it is adjacent to Man o' War Blvd. on the east side of Polo Club Blvd.

Petitioner Presentation – Jacob Walbourn, attorney, was present representing the petitioner. He said that the ED zone is very controversial and considered as a failed zone. There has been zero development in the ED zone since the Expansion Area Master Plan was adopted and the workgroup was established to correct this. He said that the workgroup centered on two key points. One of them is the cost; this is expensive land that is subject to very high exaction fees and very expensive to develop. The other point is diversity of uses in the ED zone; what is it about this zone that hasn't worked out. He said that the workgroup was divided into three groups; a group of interested parties, a group of land owners, and a group of people that were interested in preserving "the jobs land." The entirety of the ED land is owned by three developers; Anderson Community, the Cowgill family, and Baptist Health. Baptist Health is in the healthcare business, which is already permitted in the ED zone; the other two individual parcel owners have a substantial stake in this text amendment. He said that the property owners had proposed basically what is being proposed with the exception of 15% supportive uses, they had asked for 30%; and instead of 15% of 15% (2 1/2% of total square footage) for residential, they had asked for 50% of 30% of residential (15% of total square footage). He said that the developers believe that successful development can happen on the ED land at 30% supportive uses, of which half could be residential.

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Mr. Walbourn said the intent of this zone was to create jobs and that hasn't been accomplished and that there is a movement to protect the zone that we currently have. He believes that these changes are not substantial enough to spur the kind of growth and change that we all want to see in this area. He said that this is some of the vacant land in the Urban Service Area and the land is filling up; we're running out of land and this is a prime location where we could start contributing to the tax base. He said that he believes that the proposed change is not all that radical; the difference between 15 and 30% would leave 60 acres available for economic, non-supportive uses and that is still a substantial amount of land to provide employment. He believes that 30% of supportive use is the bare minimum that can be requested that will enable the petitioner to do this kind of development and contribute positively to the community.

Citizen Comment – Christie Harris, resident of 2550 Winchester Road, said that her family has owned this property since 1999. She said that her family has a strong desire to develop this property and hasn't had any opportunities to since they had purchased it. She said that her family would like the opportunity to develop the corner of I-75, Winchester Road, and Polo Club Blvd.; they have had many ideas but can never to move forward on their ideas. She said that the committee seemed to be conservative with their recommendation of 15% for supportive uses.

Commission Comments – Mr. Cravens said that the property owner would like to change the supportive uses to 30%, what part of that would be residential. Mr. Walbourn replied that they had requested up to 15% of the overall, which will be half of the 30%, 15% overall.

Citizen Comment – Mr. Murphy, attorney for Dennis. Anderson, confirmed that Mr. Walbourn set up the facts and the lack of success of the ED zone over the past 20 years. He said that he participated in the Expansion Area committee during the 1996 Comprehensive Plan update, and said that the plans had shown the southern half of the 346 acres as residential and the northern section as more commercial or ED zone. He said that on the eve of the vote, a new plan was on display by the landscape architecture firm, showing the entire thing as ED land use, and the consultant stated that if the current owner didn't approve that he would take the entire thing out the Urban Service Area boundary. He said that the developers have dealt with this land for 20 years and that the Planning Commission chair at the time said that the zone could be changed. The zone hasn't been changed and the lack of inertia has carried forward. He said that Mr. Anderson agrees with Mr. Walbourn's comment of the developer's plans for this land. He said that after 20 years, it's time to give more flexibility because people are building communities now.

Mr. Murphy said that he is also representing a potential fourth owner of ED zone land in this community, residents of the lot across Winchester Road from the Cowgill property. He said that he had filed a zone change two years ago for 2 1/3 acres for a lot that is in between two land uses that were not anticipated; one is a sewage pump station and the other is a KU substation. These facilities have greatly impacted the marketability of this property for residential use, which was proposed for this lot. This lot had applied for a zone change to the Community Center (CC) zone, which has been indefinitely postponed, pending the results of the ED workgroup. He said that the work group didn't address smaller tracts that were not attached to one of the three larger tracts; this lot is a smaller tracts. He said that two of the larger tracts have development plans for them and there will be one for the third; he believes the future for this 2 1/3 acre lot will serve the ED zone, since the small size of this property makes it impossible for it to be used as a factory or a medical facility, which is the largest use in ED zone. He said that with the 15% rule on this property of only 2 1/3 acres would only be 0.3 acre that would be eligible for commercial type uses.

