

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

June 27, 2019

- I. **CALL TO ORDER** - The meeting will be 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; Lauren Hedge; Craig Bencz; and Debbie Woods. Other staff members present were: Vaughan Adkins, Division of Engineering; Stephen Parker, Division of Traffic Engineering; Captain Greg Lengal, Division of Fire and Emergency Services; and Tracy Jones and Chad Edwards, Department of Law.

- II. **APPROVAL OF MINUTES** - A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 10-0 (Berkley absent) to approve the minutes of the May 23, 2019 meeting.

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

1. **ZOTA 2019-2: ALTERNATIVE REGULATION FOR ZONING MAP AMENDMENT (KRS 100.2111)** - petition for a Zoning Ordinance text amendment to update Article 6 to create an alternative zone change process.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval.**

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

1. The proposed text amendment to Article 6 to adopt an alternative map amendment request process will accelerate approval of uncontested zone changes, will ensure uncontested zone changes are not encumbered by extended Council breaks and will allow the government staff and decision makers to focus on the zone change applications that are likely to be contested.

Staff - Ms. Wade said that the staff would like to request a one-month postponement of this text amendment to the July 25, 2019 meeting. She said that they would like to meet with the Department of Law and the Council Clerk to address a potential record keeping issue.

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

Action - A motion was made by Mr. Brewer, seconded by Ms. Plumlee, and carried 10-0 (Berkley absent) for a postponement of **ZOTA 2019-2: ALTERNATIVE REGULATION FOR ZONING MAP AMENDMENT (KRS 100.2111)** to the July 25, 2019 meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 6, 2019, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Karen Mundy, Frank Penn, Carolyn Plumlee, and Mike Owens (arrived at 8:48 am). Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Cheryl Galt, Lauren Hedge, Denise Bullock, Hal Baillie, Chris Taylor, Jimmy Emmons; Captain Greg Lengal, Division of Fire & Emergency Services; & 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.

1. DEVELOPMENT PLANS

- a. **PLN-MJDP-19-00020: WEBB PROPERTIES, UNIT 1, BLK A, OUTLOT 2 (REGENCY POINT) (AMD) (6/30/19)*** - located at 150 W. LOWERY LANE AND 2350 NORMAN LANE, LEXINGTON, KY.
Council District 10
Project Contact: CMW

Note: The Planning Commission postponed this item at their May 9, 2019 and May 23, 2019, meeting. The purpose of this amendment is to add a 4,550 sq. ft. building and associated parking on Outlot 2, Block A; add a new access drive on Nicholasville Road; revise interior parking layout on Lots 1 & 2, Block B and to revise the site statistics.

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

The Subdivision Committee Recommends: **Postponement**. There are concerns with the overall developments compliance with Article 18 VUA, Article 12 Commercial Center of the Zoning Ordinance, and the development of a regional detention basin.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Department of Highway's approval of access on Nicholasville Road.
11. Denote use of proposed and existing buildings.
12. Correct vicinity map.
13. Addition of proposed and existing utility easements.
14. Correct zoning category name in site statistics.
15. Delete notes requesting FAR waivers (not necessary).
16. Discuss requested tree canopy waiver per note #24.
17. Discuss compliance with VUA landscaping per Article 18 of the Zoning Ordinance.
18. Discuss compliance with Article 12-8(h) multi-modal accommodations.
19. Discuss access to Nicholasville Road (US 27).
20. Discuss proposed use of underground detention for a 50+ acre watershed for stormwater management.

Staff Presentation - Ms. Hedge presented the development plan. She indicated that revised conditions were distributed to the Planning Commission, as follows:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Department of Highway's approval of access on Nicholasville Road.
- ~~11. 11. Denote use of proposed and existing buildings.~~
- ~~12. 12. Correct vicinity map.~~
- ~~13. 13. Addition of proposed and existing utility easements.~~
- ~~14. 14. Correct zoning category name in site statistics.~~
- ~~15. 15. Delete notes requesting FAR waivers (not necessary).~~
- ~~16. 16. Discuss requested tree canopy waiver per note #24.~~
- ~~17. 17. Discuss Denote compliance with VUA landscaping per Article 18 of the Zoning Ordinance.~~
- ~~18. 18. Discuss Document compliance with Article 12-8(h) Multi-Modal Accommodations.~~
- ~~19. 19. Discuss access to Nicholasville Road (US 27).~~
- ~~20. 20. Discuss Resolve proposed use of underground detention for a 50+ acre watershed for stormwater management to the approval of the Divisions of Engineering and Water Quality.~~

