

**MINUTES
URBAN COUNTY PLANNING COMMISSION
COMPREHENSIVE PLAN AND ZONING ITEMS PUBLIC HEARING**

February 28, 2019

- 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: Bill Wilson, Chair; Headley Bell; Will Berkley; Patrick Brewer; Larry Forester; Karen Mundy; Bruce Nicol; Mike Owens; Frank Penn; Carolyn Plumlee and Graham Pohl.

Planning staff members present: Jim Duncan, Director; Traci Wade; Tom Martin; Hal Baillie; Cheryl Gallt; Lauren Hedge; Jimmy Emmons; Chris Woodall; Chris Taylor; Valerie Friedman; Lauren Weaver; Grace Coy; Stephanie Cunningham; and Debbie Woods. Other staff members present were: Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire and Emergency Services; and Tracy Jones and Chad Edwards, Department of Law.

Mr. Wilson recognized students from Dr. Lynn Roche-Phillips' class that were present in the audience.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 11-0 to approve the minutes of the January 24, 2019 meeting.

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

1. **LATA, LLC ZONING MAP AMENDMENT & BRYAN PROPERTY, LOT 2 (AMD) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-18-00023: LATA, LLC (1/24/19)*- an amended petition for a zone map amendment from a restricted Highway Service Business (B-3) zone to a Planned Neighborhood Residential (R-3) zone, for 5.065 net and gross acres, for property located at 1810 Bryant 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 rezoning a portion of the parcel to the Planned Residential Neighborhood (R-3) zone to allow for the development of a 72-unit apartment complex with 144 bedrooms, a club house, pool, and associated off-street parking.

The Zoning Committee Recommended: **Referral** to the full Commission.

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

1. The requested rezoning to a Planned Residential Neighborhood (R-3) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The proposed R-3 zone does not provide for or create a well-designed neighborhood or community, but rather creates an "islanding effect," that isolates residents rather than incorporates them into the broader community.
 - b. The proposed apartment complex will be physically separated from the surrounding neighborhoods, and situated within an area that is heavily focused on commercial activities.
 2. The proposed Planned Neighborhood Residential (R-3) zone is not appropriate for the subject property, for the following reasons:
 - a. The LFUCG Land Subdivision Regulations Article 6-8(q)(3)(a), Land Use Access for Residential Development states that "apartment complexes, condominium developments, as well as all other developments that are accessed through a common private drive or street system, shall be treated as high density residential developments regardless of the actual overall density of the development" and that "high density private driveways should not intersect local streets.
 - b. The high flow of traffic at the intersection of Bryant Road and Pleasant Ridge Drive, and the carrying capacity of Bryant Road creates a safety risk to potential residents.
 3. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would justify a shift from the B-3 zone for the subject property.
- b. PLN- MJDP-18-00088: BRYAN PROPERTY, LOT 2 (AMD) (1/24/19)* - located at 1810 Bryant Road.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.

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

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Modify parking lot to meet zone to zone and vehicle use area screening requirements in Article 18.

Petitioner Representation: Matt Carter, representing the petitioner, said that they would like to request an indefinite postponement. He indicated that the applicant was considering an amendment to their application.

Citizen Comment – There were no citizens present to speak to this application.

Action: A motion was made by Ms. Penn, seconded by Mr. Brewer, and carried 11-0 for an indefinite postponement of PLN-MAR-18-00023: LATA, LLC ZONING MAP AMENDMENT & BRYAN PROPERTY, LOT 2 (AMD) ZONING DEVELOPMENT PLAN.

2. CLOVER COMMUNITIES ZONING MAP AMENDMENT & BAPTIST CHURCH OF ANDOVER (CLOVER SENIOR LIVING CENTER) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00001: CLOVER COMMUNITIES (4/7/19)*- an amended petition for a zone map amendment from an Agricultural Urban (A-U) zone to a High Density Apartment (R-4) zone, for 8.944 net (9.099 gross) acres, for property located at 3330 Todds Road (a portion of).

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; providing safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes to rezone the property to the High Density Apartment (R-4) zone to develop a four-story, senior housing development with 128 dwelling units. This represents a residential density of 14.3 dwelling units per net acre.

The Zoning Committee Recommended: **Postponement** to the full Commission.

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

1. The subject property as proposed for a senior housing development does not adequately meet the Comprehensive Plan's goals for connectivity for all modes of transportation, for creating an effective and comprehensive transportation system, or for providing an accessible place to live for older and/or disadvantaged residents. The plan does not meet with the National Fire Protection Association (NFPA) Fire Standard 1141 a development shall have two separate access points for development that contains greater than 100 dwelling units and less than 600 dwelling units.
 2. The proposed High Density Residential (R-4) zone does not currently provide for adequate access for emergency services for a growing aging population, nor does it provide for safe and positive social interaction between the development and the adjoining neighborhoods.
- b. PLN-MJDP-19-00002: BAPTIST CHURCH OF ANDOVER (CLOVER SENIOR LIVING CENTER) (4/7/19)* - located at 3330 TODDS ROAD, LEXINGTON, KY.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the street connectivity and access to Todds Road.

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

1. Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval is null and void.
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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Adjust location of owner's and Planning Commission certification to improve legibility and correct meeting date information.
8. Discuss proposed access to Todds Road.
9. Discuss connection of Putter Lane to Andover Woods Lane, per the Preliminary Development Plan.

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

10. Discuss stormwater detention.
11. Discuss pedestrian connection to adjoining subdivisions (Stonecase Valley and Williams Property).
12. Discuss need for Board of Adjustment approval of the revised church access, additional square footage, and parking circulation.

Petitioner Representation: Nick Nicholson, attorney representing the petitioner, said that they would like to request a postponement to the March 28, 2019 meeting. He said that they will continue to work with the staff. He added that he has contacted the neighborhood associations that he has met with to let them know of this requested postponement.

Citizen Comment – There were no citizens present to speak to this application.

Action: A motion was made by Ms. Mundy, seconded by Ms. Plumlee, and carried 11-0 for postponement of PLN-MAR-19-00001: CLOVER COMMUNITIES ZONING MAP AMENDMENT & PLN-MJDP-19-00002: BAPTIST CHURCH OF ANDOVER (CLOVER SENIOR LIVING CENTER) ZONING DEVELOPMENT PLAN to the March 28, 2019 meeting.