Mr. Murphy handed out to the Planning Commission two potential solutions, which would modify the proposed text of Zoning Ordinance Article 23A-10(j)(12)(d). He said that the principal use for the smaller tracts of less than 10 acres, under separate ownership, adjacent to an ED parcel, the supportive uses would be principal uses without the 15% limitation on it. He said as an alternative to that is the conditional use making all of the supportive uses conditional uses on the small tracts of 10 acres or less. He said that this would allow it to be a conditional use if there is a restaurant coming in. He believes that this would be appropriate for the smaller tracts of land and asked the Planning Commission to adopt one of the alternatives as an amendment to this proposal.

Lee Simms, spouse of the executor of the Miller Estate on Winchester Road, said that his family has owned this property for 60 years and has seen the KU substation and sewage pump station appear on either side of them more recently. He said that the family would like something purposeful to take place on this land. He said that he had met with the staff for 2 years to try to change the zone to CC and was advised to wait for the ED zone. He said that the ED zone is not a fit for a small land owner, they need more flexibility; and would also like the opportunity to provide jobs and help with the tax base. He said that some businesses and hotels have contacted him for sale but the owners are limited by what can be built there. He said that he is requesting some assistance, from the Planning Commission, for the smaller land owners, for them to have the opportunity to also grow.

Rob Gabert, consultant for the landowner, said that he was assigned to find some commercial viability for the front 2.38 acres inside of the USA boundary. He said that hotels and B-3 type users have been approaching the land owners for sale. He said that it will be very difficult to get a viable project on this land with the plan retention in the rear of the property and also with the plans to continue Polo Club along with the 15% restriction and the greenspace allotment.

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Dennis. Anderson, landowner of the Kingston Hall property, said the difficulties of developing this property is the limited amount of uses and that people don't understand exactions, they seem confusing and will tend to lean people towards refusal of them. He said that this land has been undeveloped for 20 years now and he believes that the uses need to be expanded. He said that he had buyers that were interested in distribution and a farm implement dealer on this property; he said that neither is correct for this property. He said that he wanted to build a mixed-use development that would be fun to work and live, an up-scale office/business park, with walking trails and townhouses on this property. He believes that land uses should be sprinkled in areas and that every use on this property is worth at least three times as much as residential land. He said that he would like a community on Newtown Pike that will contribute to the overall Lexington community. He said that he wants a place where after 5 o'clock in the evening that people don't go home; there will be employment, restaurants, bars and housing (townhouses). He believes that there isn't adequate housing in this area and in order to stimulate the growth in this area he needs to have these support services.

Mr. Anderson said that he agrees with the Cowgill family relative to the request for 30% supportive uses, of which 15% have the option to use as residential as they see needed.

Commission Comments – Mr. Cravens asked Mr. Anderson to clarify how the 30% supportive uses would work, that it could only work if it were built at the time of the use it is supporting. Mr. Anderson replied that timing markets is impossible; he wants to bring to the market what it needs when it needs it.

Mr. Penn commented that Townley Center was not ED zoned land. He said that he doesn't want to take ED zone land and turn it into a Townley Center. If the principal uses are not done first and the supportive uses are done first, the principal uses may never come forward. He said that he has to support timing the construction of the supportive uses being after the principal uses, otherwise a zone change should have been presented. Mr. Anderson replied that the Townley property was originally zoned I-1 and was changed to mixed-use. He said that he had an economic study completed of this property that states that the amount of taxes and jobs from when he began this project to today has changed phenomenally. Mr. Penn asked if the land is too expensive to compete with other industrial lands. He opined that we should not address it by putting in other uses other than an ED zone and call them supportive uses. Mr. Anderson said that the problem isn't the price; the problem is that the amount of uses available is too narrow. He said that this is to expand the uses in the ED zone, 85% of the land will still remain in economic development uses.