Ms. Hedge said that the purpose of this amendment is to add a 5,250 square foot building and associated parking and a new access on Nicholasville Road. She said that they are also revising the interior parking layout and the site statistics. She said that this item had been postponed on May 9, 2019 and May 23, 2019 at the Planning Commission meetings. She added that the Subdivision Committee also recommended postponement with concerns about the overall development's compliance with Articles 12 and 18 of the Zoning Ordinance and the development of a regional detention basin.

Ms. Hedge said that on May 2, 2019, the applicant submitted a revised plan addressing some of the issues identified by the Technical Committee at their April 24, 2019 meeting. She said that the staff remained concerned with the proposed underground detention and modification of the existing stormwater basin on the site. She said that the original proposal required a waiver of the

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Stormwater Manual Regulation, which wasn't approved by the Division of Engineering. She said that the applicant met with the Division of Engineering, Division of Planning, and Division of Water Quality to discuss possible alternative resolutions to the stormwater management concerns. She said that most of the clean-up conditions have been addressed, with the exception of correcting the vicinity map. She said that staff believes that condition #12, denoting compliance with the VUA landscaping, has been addressed on the revised plan. Additionally, regarding condition #13, documenting compliance with Article 12-8(h), she said that the applicant had submitted a multi-modal exhibit, which she displayed on the overhead, which included a new bus stop and shelter, sidewalks, pedestrian connections and bike racks. By adding these elements the applicant addressed these concerns. She said that condition #14, the access to Nicholasville Road, is still a discussion item, since it was just recently revised to a right-in only, which is acceptable by the Division of Traffic Engineering and KYTC. She said that condition #15, resolve the proposed use of underground detention for the watershed has been addressed with the revised plan and it has been approved by the Divisions of Water Quality and Engineering. She displayed two exhibits submitted by the applicant depicting their revised stormwater management plan. She said that with this revised plan, staff can now recommend approval of this development plan.

Representation present – Adam Binder, representing the petitioner, said that the initial concern of this development was with the detention basin meeting the requirements of the Stormwater Manual. He said that they had postponed this plan to work out those issues. He said that this proposal has been reviewed by the Divisions of Engineering and Water Quality, and they believe it will meet the Stormwater Manual's requirements. He said that there are three separate basins that will act individually, each of them have drainage that is less than 5 acres going to it. He added that they are over-detaining to make up for the additional area that is being passed through. He said that they are still meeting all of the existing conditions. He said that he met with the Division of Traffic Engineering and KYTC concerning the right-in only turn from Nicholasville Road, which they don't believe they are prepared to submit their final permit yet, but they are prepared to progress through to the detailed design. He said that they are requesting approval of this development plan and that he would be available for any questions.

Commission Questions – Mr. Penn said that this plan was for 50 acres. He asked for clarification of what is the plan for the rest of the water. Mr. Binder said that the majority of the area that is currently draining into this basin has their own detention system on site, but they are out letting to the public stormwater system, ending in this basin. He said that the rest of the water is being bypassed through a storm pipe. He said that the three areas on our property are over-detaining.

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

Motion - A motion was made by Mr. Owens, seconded by Mr. Nicol, and carried 11-0 to approve PLN-MJDP-19-00020: WEBB PROPERTIES, UNIT 1, BLK A, OUTLOT 2 (REGENCY POINT) (AMD), as recommended by the staff, with the revised conditions as follows:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Department of Highway's approval of access on Nicholasville Road.
11. Correct vicinity map.
12. Denote compliance with VUA landscaping per Article 18 of the Zoning Ordinance.
13. Document compliance with Article 12-8(h) Multi-Modal Accommodations.
14. Resolve ~~Discuss~~ access to Nicholasville Road (US 27).
15. Resolve proposed use of underground detention for a 50+ acre watershed for stormwater management to the approval of the Divisions of Engineering and Water Quality.

V. ZONING ITEMS - The Zoning Committee met on Thursday, June 6, 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, Craig Bencz, Lauren Hedge, Jim Duncan, Jimmy Emmons, Chris Woodall, Chris Taylor, and Debbie Woods, 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.