3. **ZOTA 2018-5: AMENDMENT TO UPDATE ARTICLE 15-4(b) TO INCREASE THE ALLOWABLE HEIGHT OF FRONT YARD FENCES IN MULIT-FAMILY DEVELOPMENTS** - petition for a Zoning Ordinance text amendment to update Article 15-4(b) to permit apartment and multi-family uses to construct taller fences than 4 feet in the front yard.

INITIATED BY: Wynndale Development, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Disapproval**.

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

1. The proposed text amendment will negatively impact the social interaction of individuals within apartments and the surrounding community.
2. The increased height of fences does not adequately include Crime Prevention through Environmental Design (CPTED) principles by addressing alternative solutions. CPTED is a framework to design, develop, redevelop, and maintain the urban landscape while seeking to foster positive social interactions and deter criminal behavior within communities (APA 2013).
3. The applicant has not provided justification for their perceived increase in criminal activity or victimization of residents of apartments.
4. The increased height of fences negatively impacts natural surveillance of apartment complexes. Recently, the perspective of “eyes on the street” has been incorporated into the encounter model of crime prevention (Paulsen 2013). By walling or fencing off buildings the ability to naturally surveil an area is reduced and the physical separation between neighbors can lead to a social separation and disregard.

Petitioner Representation: Jacob Walbourn, attorney representing the petitioner, said that they would like to request a three month postponement to the May 23, 2019 meeting. He said that may give them the time to withdraw this application, but as of now, they are going through the permitting process.

Citizen Comment – There were no citizens present to speak to this application.

Action: A motion was made by Mr. Forester, seconded by Mr. Brewer, and carried 11-0 to postpone the request for ZOTA 2018-5: AMENDMENT TO UPDATE ARTICLE 15-4(b) TO INCREASE THE ALLOWABLE HEIGHT OF FRONT YARD FENCES IN MULIT-FAMILY DEVELOPMENTS to the May 23, 2019 meeting.

IV. **2018 COMPREHENSIVE PLAN PUBLIC HEARING**

- A. Continuation of the Comprehensive Plan public hearing from December 10, 2018.

Mr. Wilson explained that this hearing had been continued from the Commission's December 10, 2018, public hearing. At the end of that meeting, the Chair had closed public comment; he noted that, following the staff's presentation, the floor would be open for Commission discussion.

Mr. Woodall began the staff's presentation by reminding the Commission of the extensive public input that had gone into the *Imagine Lexington* process, including On The Table and public meetings during the Goals & Objectives; Imagine Lexington Week; Imagine Out Loud; and four additional public meetings to discuss The Placebuilder, which resulted in three sets of revisions. At the Commission's request, the staff had also conducted a mock zone change exercise following the December hearing.

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

Mr. Woodall said that the zone change exercise provided reassurance to the Commission that The Placebuilder would work. In addition, it proved that *Imagine Lexington* was ready to go; all the pieces were in place, and the staff was ready for implementation.

Mr. Duncan stated that *Imagine Lexington* was the most inclusive plan ever undertaken in Fayette County. Although it includes the constraint of not offering fresh land for development, it is a plan for growth in housing and jobs, offering a variety of growth options that can be readily implemented. In fact, "growth" is mentioned in the plan an average of 1.6 times on each page.

Mr. Duncan explained that The Placebuilder is a "tool of transparency," that is clear and easy to understand, use, and implement. It provides clear-cut criteria so that all parties can know what is expected, providing a path for review that applicants, neighborhoods, staff and the Planning Commission "can walk together." He added that the staff could have taken an easier, less contested route to creating the zone change criteria that has been needed since the 2013 Comprehensive Plan, but the community should not have to accept less in order to "quiet the loudest voices."

Mr. Duncan emphasized that the integrity of the Planning staff is "unimpeachable," which he had been forced to declare to quiet some comments. He added that the staff respects the Planning Commission members for their position, and for the duties with which they are charged.

Commission Discussion: Mr. Owens stated that, as one of the Commission members who had requested a continuation of the December hearing, he now felt compelled to try to move the Comprehensive Plan forward. He noted that Ms. Mundy had expressed concerns at the most recent work session about the use of the term "context sensitivity" in the Plan, and asked if that language had been clarified.

Mr. Woodall answered that the staff is recommending the following proposed clarifying language:

"Definition of Context-Sensitive

Context Sensitive Development (CSD): Context Sensitive Development (CSD) is a collaborative, interdisciplinary approach to development projects that involve the public and affected agencies early and continuously to ensure that projects meet the needs of the users, the neighboring communities, and the environment. CSD integrates projects into the context of setting in a sensitive manner through careful planning, consideration of different perspectives, and tailoring designs to particular project circumstances. This could include, among other considerations, compatibility with scale, massing, and height step-downs between existing and proposed buildings, but does not necessarily infer replicating adjacent development characteristics.

Mr. Woodall noted that he believed that there had been a misconception that context sensitivity meant mirroring surrounding uses. Ms. Mundy agreed that the proposed language softened and clarified the original definition, explaining that she was concerned that, in communications between developers and neighbors, "context" could be misconstrued.

Mr. Nicol asked how the staff proposed to incorporate economic sensitivity along with context; for example, high-end development might not work in some situations, where affordable housing would be more appropriate. Mr. Woodall responded that the staff believed that the market would dictate housing trends around developments. He asked Mr. Nicol to clarify his concerns about having different types of economic incomes located next to each other. Mr. Nicol answered that, in some cases, the context of an area might lean more toward higher-end units, but there could be a need for affordable housing. Mr. Duncan noted that the Neighborhoods in Transitions group is currently looking at issues of gentrification and displacement; as those efforts produce recommendations, the staff will look to incorporate them in Planning efforts. Mr. Wilson added that the Planning Commission could amend the Comprehensive Plan in the future if they saw fit.