Mr. Cravens asked Mr. Anderson if he agrees to the uses that have been expanded with the exception of 30% instead of 15%. Mr. Anderson agreed and said that he glad that hotels and restaurants were included. He said that the older generation lived to work and that the young people today work to live and they don't just want to go to work, they want to go to lunch and to go out after work and that is what he wants to provide.

Mr. Wilson asked the staff about their concerns to the proposal that was made. Mr. Sallee said that the ratio of principal to supportive uses was also a concern with the workgroup and they were unable to reconcile the difference of the percentage. He summarized that the staff's recommendation is that the supportive uses would comprise 15% of the Floor Area Ratio and of that allowance, 15% of that would be allowed for residential use. He said that the Cowgill family had asked for 30% of Floor Area Ratio and 15% allowable for residential use. He also believed that Mr. Anderson had also asked for 30% Floor Area Ratio and 15% of that for residential use.

Mr. Sallee said that if the Floor Area Ratio is increased as it has been proposed with this text amendment, there could be approximately 24 million square feet of buildable area in these ED areas. He said that these percentage changes would have huge ramifications; under that staff provision, 15% would be 3,700,000 square feet would be available for supportive uses, which about three times the size of the Fayette Mall and of that approximately 500,000 square feet would be available for residential use, which would be about 1 dwelling unit per acre. He said that at the 30% supportive and 50% residential would be approximately 7,500,000 square feet of supportive uses and 3,725,000 square feet of residential use, which would be about 6 ½ dwelling units per acre. He suggested that the Commission compare those calculations to what the staff sees in a typical multi-family development plan. A typical multi-family development plan proposes a density of about approximately 18 units per acre. He said that the staff's result, according to their recommendation, will still allow pockets of that type of development in these ED zones.

Mr. Sallee said that Commissioner Paulsen was very clear to all the attendees of the workgroup that this task should be done in a way that didn't compromise the basic intent of the ED zone, which is to provide jobs in the area. He said that the staff asks the Planning Commission to be very cautious about the percentages.

Mr. Cravens asked if the percentages were of the actual size of the building not the acreage. Mr. Sallee said that with a Floor Area Ratio of 1.0 that makes it easy for this type of calculation. Mr. Cravens said that it would be difficult to build on the entire site unless other sites were available. Mr. Sallee replied that won't be possible to cover the entire site because of the 25% open space requirement. The only way to achieve a Floor Area Ratio of 1.0 is to build a taller building because parking still needs to be provided, as well. Mr. Cravens asked if these calculations were only on the 15% of the other uses based on the square footage of the buildings built to support the actual use not the supportive use; not the gross acreage

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but on the buildings that are built. Mr. Sallee replied that those were possible building square footages based on the total land area, not land square footages.

Mr. Brewer said if the non-development in this ED area was created with a great intent, but didn't work. He asked if this small change is going to make an appreciable difference in what is left to create jobs in the area or should we be looking at this as changing the zone. He said that we should try something different and will this create a fertile ground for job creation in the remaining 70% of this space. Mr. Sallee said that the workgroup was very mindful of this and was trying to balance the restrictions and that the zoning limits were one contributing factor as to why the land had not developed.

Mr. Duncan added that there may be some regulatory problems with seeking a different zone than what the Expansion Area Plan recommends if we aren't able to do a swap like we did with the other CC land because this is what was designated so then to do a zone change for something different or something outside of the Expansion Area zone could be a problem from regulatory standpoint. If that hurdle could be met, and we could work to do that; what we have heard now for the last two Comprehensive Plans is the need for hundreds of acres of contiguous jobs land and if we were to take this out of that entirely then we would need to identify some other land to take its place and we don't really have that option in the Urban Service Area boundary. We would have to expand the Urban Service Area boundary to come up with 300-400 acres of land that is designated for jobs that would be in close proximity to itself. He said that these issues will be difficult to overcome without addressing the regulatory issues of zoning or without addressing the policy issues of having jobs-related land and the workgroup felt that anything more than the 15% would begin to take away the purpose of this land and as supportive uses it is still supposed to be an attractor to other jobs land not the driving force, necessarily. It was supposed to help entice other jobs land to come here, but not take the place of this for jobs uses.