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

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. ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON ZONING MAP AMENDMENT & AYLESFORD SUBDIVISION (HOLY SPIRIT PARISH NEWMAN CENTER) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-18-00017: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON (8/27/19)*- a petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Two Family Residential (R-2) zone, for 1.48 net (1.69 gross) acres, for property located at 316-408 Rose Lane. A conditional use permit and two variances are also requested.

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 allow for the redevelopment and expansion of the Catholic Newman Center. The redevelopment of the site will include new student public space, meeting space, and a third-floor residence. The petitioner has also requested that the Planning Commission also review their conditional use permit and a dimensional variances for the subject property.

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

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

1. The requested Two-Family Residential (R-2) zone is in agreement with the 2013 Comprehensive Plan and the adopted Goals and Objectives of the 2018 Comprehensive Plan, for the following reasons:
 - a. The proposed development supports infill and redevelopment throughout the Urban Service Area, as it will allow for greater utilization of the Newman Center's current location (Theme A, Goal #2)
 - b. The Newman Center provides a spiritual and community resource to the area and helps to create well-designed neighborhoods and communities (Theme A, Goal #3)
 - c. The Newman Center provides a community facility at a neighborhood scale, which will provide services to its surrounding community, including the surrounding Lexington parishioners and University of Kentucky students (Theme A, Goal #4; Theme C, Goal #2.d; and Theme D, Goal #2).
2. This recommendation is made subject to approval and certification of PLN-MJDP-18-00067: Aylesford Subdivision (Holy Spirit Parish Newman Center), 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. CONDITIONAL USE & VARIANCE REQUEST

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

REQUESTED CONDITIONAL USE

1. Place of religious assembly.

REQUESTED VARIANCES

1. To increase the maximum allowable height of the building from 35 feet to 50 feet.
2. To reduce the front yard setback from 30 feet to 20 feet along Rose Lane.

The Staff Recommends: **Approval of the requested conditional use**, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties, nor will the proposed addition to the place of religious assembly harm the public health, safety or welfare, and will not impair the integrity or character of the zone in which it is located. The Newman Center has been operating at this location for over 50 years, and the expansion will serve the parish and students of the University of Kentucky in a more complete manner. The proposed building will be in keeping with the size and setbacks of the surrounding buildings, which include sororities, fraternities and university buildings.
- b. All necessary public services and facilities such as utilities, fire and police protection, sanitary and storm sewers, roadways and sidewalks are currently available and are adequate to serve the subject property.

The Staff Recommends: **Approval of the variances to increase the maximum allowable height of the building from 35 feet to 50 feet and to reduce the front yard from 30 feet to 20 feet**, for the following reasons:

- a. Granting the requested variances will not adversely affect the public health, safety or welfare, nor will it alter the character of the general vicinity. The proposed building will be only 15 feet taller than the limitation of the R-2 zone, but will be at a similar height and scale to other structures in the immediate area. The front yard setback will also be more in keeping with the character of the immediate area. As the University of Kentucky has grown, university-oriented uses has surrounding the Newman Center, and they have been developed at a greater intensity than the current zoning would otherwise allow because the University is exempt from compliance with zoning regulations. Additionally, there is a need for the Newman Center to maintain its location to serve and minister to the growing population of students. The variances will allow the construction of an addition on the existing property that is consistent with and appropriate to the surrounding area.
- b. Granting these variances will not allow an unreasonable circumvention of the requirements of the Zoning Ordinance because the surrounding area has developed at a much greater density and intensity than the existing regulations allow. The variances will allow the applicant to construct a new facility appropriate to serve a student-oriented ministry adjacent to a major university.
- c. The special circumstance that serves to justify these two variances is that the University of Kentucky continues to grow to serve more students, and has purchased all of the property along Rose Lane. Adjacent properties have developed in a manner inconsistent with the underlying zoning. The proposed height and setback will allow for the new addition to be consistent and compatible with the surrounding buildings.
- d. Strict application of the Zoning Ordinance would deprive the applicant of a reasonable use of its land or create an unnecessary hardship because the applicant would not be able to construct a facility to adequately serve the needs of the growing University of Kentucky campus and would not be able to use its property in a manner consistent with surrounding uses.
- e. The circumstances surrounding the requested variances are not the result of the actions of this applicant taken subsequent to the regulation being adopted. The changes to the surrounding area by an exempt public entity, not the actions of the applicant, have significantly changed the nature and character of the area, and the applicant is requesting relief prior to initiation of any construction on the subject property.