Mr. Owens asked the staff to address the recent information about low density housing. Mr. Woodall answered that the staff heard some concerns that the Plan's definition of low density residential could preclude development that did not include higher densities. He displayed the following text:

"Placebuilder – Page 262 'Low Density Residential, Primary Land Use, Building Form, & Design'

Primarily attached and detached single-family homes of varying formats, including accessory dwelling units.

Homogeneous ~~housing developments~~ neighborhoods that do not include a mix of housing types, should be avoided. Low-density residential is only appropriate as a component of 'Enhanced Neighborhoods' and 'New Complete Neighborhoods,' and ~~shall~~ should be supplemented by a variety of uses and housing options to create sustainable places."

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

Mr. Woodall noted the difference between a neighborhood and a development, explaining that the staff would always support the concept of complete neighborhoods, with an array of housing types and differing uses; however, they concede that those neighborhoods could include an exclusively residential development as a component of the complete neighborhood, but it needs to fit with the rest of the area.

Mr. Berkley stated that he had received communication, including suggested changes to The Placebuilder, from attorney Nick Nicholson one day prior to this hearing. He asked Mr. Nicholson to explain his proposal.

Mr. Nicholson explained that he had been involved in a workgroup comprised of members of the Building Industry Association of Central Kentucky. They developed a set of recommended changes to the Comprehensive Plan, which they contend would make it "vastly better," with more flexibility for infill developers. Mr. Nicholson said that, although the staff believes that the Plan as proposed is very flexible, the development community believes that it is more rigid than the 2013 Plan, and that lack of flexibility will prove to be more costly for developers.

With regard to the proposed changes, Mr. Nicholson stated that the work group is suggesting the deletion of Appendix A, since they do not believe it is an appropriate component of the Comprehensive Plan. The group also recommends adopting alternative language to clarify that single-family housing needs to remain a part of the community's future, since existing neighborhoods prefer single-family development near them, and home ownership is "part of the dream of Lexington." In addition, the BIA workgroup would suggest keeping the Placebuilder "shell," but deleting all of the specific development criteria. Mr. Nicholson opined that approving the Comprehensive Plan with the Placebuilder would amount to "unilaterally adopting the staff's interpretation" of what the Plan should be, rather than taking all opinions into consideration.

Mr. Woodall disagreed, stating that there is flexibility built into The Placebuilder, but that it was also purposefully set up in order to provide a focus for development efforts. The staff has "done the hard part" for zone change applicants, by distilling all of the Plan concepts into two-page summaries for each place-type. He added that removing the criteria from Placebuilder would undercut the purpose of it.

Mr. Taylor noted, with regard to Mr. Nicholson's comments about the Multifamily Design Standards (Appendix A), that the staff acknowledges the existing difficulties in getting approval for multifamily projects. However, the staff contends that the design standards provide a measure of comfort to surrounding neighbors; as such, it would be a contradiction to remove that document from the Plan, and would make the work of the staff and the Planning Commission more difficult.

Ms. Mundy stated that she continues to have real concerns about the availability of affordable housing. She said she was aware that Habitat for Humanity has run out of property in Lexington, and is not sure where they will be able to build in the future. She opined that The Placebuilder could result in higher costs for builders of affordable homes on small lots, since the criteria appear to apply more to the development of larger parcels. Mr. Duncan responded that, in most cases, Habitat for Humanity's single-lot construction projects do not require zone changes, so The Placebuilder criteria would not apply. In addition, Habitat has been looking at introducing different models of affordable housing. Mr. Duncan noted that the staff would be happy to work with affordable housing developers in looking at other issues, such as outdated Zoning Ordinance regulations, that may hinder their projects.

Mr. Woodall added that *Imagine Lexington* seeks to address affordable housing in a number of ways, both directly and indirectly. For example, adding a substantial number of affordable units through densification of corridors will decrease rent pressures on existing areas. In addition, The Placebuilder was intended to be adaptable and flexible in applying to many types of sites, recognizing that each site has constraints. In the case of small lots, many of the criteria are not likely to apply to a given site.

Mr. Pohl stated, with regard to Mr. Nicholson's comments about The Placebuilder being the staff's interpretation, that "the guidelines belong to everyone." He read the following prepared statement into the record:

"I want to express my full support for the Comprehensive Plan, in particular The Placebuilder component of the Plan.

It is interesting to note, that, after months of discussion, not one of the Placebuilder guidelines has been questioned for its wisdom. This is largely because the guidelines were generated in response to the attitudes and aspirations expressed by members of our community. They are a unique response to a unique place and time. In developing The Placebuilder, Planning staff has done an exemplary job of listening to all parties, and have applied their findings with inspiration from proven planning strategies.

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

I've heard three major concerns about The Placebuilder, and I want to speak to each one of them.

The first concern is that there are too many criteria in The Placebuilder. There are a lot of criteria, but the number is appropriate for our city, where we have a wonderful variety of places, from densely urban to completely pastoral. Each condition demands different considerations. We saw, in a sample project presented in our work session last week, why the number of criteria will not be an issue: A limited set of criteria, relevant to the project at hand, will be identified in preliminary meetings with Planning staff, so the unfolding discussions will be informed by an easily manageable set of considerations. I think the number of criteria is an advantage that will make it easier to properly address the diversity of conditions found in our city.

The second concern I want to address is that Placebuilder items will become a checklist, making for a tedious set of 'yes-no' tests for every decision. The reality is that the items are guidelines, not prerequisites. They are suggested methods for achieving best outcomes, and they will function as a way for all of us to consider proposed new work with a common language and common objectives. By establishing a common language the guidelines will make design issues more accessible and a more natural part of our development process. This is important because development always involves a design process, but it is often too abbreviated, and the more consideration given to design, the better the outcome.

I come to this concern about the nature of guidelines with perhaps a unique perspective. I have represented developers and neighborhoods in front of the planning commission. I have represented homeowners and neighborhoods in front of the Board of Architectural Review. And, I was a member of the Board of Architectural review for over 8 years.

Not long after I started my architecture practice I ran headlong into the Historic Preservation guidelines. At first I found them annoying. But with a little exposure I came to realize that they improved the work we were doing.