Mr. Cravens said that rezoning this property was mentioned earlier, but it is located within the Expansion Area so that it could only be rezoned into Expansion Area zones. Mr. Duncan replied that we could swap this land with something else, like what was done with the CC area; it would have to be reviewed very carefully to see if we could do anything else other than and ED zone. Mr. Cravens said that these land owners can't do anything with this land but an ED zone. All of the land owners are present and they are requesting that they need more flexibility because they are unable to rezone it. Mr. Duncan stated the Planning Commission recognized this in the 2013 Comprehensive Plan and had requested this study to evaluate what else could be done with this ED zone land to encourage it to be developed for its intended purpose.

Mr. Berkley said that he served on that workgroup and attended most of the meetings. He said that the modern developments that we're seeing of this type have the supportive uses. We've got three property owners that are largely represented here today and two of them have had a concept plan completed and presented to the Planning Commission and they don't believe that 15% will work and if we are not going to be willing to listen to that solution then we are just setting ourselves up to fail. He said that at the workgroup meetings there was never any evidence that 30% or even 20% wasn't appropriate. He said that there wasn't a consensus and that the workgroup came up with an odd number. He said that the Planning Commission should review that further and consider what has been presented here today before a decision is made that may not serve anybody.

Mr. Wilson asked what the staff felt about Mr. Murphy's smaller tracts of land proposal. Mr. Sallee said that this issue was at the Zoning Committee earlier this month and the staff didn't feel that it was needed to provide a staff alternative or a Zoning Committee alternative to address that, where Mr. Murphy has. He said that the difficulty in making the principle use amendment is that it could entice owners of ED land to first create lots and subdivide their property to allow these other uses. The conditional use route avoids that, but still isn't consistent with the general concept of the supportive uses. He said that it is awkward in the Zoning Ordinances to have one set of uses considered as principal and another conditional under different circumstance, such as lot size.

Mr. Duncan added that the 16 member committee that reviewed this was asked about the possibility of some kind of transfer so that a property who may not participate in the supportive uses (Baptist Health) could transfer their 15% to an adjacent property and that idea was rejected by the workgroup.

Mr. Walbourn said that the three landowners were out voted by the 16 member committee. He said that he doesn't believe that the landowners would object to a transfer of the supportive uses. He said that the landowners wanted 30% of the supportive uses then and now. He said that the property owners would also be open to transferring the supportive uses if the Planning Commission wanted to entertain that. He said that that the property owners believe that this is what is needed to make this succeed and to help build a better city.

Mr. Anderson clarified what he had said earlier that he was asking for 30% of the property for supportive uses, of which 50% of that could be used for residential. He said that according to building square footage, these properties would never develop at the density or intensity that they could. He asked does that mean if they can use the square footage of the maximum allowable or the square footage that actually gets developed. The staff clarified it drafted based on actual built square footage.

Mr. Murphy said that on the behalf of the smaller property owners, if it is made a conditional use, either the Planning Commission or the Board of Adjustment will have total control of what will be developed on this land, but it will give the landowners an opportunity.

Chairman's Comments – Chairman Wilson stated that the hearing was now “closed,” and he opened the floor for discussion.

Discussion - Mr. Brewer said that Mr. Sallee mentioned two parties that were not able to agree on percentage of the supportive uses during the workgroup meetings. He asked who was on the workgroup and was supporting the lower percentage. Mr. Sallee said that the workgroup was comprised of representatives from the University of Kentucky, Commerce Lexington, Council members, and the property owners were represented. He said that the property owners were asking for the higher supportive usages because of their concern and interest in preserving the jobs land and in a general sense, the comments reflected those concerns and that was why there was not able to be a consensus reached for what the percentage ought to be.

Mr. Duncan listed the committee members: Dr. Paulsen (Commissioner), Skip Alexander, Dennis Anderson (Property owner), Buddy Cowgill (Property owner), Christie Harris, Eric McMundy (UK Finance), Melody Flowers (UK Administration), Jenna Greathouse (Commerce Lexington), Kim Rossetti (Commerce Lexington), Price Bell, Herb Miller, Will Berkley, Kevin Stennitt (Council), Kevin Adkins (Mayor's office), and Jonathan Hollinger (Dept. of Planning), Planning Staff had attended all of the meetings, as well.