These recommendations of approval are made subject to the following conditions:

1. Should the portion of the subject property be rezoned to R-2 as proposed, the entirety of the property shall be developed according to the submitted Development Plan, or as further amended by the Planning Commission.
2. All necessary permits, including a Zoning Compliance Permit, Building and Paving permits, Land Disturbance permit and a Certificate of Occupancy, shall be obtained from the Divisions of Planning, Building Inspection and Engineering prior to any construction, and prior to occupancy of any of the buildings on the property.
3. An executed parking agreement documenting the available use of the adjoining parking lot consisting of at least 41 spaces shall be provided to the Division of Building Inspection at the time a building permit is applied for and/or an occupancy permit is issued to verify compliance with the required parking for the place of religious assembly.
4. The final design of the parking lot, access drive and internal circulation shall be subject to review and approval by the Division of Traffic Engineering.
5. A note shall be placed on the Zoning Development Plan indicating the conditional use and variances that the Planning Commission has approved for this property [under Article 6-4(c) of the Zoning Ordinance].

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- c. PLN-MJDP-18-00067: AYLESFORD SUBDIVISION (HOLY SPIRIT PARISH NEWMAN CENTER) (8/27/19)* - located at 316-408 ROSE LANE
Project Contact: Carman

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

1. Provided the Urban County Council rezones the property R-2; 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. Provided the Planning Commission grants the requested variances.
6. Include area between lot line and Columbia Terrace as part of the subject property and provide deed of correction prior to certification.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the amended zone change. He displayed photographs of the subject property and aerial photographs of the general area. He said that the applicant is proposing this zone change to allow for the redevelopment and expansion of the Catholic Newman Center, which will include new student public space, meeting space and a third floor residence. He said that the petitioner is also requesting that the Planning Commission review their conditional use permit and two dimensional variances for the subject property. The property is surrounded by properties that are either owned by the University of Kentucky, or are utilized by the students, faculty, and staff from the University of Kentucky. Surrounding the subject property are various different buildings of varying heights that have undergone significant architectural improvements, which are not subject to Lexington's zoning regulations as they are associated with a State organization.

Mr. Baillie said that typically the R-2 zone would be considered a downzoning, but for a non-residential use, it will actually allow a greater use of the land. The R-3 zone has a maximum lot coverage of 25% and a floor area ratio of 0.5, whereas the proposed R-2 zone will allow the Catholic Newman Center to expand at its present location and better utilize the property to its full extent. He said that originally this zone change was recommended for postponement because there was an issue with the 1904 and 1907 plats, as well as some of the deeds. There was a strip of land in the rear of the property that was not on any of the legal descriptions nor the deeds. He said that the petitioner has rectified this discrepancy through a deed of correction that allowed them to take clear legal ownership of the land.

Mr. Baillie said that the petitioner indicates that the zone change is in conformity with both the 2013 Comprehensive Plan and the adopted 2018 Comprehensive Plan's Goals and Objectives. He added that this application was submitted in 2018, prior to the adoption of the 2018 Comprehensive Plan, and as such is subject to the 2013 Comprehensive Plan and the adopted Goals and Objectives of the 2018 Comprehensive Plan. The petitioner also opines that the expansion of the church and the associated supportive amenities will provide an enhanced community facility and will continue to be a vital focal point for the neighborhood. They also opine that the proposed rezoning supports the redevelopment throughout the Urban Service Area. The Newman Center provides a spiritual and community resource to the area and helps to create a well-designed neighborhood and community, and it acts as a community facility at a neighborhood scale, which will provide services to its surrounding community, including the surrounding Lexington parishioners and University of Kentucky students. He said that the staff agrees with these elements and is recommending approval of this proposed zone change. He added that the Zoning Committee also recommended approval at their June 6, 2019 meeting.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan associated with this zone change. He pointed out the area that had the deed discrepancy with the lotting pattern of the 1904 and the 1907 plats. He pointed to the existing facility, a single story with a patio and open space area, which is approximately 14,000 square feet. The building currently has 40 parking spaces. He said that the proposed addition will be over 24,000 square feet and will be three stories in height.