Any design professional will tell you that constraints are good for the design process. When the sky's the limit, we are apt to get lost in the clouds. With limitations, our work becomes more down-to-Earth. The Placebuilder guidelines will work the same way. They will help start conversations about issues that matter. They will help to keep us from making destructive decisions. Over time they will become familiar to us as we engage them in the design and development process. As I said, the guidelines will give us a common language and a foothold as we climb to a better place.

The Historic Preservation guidelines used to decide cases in H-1 overlay zones are far more stringent and complex than the guidelines in the Placebuilder. Many of them are imperative, not just suggestive. And yet most of the cases brought to the Board of Architectural Review are brought by homeowners representing themselves. They are able to navigate these complex guidelines without legal or professional design assistance in most cases.

So the message here is that there is nothing to fear about the Placebuilder Guidelines.

The third major concern that I've heard is about the potential for inconsistent administration of the Placebuilder guidelines. In considering this issue I rely again on my experience as a Board member administering the Historic Preservation guidelines. The issue of consistency was a frequent topic of discussion, and there was always a conscious effort to be fair from project to project. But it's important to understand that every project, every site, every neighborhood, is unique. No matter how similar, there will be differences between every project considered by the Board.

That is why there is a Board of Architectural Review.

And that is why there is a Planning Commission.

We members of the Planning Commission are charged with considering each project on its own merits, and in the interest of fairness we must always strive for consistency. This is simply part of the challenge of the position. This is our responsibility, with or without Placebuilder guidelines.

The Planning Commission is up to this task, and the Placebuilder, by giving us sets of recognizable criteria, will make our work more clear and ultimately, more fair.

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

As we move toward greater density and as our agricultural lands and our existing neighborhoods become more and more precious, the question right now is “do we want to consider more carefully how we continue to build out our city?”

The answer is an emphatic “yes.” And now we have the tool to do this, and to do it well.

I hope all my fellow commission members will join me in voting to support this auspicious and complete Comprehensive Plan.

Mr. Penn stated that he had been frustrated since the 2013 Comprehensive Plan did away with the land use map. He opined that, over the last few years, the Planning Commission had been “like a ship with no rudder,” struggling with how to evaluate both zone changes and development plans. He believes that it would not be sustainable for the city’s planning efforts to go down that path, since there has been little continuity in the decisions made by the Planning Commission. Mr. Penn added that the developers likely appreciated that lack of consistency, since “depending on who was here, you might get what you wanted.”

Mr. Penn said that he believes that anything worth doing is difficult, and he believes that the staff is up to the task of implementing this Comprehensive Plan. He noted, however, that the staff works for the Planning Commission, and it is ultimately up to the Commission to make decisions.

Ms. Mundy thanked the staff, the Planning Commission, and the community for all the hard work on this Plan. She opined that change is always negative, and many citizens immediately distrust government processes. She said that she continues to have concerns about this Comprehensive Plan, since the 11,000 citizens who participated in On The Table does not constitute a “quantifiable number,” and many developers and neighborhood representatives are not on board. Quoting Mr. Penn, Ms. Mundy said, “If you can’t support the program, you better not vote for it,” explaining that she would not be able to support this Comprehensive Plan with The Placebuilder as part of it.

Ms. Plumlee stated that she supports both the Plan and the staff, and thanked everyone for their contributions. She noted that she, too, has some concerns about the Plan, namely that she believes that the staff might have “exaggerated expectations” about the future of public transportation in Lexington, as well as language that calls for grouping of trees that might not be adequate to expand the tree canopy. Ms. Plumlee is also concerned about the effects of this Comprehensive Plan on neighborhoods, which she believes will be “challenged to maintain livability and desirability.” She added that she does believe that the increased dialogue between neighbors and developers, as recommended by The Placebuilder, will be an improvement over the current situation.

Mr. Brewer stated that, when The Placebuilder was first introduced with mandatory language, he was concerned about how it would work. He complimented the staff on their ability to incorporate multiple sets of suggestions into the document, including softening the mandatory language.

Mr. Brewer opined that some great input had recently been received from members of the development community, but it would have been more helpful earlier in the process. He said that the plan is not perfect; there are still some items that need to be addressed, including provisions for low-density development, but he believes it “will take us down the right path.”

Mr. Brewer asked Mr. Nicholson if the latest round of proposed changes to The Placebuilder addressed some of his stated concerns. Mr. Nicholson responded that they did not.

Mr. Owens stated that this was his second Comprehensive Plan as a Planning Commission member. He said that he had been a little reluctant about removing the land use map, but he believed it would be better for Lexington, so he agreed. The Goals & Objectives of the 2013 Plan, which were unanimously approved by Council, recommended providing criteria for zone changes; that Plan, however, needed more guidance and transparency, in Mr. Owens’ opinion.

Mr. Owens said that he believes that *Imagine Lexington* is “bold and inclusive,” and it includes the transparency and guidance that have been lacking, which will help Lexington to become a better place to live as it grows. With regard to some of the criticism the Commission has heard, Mr. Owens does not believe that the staff was “overstepping” with the creation of the Placebuilder, since the staff’s end goal is to make Lexington a better place to live. He also noted that the Commission has heard the opinion of the Department of Law that there is no question on the legality of this Plan or The Placebuilder.

Motion: A motion was made by Mr. Owens and seconded by Ms. Plumlee to approve the 2018 Comprehensive Plan, with the associated appendices; clarifications on density and context sensitivity; and all changes proposed by staff since the December 10th hearing.

Amendment to Motion: A motion was made by Mr. Nicol and seconded by Ms. Mundy to amend Mr. Owens' motion to include the following suggestions made by Mr. Nicholson:

1. Remove Appendix A
2. Remove development criteria and recommend that staff instead consider incorporating the criteria into the Zoning Ordinance
3. Adopt the language as proposed on context sensitivity and low density

Action: Mr. Nicol's motion failed, 4-7 (Berkley, Forester, Mundy, and Nicol in favor; Bell, Brewer, Owens, Penn, Plumlee, Pohl, and Wilson opposed.)

Amendment to Motion: A motion was made by Mr. Nicol and seconded by Ms. Mundy to amend Mr. Owens' motion to remove Appendix A.