Mr. Brewer asked what the rationale was for the transfer idea that it was not being seen as a viable option. Mr. Duncan replied that the discussion of the committee centered around Baptist Health having the zone and the uses that they want and then perhaps not needing the supportive uses. He then said Baptist Health stated that they don't want to give up their option on this either. Then it came down to no one being willing to transfer the uses so the workgroup decided not to pursue that as an option. Mr. Brewer asked what other options the Planning Commission has; he doesn't believe that there will be a consensus here either, nor a plan that makes sense to all the parties involved.

Ms. Plumlee said that she had reviewed the work of the task force, attended the Planning Commission work sessions, and reviewed the reports that have been provided by the staff with their recommendation. She said that she believes that the staff has made the correct recommendation based on their work and time.

Mr. Wilson said that the Planning Commission's options are to have a continuance, postponement, approve or disapprove. Mr. Sallee said that the staff asked the Planning Commission to not postpone at this point. Mr. Duncan stated that the text could also be amended.

Mr. Penn said he understands the options, but not the best uses of those options. He wants this land to be where it can be used and agrees that postponement is not the correct direction at this time, but is there a middle ground. He said that he doesn't believe that there are enough members on the board that are ready for a vote, can we see how many are ready for a vote.

Ms. Jones asked the Planning Commission to consider the time, there is only one more work session this year, at the end of September and that agenda is fairly full already. She said that if more time is needed and needs to be continued, then a work session could be another potential option.

Mr. Owens said that having taken part in the committees and the time that was involved; this land is supposed to be kept as job creation type land. He said that he sees two options; to pass it or continue it; he doesn't believe that the Commission is ready to make any changes yet.

Mr. Berkley said that our CC zone has a mixed-use element to it, what are the percentages of residential and commercial in the CC zone. Mr. Sallee said that zone requires 40% of the Floor Area Ratio to be devoted to non-commercial/residential use.

Mr. Cravens said that he believes that he could support the 30% or analyze the acreage and review how that would affect the total area.

Mr. Wilson said that he would like a continuance only if it provides a productive outcome. He said that there may need to be some compromise in order to get this done. He asked the Planning Commission if they are ready to consider a continuance with the understanding that there will be some information and productivity to end this conflict.

Ms. Richardson said that the city and schools use money to bring in experts to complete studies, we have the landowners that have been trying to develop this land for 20 years and have been unable to do so, and they are the experts of this land. She asked why the Planning Commission isn't taking in more strongly what the landowners are asking for.

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Mr. Smith said that he agrees with his colleagues and said that the landowners are stifled and their opportunities are limited.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, and failed 5-5 (Brewer, Cravens, Owens, Plumlee, and Wilson opposed; Drake absent) to amend ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, to modify supportive uses to 30% and residential uses to 50%.

Mr. Owens said that he couldn't agree to the 30% figure, as he believed that there is compromise possible if this would be continued.

Mr. Penn said that he can't support the 30% option either, and is concerned about the principle use being built before the supportive use. He said that he also concerned about the other people that were on the workgroup that are not represented here today.

Mr. Cravens said that the only people that have a stake in this today are the landowners and that have asked for that and with most of the discussion here today, the landowners are unable to do anything else with this land but keep it ED zone land and they are at our mercy to give them the percentages that they are asking for.

Mr. Brewer said that the people that were previously involved in this are represented in the conclusion of the report. He said that he believes the property owners have an immediate effect on the Planning Commission decisions and votes; the others that were on the workgroup believed that they're represented in the conclusion of the report. He also said that he can't support the 30% at this time.

Ms. Plumlee said that she can't support the 30% either, because if the ED zone land is turned into something else, which will happen if this motion carries; the developers will be wanting more ED land in the future and want to expand the USA boundary.

Ms. Richardson said that the Zoning Committee turned this over to the Planning Commission because they were unable to make a decision. She said that the Planning Commission just needs to consider the work that they had done and to expand upon that. She said that the Planning Commission has the right to move on this without their thoughts and concerns; the workgroup work has been done.