Mr. Martin said that the development has the standard sign-off conditions. He said that the height of the proposed addition, as well as the setback of its location, requires variances. He said that the Subdivision Commission recommended approval of this development plan.

Conditional Use & Variance Request - Ms. Wade presented the conditional use and two variances associated with this zone change. She said that the variances are to increase the maximum allowable height of the building from 35 feet to 50 feet and to reduce the front yard setback from 30 feet to 20 feet along Rose Lane. She said that the applicant is removing an existing wing of the Newman Center and replacing it with this expansion. The petitioner is proposing to remove an existing wing of the building that contains four dwelling units (4,820 square feet in size) and is two stories in height, and replace it with an addition that is 24,000 gross square feet in size and will provide one dwelling unit. The proposed addition will be three stories tall and will include student meeting and activity areas, in addition to the dwelling unit. This will enable the Newman Center to continue to serve the student population as the University of Kentucky continues to grow. She added that the existing sanctuary is approximately 14,000 square feet, which will make a total of 38,045 square feet on the site. She recalled that Mr. Martin stated that there is 40 parking spaces on site, in which she added that their existing parking does include university

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owned parcel with a long term lease agreement that allows for the Newman Center to utilize an additional 41 parking spaces, making a total of 81 parking spaces, which meets the requirement of the Zoning Ordinance.

Ms. Wade said that the subject property is located on the University campus, with many of the adjacent properties owned by the university. The university has built fraternity and sorority houses, which tend to be large structures and the height restrictions established by the Zoning Ordinance do not apply. She said that the adjoining uses are already exceeding zoning regulations and are up to three stories in height. She said that the staff finds that the proposed height variance to allow the new addition to be up to 50 feet in height will allow for a building that will be compatible with the surrounding uses in terms of size, mass and scale. She also said that the same applies to the requested setback. She pointed to the aerial photo with a line at the 30 feet setback, which the existing building already projects over that line because in the existing R-3 zone has a 20-foot setback. The applicant is requesting this setback to continue with the proposed zone and it will allow for the new addition to be in line with the rest of the building and consistent with the adjoining lots. She said that the staff thinks that the conditional use and the two variances will not adversely affect the health, safety, or welfare or alter the general character of the vicinity. She added that the staff also found that there wasn't an unreasonable circumvention of the Zoning Ordinance and that the circumstances surrounding this request was not particularly the applicants fault. She said that the staff recommended approval of the conditional and the two variances with five conditions. She added that the Zoning Committee also recommended approval at their June 6, 2019 meeting.

Applicant Presentation – Mr. Chris Clendenen, attorney; Dick Murphy; Kevin Warner, Carman Engineering, were present representing the petitioner, said that they agree with the staff and are available for any questions.

Zoning Action – A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 11-0 to approve PLN-MAR-18-00017: ROMAN CATHOLIC BISHOP DIOCESE OF LEXINGTON, for the reasons provided by the staff.

Conditional Use and Variance Action – A motion was made by Mr. Penn, seconded by Mr. Brewer, and carried 11-0 to approve the CONDITIONAL USE & VARIANCE REQUEST, 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-18-00067: AYLESFORD SUBDIVISION (HOLY SPIRIT PARISH NEWMAN CENTER), as presented by the staff.

2. WINTERWOOD, INC. ZONING MAP AMENDMENT & WINTERWOOD, LLC (1812 VERSAILLED RD) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00009: WINTERWOOD, INC. (8/4/19)*- a petition for a zone map amendment from a Two-Family Residential (R-2) zone to a Planned Neighborhood Residential (R-3) zone, for 3.82 net (3.92 gross) acres, for property located at 1812 Versailles Road. A conditional use permit is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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.

The petitioner has requested a zone change from a Two Family Residential (R-2) zone to a Planned Neighborhood Residential (R-3) zone for 3.82 net (3.92 gross) acres for the properties located at 1812 Versailles Road. The proposed development includes four (4) multi-family apartment buildings, with a total of 28 dwelling units, and an associated community center. The proposed development represents a density of 7.33 dwelling units per acre. In compliance with the LFUCG Zoning Ordinance (8-12(d)(3)), the applicant is seeking a conditional use for the establishment of the community center.

The Zoning Committee Recommended: Postponement to the full Commission.