Discussion of Amendment: Mr. Penn asked why Mr. Nicol was proposing to remove Appendix A, to which Mr. Nicol responded that he believed that it did not meet the objective of providing a more flexible Plan. He opined that, along with the external policy issues of the Placebuilder, it could create too many restrictions that could deter development and affordability. Mr. Nicol believes that the market should determine issues such as building height and design.

Mr. Owens asked the staff to provide an opinion on Mr. Nicol's amendment. Mr. Duncan responded that the staff contends that Appendix A is important to the Plan because multi-family housing is one of the more contentious development issues in Lexington, especially when it is proposed to be located near existing single-family housing.

Action: Mr. Nicol's motion failed, 4-7 (Berkley, Forester, Mundy, and Nicol in favor; Bell, Brewer, Owens, Penn, Plumlee, Pohl, and Wilson opposed.)

Amendment to Motion: A motion was made by Mr. Nicol and seconded by Ms. Mundy to amend Mr. Owens' motion to strike the development criteria included in The Placebuilder, and recommend that the staff instead incorporate the criteria into the existing zoning ordinance.

Discussion of Amendment: Mr. Wilson asked why Mr. Nicol had made this motion, since it was already voted down as part of a previous amendment. Mr. Nicol responded that he wanted to amend the motion to change each original item separately, in the hope that one or more of them might be accepted.

Action: Mr. Nicol's motion failed, 4-7 (Berkley, Forester, Mundy, and Nicol in favor; Bell, Brewer, Owens, Penn, Plumlee, Pohl, and Wilson opposed.)

Amendment to Motion: A motion was made by Mr. Nicol and seconded by Ms. Mundy to amend Mr. Owens' motion to incorporate Mr. Nicholson's proposed text on low-density development.

Discussion of Amendment: Mr. Woodall stated that the staff believes that single-family development could be approved without additional uses or incorporated multi-family; however, one of the goals of this Plan is to create more complete neighborhoods, which include a mix of uses and housing types.

Action: Mr. Nicol's motion failed, 3-8 (Berkley, Brewer, and Nicol in favor; Bell, Forester, Mundy, Owens, Penn, Plumlee, Pohl, and Wilson opposed.)

Action: Mr. Owens' motion carried, 8-3 (Bell, Brewer, Forester, Owens, Penn, Plumlee, Pohl and Wilson in favor; Berkley, Mundy, and Nicol opposed.)

Commission Comments: Mr. Wilson emphasized that the affordable housing component of *Imagine Lexington* is very important, and he will ensure that it remains a focus, as he is part of the Neighborhoods in Transition workgroup. He thanked the staff and the community for their hard work throughout this process, noting particularly the contributions of Todd Johnson, executive director of the Building Industry Association, which created important dialogue through The Placebuilder discussions.

Mr. Wilson noted that transparency and continuing education for neighborhoods were two of the key components of this Plan; in keeping with those goals, staff will be conducting several Placebuilder training sessions, and he would like to encourage citizens to continue to be involved.

Mr. Wilson opined that, while this Comprehensive Plan is not perfect, the Planning Commission can work with or amend it if they deem it necessary.

Note: Planning Commission took a recess at 2:45 p.m. until 3:00 p.m.

- V. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, February 7, 2019, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Karen Mundy, Mike Owens, and Carolyn Plumlee. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher & Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Hal Baillie, Cheryl Gallt, Lauren Hedge, Denice Bullock, Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire & Emergency Services; and Tracy Jones and Chad Edwards, 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.
2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.

- VI. **ZONING ITEMS** - The Zoning Committee met on Thursday, February 7, 2019 at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Patrick Brewer; Larry Forester; Bruce Nicol; Graham Pohl; and Bill Wilson. Staff members in attendance were: Traci Wade; Tom Martin; Hal Baillie; Lauren Hedge; and Debbie Woods; and Tracy Jones and Chad Edwards, Department of Law. 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.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

- 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. **RAYMOND ALLEN WAITS ZONING MAP AMENDMENT & WAITS/MOORE LTD PARTNERSHIP PROPERTY ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-17-00029: RAYMOND ALLEN WAITS (4/7/19)*- a petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1A) zone, for 1.135 net (1.246 gross) acres, for property located at 2200 Old Higbee Mill Road (a portion of).

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.

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

The petitioner proposes to rezone the subject property from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1A) zone in an effort to modify the property boundaries and allow for the consolidation of the remaining southern portion of the lot (approximately 1.75 acres) to 2100 Old Higbee Mill Road. In the existing Agricultural Urban (A-U) zone, a minimum lot size of 10 acres is required.

The Zoning Committee Recommended: **Approval** to the full Commission.

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

1. The existing Agricultural Urban (A-U) zone is inappropriate, and the proposed Single Family Residential (R-1A) zone is appropriate at this location for the following reasons:
 - a. The intent for the Agricultural Urban (A-U) zone is to manage the growth of the community so to avoid premature or improper development until public facilities and services are adequate to serve urban uses. The availability of these services in this area indicate the inappropriateness of the current zoning.
 - b. The subject property already functions as a single family residential property and has not been utilizing the land for agricultural uses, indicating the appropriateness of the proposed zoning.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00081: Waits / Moore LTD Partnership Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. PLN- MJDP-17-00081: WAITS/MOORE LTD PARTNERSHIP PROPERTY (4/7/19)* - located at 2200 Old Higbee Mill Road.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the availability of public sanitary sewer to the property.

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

1. Provided the Urban County Council rezones the property R-1A; otherwise, any Commission action of approval is null and void.
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. Delete note #6.
7. Denote: Old Higbee Mill Road improvements shall be determined at the time of Final Development Plan/Preliminary Subdivision Plan or Final Record Plat.
8. Discuss status of sanitary sewer system and service to proposed lots.
9. Discuss discontinuation of non-conforming business use.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change. He displayed photographs of the subject property and aerial photographs of the general area. He said that the zone change will cover the northern portion of the subject property, which will allow the property boundaries to be modified and allow for a consolidation of the remaining southern portion to the neighboring 2100 Old Higbee Mill Road, at a later date. He said that there is a structure near the proposed zone line, which is not an issue since the applicant is not subdividing the property.