Mr. Berkley said that he believes the need for having more ED zone land will be a positive idea, to expand our boundaries for that reason would be good thing. That would mean that the work that was done today, potentially worked. He said that the Committee could never come to a consensus about the percentage of the supportive uses. He said that the landowners have had their consultants review the studies and they have made recommendations. He feels that the Planning Commission is just throwing that aside. He said that he is supportive of the 30% supportive uses.

Ms. Mundy said that she is also in support of the 30% option because she feels that the Planning Commission is inhibiting the landowners. She said that the Planning Commission has the opportunity here to move this forward and we may have to expand the boundary in order to get more jobs into the area.

Mr. Wilson called for the voting of the motion, which failed. He then asked to entertain another motion related to a continuance and revisiting this at the work session on September 29th. Mr. Duncan said that there are still other options for this; the Commission could vote on it as presented by the staff, offer another percentage. Mr. Wilson asked if the staff could work on agreeing to a percentage and then returning the Commission with a recommendation. Mr. Wilson then said to take the motion as presented.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Plumlee, to amend ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, to 18% supportive uses and 18% of that to be residential.

Mr. Owens said that the Zoning Committee referred this to the Planning Commission to resolve this and that he feels that 30% is too much and his motion is a compromise.

Mr. Berkley commented on the need of more ED zone land, questioned why the Commission is reluctant to add to the Urban Service Area boundary. Mr. Penn said that more ED zone land is not needed if the Commission can't decide on how the land we have now should be used. Mr. Penn asked if this text amendment broad enough to do what the Commission is trying to do with the supportive uses and whether the principal use is going to be built before the supportive use because if it isn't then it doesn't matter what percentage is agreed upon because then the developer would return stating they were unable to do the principal so we're just going to the supportive.

Mr. Berkley said that it would be concurrent or after, what is the clarification of this text. Mr. Duncan said that the supportive uses could not be built before the other principal uses, they could be built at the same time or after. He said that the

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jobs creating use would have to be demonstrated first or at the same time of the supportive use. He also said to give a percentage a try for a while and if it doesn't work the possibility of changing it will always be there. Mr. Berkley said that isn't goal of the ED zone land to develop it. The uses have to be in place to attract businesses.

Mr. Cravens asked if a waiver or another text amendment would be necessary to change the percentage of the supportive uses in the future. Mr. Duncan said that it would have to be another text amendment.

Mr. Brewer said that he believes that something needs to change with this land since the developers have not been able to develop anything on it for the past 20 years and that a decision needs to be made today. He said that if had a recommendation from the staff to possibly move this to 20%, that would be a fair compromise. Mr. Duncan replied that 20% is cleaner than 18% as well as gets us a little closer to what the property owners are requesting.

Mr. Wilson then asked Mr. Owens if he would consent to the revision of 18% to 20% supportive uses. Mr. Owens said that if give 30% of this away that's 30% less ED zone land. He said that we need some of this to get the economic development in here and he feels that is too much.

Zoning Action – The previous motion was amended by Mr. Owens, seconded by Ms. Plumlee, to amend ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, to 20% supportive uses and 15% of that to be residential. Mr. Owens withdrew his motion.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 7-3 (Mundy, Penn, and Richardson opposed; Drake absent) to approve ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, changing to 20% supportive uses and 15% of that be residential.

- VI. **COMMISSION ITEMS** – Mr. Duncan said that there is a request from the Planning Commission to update the 2009 Housing Market study that the Division of Planning will be managing. This is to look at all aspects of housing in Fayette County including the preference for the types of housing and location. Mr. Duncan asked for two members of the Planning Commission to volunteer to serve on the selection committee and to continue to serve on the steering committee. MR. Wilson said that Ms. Mundy and Mr. Berkley will be serving on those two committees.
- VII. **STAFF ITEMS** – No such items were presented.
- VIII. **AUDIENCE ITEMS** – Mr. Walbourn made an announce that Chris Westover has completed her 1,000 mile walk from central France to the coast of Portugal and is back at home in the U.S.
- IX. **MEETING DATES FOR September, 2016**
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|---|---------------------------|
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | September 1, 2016 |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street)..... | September 1, 2016 |
| Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | September 8, 2016 |
| Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | September 22, 2016 |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | September 28, 2016 |
| Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | September 29, 2016 |
- X. **ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 4:32 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary

TLW/TM/WLS/dw

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