The Staff Recommends: Postponement, for the following reasons:

1. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the Enhanced Neighborhood Place Type, and the Medium Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 1. Site Planning
 2. Open Space and Landscaping
 - b. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.

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- c. E-GR3-2: New focal points should emphasize geographic features unique to the site.

b. CONDITIONAL USE REQUEST

- 1. Community center

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

The Staff Recommends: **Approval of the requested conditional use**, for the following reasons:

- a. Granting the requested conditional use should not adversely affect the subject or surrounding properties. The proposed community center, in general, is encouraged by the Comprehensive Plan, and will coincide with and help to facilitate the adopted pillars of the Plan. Traffic from the proposed conditional use, even with the proposed surrounding residential development, should not exceed the carrying capacity of the current road system. Adequate parking will be provided to serve the community center.
- b. All necessary public services and facilities are available to and either are or will be adequate to serve the subject property.

This recommendation of approval is made subject to the following conditions:

- 1. Should the subject property be rezoned to R-3, it shall be developed according to the approved Development Plan, or as further amended by the Planning Commission.
- 2. All necessary permits, including a Zoning Compliance Permit, Building and Paving permits and a Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the facilities.
- 3. The associated parking lot and driveway shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.

- c. PLN-MJDP-19-00031: WINTERWOOD, LLC (1812 VERSAILLED RD) (8/4/19)* - located at 1812 VERSAILLES ROAD.
Project Contact: CDP Engineers, Inc.

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.
- 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. Denote lot coverage and floor area ratio per Article 21 of the Zoning Ordinance.
- 8. Denote the 100 year floodplain contour and the 25' setback on plan.

Subsequent to the Technical Committee meeting, Planning Staff completed an evaluation of the Placebuilder development criteria.

- 9. Discuss the following Placebuilder Criteria:
 - I. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - II. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - III. E-GR3-2: New focal points should emphasize geographic features unique to the site.

Staff Zoning Presentation – Mr. Baillie announced that there is a revised staff report and recommendation available for the Planning Commission, as follows:

- 1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning encourages the expansion of housing choices (Theme A, Goal #1), while also supporting infill and redevelopment (Theme A, Goal #2), and providing well-designed neighborhoods (Theme A, Goal #3).
 - b. The proposed rezoning works to achieve an effective and comprehensive transportation system (Theme D, Goal #1) by better utilizing and supporting the multi-modal system along Versailles Road and by properly terminating Hill Rise Drive.
 - c. The proposal seeks to accommodate the demand for housing in Lexington responsibly, prioritizing affordable higher-density residential and a mixture of housing types (Theme A, Goal #1, Objective b.).
- 2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a residential development that is pedestrian-friendly, while also providing access to focal points and public green space. Additionally, the proposed rezoning seeks to increase the intensity of use on an underutilized, vacant parcel of land, while also minimizing the impacts on the surrounding environment and communities.

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- b. The proposed rezoning includes safe facilities for the potential residents of the site by prioritizing multi-modal connections and by connecting the site to the Versailles Road corridor and adjoining developments. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
- c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, maintains many of the current tree lines and canopy, and provides delineated access to the open space.
- 3. This recommendation is made subject to approval and certification of PLN-MJDP-19-00031: Winterwood, LLC, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Mr. Baillie then 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 petitioner is proposing a medium density residential development with four two-story multi-family structures and an associated community center. He said that the developer will own and manage these buildings and will have staff on site at the community center. The developer has indicated that the proposed development will be affordable housing and is in the process of obtaining additional subsidies to lessen the financial impact on potential residents.

Mr. Baillie said that the neighborhood outreach conducted by the petitioner included discussions with stakeholders, and area neighborhood organizations, prior to the submission of their application, which was filed on May 6, 2019. On May 13th, the applicant also conducted an open house style meeting at the Village Branch Library. The applicant brought information regarding the proposed rezoning and the development plans to discuss with the attendants, and had representatives from its engineering and architecture firm's present, as well as legal counsel available to answer questions. While attendance was not high, representatives from the Pine Meadows Neighborhood Association and the Hamilton Park/Westgate Neighborhood Association were present. An attendance sheet was provided to the Division of Planning following the meeting. He added that staff was also present to answer any questions regarding the process for the zone change.