Mr. Baillie said that the applicant states that this proposed rezoning is in compliance with the 2013 Comprehensive Plan, but minimal changes in the use at the site indicates that the shift does not constitute compliance or connection to the 2013 Comprehensive Plan or the adopted Goals and Objectives of the 2018 Comprehensive Plan. However, the intent of the Agricultural Urban (A-U) zone is to manage the growth of the community so to avoid premature or improper development until public facilities and services are adequate to serve urban uses. In this case, the infrastructure available to this property results in the Agricultural Urban (A-U) zoning being inappropriate and the rezoning of the property to a Single Family Residential (R-1A) zone to be appropriate at this time. Additionally, the subject property already functions as a residential property and has not been utilizing the land for agricultural uses.

Mr. Baillie said that with this rezoning, the non-conforming use on the property should eventually discontinue. He said that the applicant has agreed to add a note be added to the plan that states that the owner, Raymond Allen Waits, agrees that the current non-conforming use on the property will discontinue upon his retirement or death. He said that the staff and the Zoning Committee are recommending approval of this zone change.

Development Plan Presentation – Ms. Gallt presented a rendering of the preliminary development plan associated with this zone change. She indicated the area of the zone change on the plan. She said that there are the typical conditions and sign-offs by the different governmental agencies. She said that regarding condition #7, staff recommended that the applicant make improvements to the frontage at the time of the final record plat. She said that conditions #8 and #9 could be changed from "Discuss" to "Resolve."

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

Applicant Presentation – Mr. Steven Vicroy, attorney representing the petitioner, said that the applicant is in agreement with the staff's recommendations. He said that they have worked with the staff to add the note to the development plan in regard to the non-conforming use, stating that it would be discontinued upon Mr. Waits' retirement or his untimely death. He said that the sanitary sewer is available to the property so that there is not a need to obtain an easement from any adjacent property owners. He added that this will remain a single family home.

Citizen Comments - Mr. Billings, attorney representing Pauline Moore; Brian and Melinda McLaughlin; Brenda Barbieri; and the Waits/Moore Ltd. Partnership. He said that they are in favor of this zone change. He said that they have two notes to submit to Planning Commission that he would like to have added to the development plan, as follows:

Proposed Additional Notes for Preliminary Subdivision Plan/Preliminary Development Plan

1. The consenting property owners (Pauline Moore, Brian McLaughlin, Melinda McLaughlin, Brenda Barbieri, and Waits/Moore Ltd. Partnership) shall be notified before filing of a final or amended subdivision or development plan or subdivision plat.
2. Upon filing of a final or amended subdivision or development plan or subdivision plat, Applicant shall:
 - a. Show required access easement on the driveway to (i) 2220 Old Higbee Mill Road and (ii) the remnant 1.8 acre tract;
 - b. Consolidate the remnant 1.8 acre tract with the parcel located at 2100 Old Higbee Mill Road in accordance with Consolidation Minor Subdivision Plat dated June 2002 of record in Plat Cabinet L, Slide 708; and;
 - c. Remove the structure through which the proposed boundary line runs.

Mr. Billings said that the first note is to ensure that all property owners be notified of any future plans that are submitted. He added that the staff didn't object to this note being placed on the development plan. He said this zone change is being requested as a result of a pending lawsuit regarding title of the property, which revolves around a subdivision plat being filed so that Mr. Waits could obtain deeds to the property. He said that he has three conditional notes that he would also like the development to adopt at this time, so that they would be addressed when the applicant submits the subdivision plat. He said that one of those concerns is the driveway access easement. Another of their concerns is the 1.8 acre remnant tract that will be left as a result of a subdivision. There is a development plan from 2002 that requires that it be consolidated with the parcel located at 2100 Old Higbee Mill Road. He said that the last concern is that the structure that is located on the proposed zoning line be removed.

Mr. Wilson deferred to the staff if they agree with the addition of the proposed notes. Mr. Baillie said the first note is not outside of the realm of possibility and the second request would go through with any type of subdivision plat or final record plat and that the staff agrees to add them to the development plan at this time. He added that the group of notes about the content of a future plan don't have the same kind of legal emphasis that they would have if they were being added to a plat.

Mr. Billings said that this is a record of conditions that need to be accomplished in the event that staff, attorneys, or Planning Commission members change in the future. He said that there is currently a non-conforming use on property and they oppose the ongoing use of it. He said that they would like that use to cease as soon as possible because it could affect their ability to market and sell the partnership property. He said that if the Planning Commission is not willing to stop the non-conforming use, that the proposed notes protect adjacent property owners.

Ms. Wade said that the Planning Commission cannot force a property owner to stop non-conforming use. She said that applicant is offering to end the non-conforming use and to not continue beyond his retirement or his death.

Mr. Wilson said that the staff agrees with the proposed conditions a. and b., but not condition c.

Mr. Penn asked if these are conditions or notes to be placed on the development plan.

Ms. Wade said that these are notes to be placed on the development plan as reminders of the interests of the parties involved with this zone change.

Mr. Vicroy clarified that the structure located on the zone change boundary line is not a permanent improvement, it is a mobile home and doesn't have a foundation.

Mr. Billings said that he wasn't aware that it is a temporary structure and doesn't see why it couldn't be moved today. He believes that this note will be appropriate that once the subdivision plat is submitted there shouldn't be a property boundary running through a structure, which is not permissible in the zoning code. He said that at the time of the final record plat or final subdivision plat, the Planning Commission should require that structure to be moved off of the property line.

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

Commission questions – Mr. Owens asked for clarification of the applicant's intention of this temporary structure. Mr. Vicroy said that the structure is located on the southern property line and could be moved now. He said that Mr. Waits is also 1/6 owner of both properties and the issue of relocating that structure is not a concern of today's hearing.

Ms. Wade said that in regards to Mr. Owens comment that it may be appropriate at the time of the final record plat, for the Planning Commission to decide that the structure must be relocated prior to recording of a plat with the County Clerk's office.

Zoning Action – A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 11-0 to approve PLN-MAR-17-00029: RAYMOND ALLEN WAITS, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 11-0 to approve PLN-MJDP-17-00081: WAITS/MOORE LTD PARTNERSHIP PROPERTY, as presented by staff, with the proposed additional notes presented by Mr. Billings, as follows:

1. Provided the Urban County Council rezones the property R-1A; otherwise, any Commission action of approval is null and void.
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. Delete note #6.
7. Denote: Old Higbee Mill Road improvements shall be determined at the time of Final Development Plan/Preliminary Subdivision Plan or Final Record Plat.
8. Resolve ~~Discuss~~ status of sanitary sewer system and service to proposed lots.
9. Resolve ~~Discuss~~ discontinuation of non-conforming business use.
10. Denote: The consenting property owners (Pauline Moore, Brian McLaughlin, Melinda McLaughlin, Brenda Barbieri, and Waits/Moore Ltd. Partnership) shall be notified before filing of a final or amended subdivision or development plan or subdivision plat.
11. Denote: Upon filing of a final or amended subdivision or development plan or subdivision plat, Applicant shall:
 - a. Show required access easement on the driveway to (i) 2220 Old Higbee Mill Road and (ii) the remnant 1.8 acre tract;
 - b. Consolidate the remnant 1.8 acre tract with the parcel located at 2100 Old Higbee Mill Road in accordance with Consolidation Minor Subdivision Plat dated June 2002 of record in Plat Cabinet L, Slide 708; and
 - c. Remove the structure through which the proposed boundary line runs.

2. JUSTICE PLAZA, LLC (AMD) ZONING MAP AMENDMENT & MAN O' WAR DEVELOPMENT, UNIT 2A, LOT 10 (AMD) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-18-00015: JUSTICE PLAZA, LLC (AMD) (2/28/19)*- an amended petition for a zone map amendment from an Interchange Service Business (B-5P) zone to a Commercial Center (B-6P) zone, for 4.050 net (4.939 gross) acres, for property located at 1916 Justice Drive and 1750 Pleasant Ridge Drive.

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 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 has amended their zone change request and now proposes a Commercial Center (B-6P) zone in order to permit a wider range of business uses on the subject properties. One of the existing lots is currently occupied by two restaurants, but a third space within an existing building (constructed in 2017) remains vacant. The second lot is currently under construction with a 107-room hotel and associated off-street parking.

The Zoning Committee Recommended: **Approval** to the full Commission.

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

1. The proposed Commercial Center (B-6P) zone is in substantial agreement with the 2013 Comprehensive Plan and the Goals and Objectives of the 2018 Comprehensive Plan for the following reasons:
 - a. The proposed B-6P zone is compatible with the existing zoning and land use currently established within the Bryant Road and Pleasant Ridge Drive immediate area. The area is a mixture of commercial uses that support the nearby residential neighborhoods, as well as the traveling public along Interstate 75.

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

- b. Historically, future land use recommendations within the immediate area supported the mixture of commercial uses. The land use recommendation have been implemented with a mixture of B-5P and B-6P zoning. These two zones permit a wide range of commercial uses such as offices, restaurants, retail sales, and hotels.
 - c. The character established by the B-6P zone is in keeping and consistent with the existing context and design features of the immediate area as recommended by Theme A, Goal #2 of the 2013 and 2018 Comprehensive Plans.
 - d. The B-6P zone also includes requirements for transit and multi-modal accommodations, consistent with the recommendations of Theme D, Goal #1 of the 2013 and 2018 Comprehensive Plans to achieve an effective and comprehensive transportation network, including accessible transportation alternatives.
 - e. The subject site is less than ten (10) acres in size; however, it will be incorporated into the existing B-6P development within the immediate area in order to meet the requirements of Article 12-2 of the Zoning Ordinance for a minimum development size of ten (10) acres for a community commercial center along a collector street.
2. This recommendation is made subject to approval and certification of PLN-MJDP-18-00060: Man O' War, Unit 2-A (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.

- b. PLN-MJDP-18-00060: MAN O' WAR DEVELOPMENT, UNIT 2A, LOT 10 (AMD) (2/28/19)* - located at 1916 JUSTICE DRIVE AND 1750 PLEASANT RIDGE DRIVE.

The Subdivision Committee Recommended: **Postponement** until a revised plan is submitted demonstrating compliance with the B-6P zone.

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

1. Provided the Urban County Council rezones the property B-6P; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Include the entire B-6P area on the plan in compliance with Article 21 of the Zoning Ordinance and to demonstrate the site is a minimum of 10 acres.
6. Provide the required multimodal plan per Article 12-8(h) of the Zoning Ordinance.
7. Denote required transit facilities per Article 12-8(i) of the Zoning Ordinance.

Staff Zoning Presentation – Ms. Wade presented the staff report and recommendations for the amended zone change. She displayed photographs of the subject properties and aerial photographs of the general area. She said that the applicant has already redeveloped the site at the corner of Pleasant Ridge Drive and Justice Drive and is seeking to broaden the allowable uses at that location and they are currently constructing a hotel at the second site. She said that recent changes to the B-6P zone, added hotels as a principal permitted use, which allows for this second site to be incorporated into the zone change area and the broader commercial area. She said that the B-6P zone is compatible with the area and the applicant is proposing uses that are also compatible with the design features of the area.

Ms. Wade said that this zone change is in agreement with Comprehensive Plan because the B-6P zone is compatible with the existing zoning and land use currently established within the Bryant Road and Pleasant Ridge Drive area; the historic future land use map has recommended a mixture of commercial zones in this area; the character established by the B-6P zone is in keeping and consistent with context of the area; the zoning category includes requirements for transit and multi-modal accommodations; within the B-6P zone and the subject property is less than ten acres in size is being incorporated into larger B-6P development that is more than ten acres. She said that the staff is recommending approval of this zone change.

Development Plan Presentation – Mr. Martin presented a rendering of the final development plan associated with this zone change. He pointed out the area that is under development with the hotels and commercial structure that generated this zone change. He also pointed out the preliminary development area that has been added so that the applicant can meet the new requirements of the B-6P zone. He said that the entire area will need to be evaluated to meet the new requirements for the Floor Area Ratio (FAR). He said that there are also new transportation requirements that need to be met to assist with the development. He said that transit facilities are required to be depicted on the plan (condition #7).

Mr. Martin said that the staff's and the applicant's math is different regarding the lot coverage, but the plan can still meet the requirements; therefore, it is just a matter of reconciling those numbers. He said that the applicant submitted a multi-modal plan to the transportation staff for review. He said that staff is recommending that a note regarding the transit facilities be added for a location along Pleasant Ridge Drive. He added that these transit stops are to be approved by LexTran. He concluded by saying that the staff is recommending approval and that the Subdivision Committee recommended postponement because at that time the applicant didn't include the entire area on the plan.

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

Applicant Presentation – Mr. Brandon Gross, attorney representing the petitioner, said that the property that is proposed for rezoning will not have any physical changes made to it. He said that the hotel to the north of the subject property has already been constructed and the one located to the east should be completed within a few months and the retail space is already in place. He said that he is available for any questions.

Zoning Action – A motion was made by Mr. Nicol, seconded by Mr. Forester, and carried 11-0 to approve PLN-MAR-18-00015: JUSTICE PLAZA, LLC (AMD), for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Owens, seconded by Mr. Forester, and carried 11-0 to approve PLN-MJDP-18-00060: MAN O' WAR DEVELOPMENT, UNIT 2A, LOT 10 (AMD), as presented by the staff.

II. **COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. **INITIATION OF ZONING ORDINANCE TEXT AMENDMENT TO UPDATE ARTICLE 6-4 THROUGH 6-6 – ZONE CHANGE PROCESS** – The Urban County Council requests that the Planning Commission initiate an amendment to Article 6 of the Zoning Ordinance to allow an alternative zone change process. If initiated, the requisite public hearing would be held after mailed notices are sent.

Staff Zoning Presentation – Ms. Wade said that the staff is asking the Planning Commission to initiate a text amendment to update Articles 6-4 through 6-6 of the Zoning Ordinance. She said that the proposed text had been distributed to the Planning Commission. She said that this is an item that the Planning and Public Safety Committee has discussed numerous times. It is also an implementation of a portion of KRS 100.2111 to allow for an alternative zone change process. She said that currently after the Planning Commission's public hearing, every map amendment is forwarded to the Council for action. This change will allow for only those items requested in writing for the Council to take action, be forwarded to them and all the others will be determined to be final within 21 days. She said that this eliminates some of the items that the Council is doing first and second readings on a regular basis. She said that the Council would not have to hold a public hearing even it was requested.

Ms. Wade said that the Council referred this to the Planning Commission for initiation for it go through the text amendment process.

Commission Question – Mr. Berkley asked who would make the requests for the Council hearing. Ms. Wade said that the state law says "any aggrieved person" could make that request. She said that since KRS doesn't define what an aggrieved person is staff believes it could be anyone who came forward, after the Planning Commission acts. It must be in writing to the Planning Commission; however, the staff will accept these requests.

Ms. Amy Clark, 628 Kastle Road, said that this has received a lot of debate on Council and on their Planning and Public Safety Committee. She displayed the minutes from the last Council Planning and Public Safety Committee, in June 2018 when this was discussed. She said a few of the Council members had concerns regarding this Zoning Ordinance Text Amendment. She said that there is no request here by the Council stating that the Planning Commission initiate this text amendment. She believes that since this involves the Council, it should remain in their Committee where there is a public process and citizens can take part in the discussion. She added that the Council took no action to request an initiation of this text amendment.

Mr. Duncan said that he has been part of those discussions with the Council regarding this issue. He said that the staff believes that this is the best way to get information back to the Council. He said that the Planning Commission will not have the final authority on text amendments and it doesn't matter who initiates them. He said that this information has been presented to the Planning Commission once before and the Council has discussed it on numerous occasions. He said that the staff believes that the best option is for the Planning Commission to consider this text amendment at a public hearing and advance their recommendations to the Council, at which time, the Urban County Council can accept them or reject them.

Ms. Wade clarified that the Council's concerns were mostly about how the cases would be documented at the end of the process. The Council Clerk currently has an Ordinance and they are the holder of the final record, after the Council takes action. She said that Council member Lamb was concerned about the continuation of documentation in the Council Clerk records. She said that the staff has met with the Council Clerk office since the June meeting, to discuss the appropriate manor for them to continue receiving the final documents for their records.

Ms. Clark said that Ms. Wade was correct with Council member Lamb's concerns. She also said that Vice Mayor Kay had concerns regarding the length of time available within 21 days for people to be able to review a zone change and the kind of record that could come to the Council because typically it takes that long for that record to get to Council.

Commission Comments – Mr. Penn said that if the Planning Commission initiates a text amendment, if it is approved, it will also go through the Council for approval. Ms. Wade said that it will follow the normal text amendment process, which includes sending notice to all of the registered homeowner's and neighborhood associations, it will be presented to the Planning Commission and if approved, will be sent to the Council for their approval.

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

Zoning Action – A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 11-0 for the INITIATION OF ZONING ORDINANCE TEXT AMENDMENT TO UPDATE ARTICLE 6-4 THROUGH 6-6 – ZONE CHANGE PROCESS.

- VIII. **STAFF ITEMS** – Mr. Duncan reminded the Planning Commission of the Sub-Committee meetings next Thursday, March 7th, in the Phoenix Building on the 7th Floor,
- IX. **AUDIENCE ITEMS** – No such items were presented.
- X. **MEETING DATES FOR MARCH 2019**
- | | |
|---|-----------------------|
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | March 7, 2019 |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street)..... | March 7, 2019 |
| Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | March 14, 2019 |
| Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building..... | March 21, 2019 |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | March 27, 2019 |
| Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | March 28, 2019 |
- XI. **ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 3:53 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary

Lex TV broadcasts live government meeting coverage, original programming and bulletin board information. You can find us on cable channel 185, view our [live stream](#) and [archived meetings](#) online or watch programming on our [YouTube](#) channel.

Archived videos and minutes can be viewed at <https://www.lexingtonky.gov/public-meetings-videos>

TLW/TM/HB/dw

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