Mr. Baillie said that the subject property is located within a mixed-use neighborhood that currently includes various residential, business, and professional office land uses. The neighborhood also includes the Cardinal Hill Rehabilitation Hospital and support medical offices, the Hillcrest Memorial Park cemetery and Pine Meadows Park, neighborhood shopping areas along Oxford Circle, and a place of religious assembly. He said that the property was rezoned in 1969 from a Single Family Residential (R-1) zone to the Two-Family Residential (R-2) zone to better conform to the surrounding land uses. Since that time, many of the properties to the east and west have rezoned to allow for increased residential densities.

Mr. Baillie said that one of the limiting factors for development along this portion of Versailles Road has been the floodplain that runs along the rear of this property and includes a blue line stream (Vaughn's Branch), which has pushed much of the development up to the front near Versailles Road, and has created a large open space along the rear of the property. Two lots to the west of the subject property, 1824 and 1816 Versailles Road, have been purchased by the city and act as a contiguous greenway. He said that this gives the petitioner an advantage for the property to easily meet their open space requirements, while also providing a focal point for the site. He said that one of these advantages is its location along Versailles Road, which feeds directly into the downtown area with numerous transit stops along the roadway.

Mr. Baillie said that at the Zoning Committee meeting on June 6, 2019, the staff was concerned with three development criteria, which were the multi-family design standards, (site planning, open space and landscaping); the connections to greenways, tree stands, and stream corridors that should be provided; and new focal points that should emphasize geographical features unique to the site. He added that the Zoning Committee recommended postponement for this zone change. He said that after that meeting, the applicant met the staff and revised their application and development plan, in order to address these concerns. He said that the revised plan depicts the access to greenspace and the potential for a trail to be created by the LFUCG. The applicant also submitted renderings of the buildings and a written document describing some limitations of the site.

Mr. Baillie said that after reviewing the additional information submitted as part of the application, the staff is now recommending approval of this zone change. He said that it is in agreement with the 2018 Comprehensive Plan's Goals and Objectives by encouraging the expansion of housing choices, supporting infill and redevelopment, and providing well-designed neighborhoods; working to achieve an effective and comprehensive transportation system by better utilizing and supporting the multi-modal system along Versailles Road and by properly terminating Hill Rise Drive; and by seeking to accommodate the demand for housing in Lexington responsibly, prioritizing affordable higher-density residential and a mixture of housing types. He added that the justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan by meeting the criteria for Site Design, Building Form and Location as the site creates a residential development that is pedestrian-friendly, providing access to focal points and public green space; seeking to increase the intensity of use on an underutilized, vacant parcel of land, minimizing the impacts on the surrounding environment and communities; including safe facilities for the potential residents of the site by prioritizing multi-modal connections and by connecting

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the site to the Versailles Road corridor and adjoining developments. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan; and by meeting the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, maintains many of the current tree lines and canopy, and provides delineated access to the open space.

Commission Questions – Mr. Owens asked when the revised application was received. Mr. Baillie said that it was received on June 7, 2019.

Development Plan Presentation – Mr. Martin presented a rendering of the preliminary development plan associated with this zone change. He indicated that revised conditions were distributed to the Planning Commission, as follows:

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.
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. Denote lot coverage and floor area ratio per Article 21 of the Zoning Ordinance.~~
- ~~8. Denote the 100 year floodplain contour and the 25' setback on plan.~~

Subsequent to the Technical Committee meeting, Planning Staff completed an evaluation of the Placebuilder development criteria.

7. 9. Discuss the following Placebuilder Criteria:
- I. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - II. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - III. E-GR3-2: New focal points should emphasize geographic features unique to the site.

Mr. Martin pointed out Hill Rise Drive that will be terminated into a cul-de-sac, the access drive to the parking and the apartment buildings. He said that there is no connection to Versailles Road, because there was a concern by the staff. The sole access into this development will be on Hill Rise Drive. He said that the applicant is proposing 28 dwelling units, which will be one-bedroom units. The building will be two-stories and 34 feet in height, with an approximate 20,000 total square feet. He pointed to the community center, which is larger than 8,000 square feet; however, it is subject to the conditional use permit, and its 11 parking spaces. He said that the applicant is required to have 42 parking spaces, which they have. He pointed out the location of the floodplain, which Vaughn's Branch drains into. He said that many of the adjacent neighborhood were built before drainage requirements and that this area does flood. He said that this area has been studied extensively, and the drainage has recently been upgraded. He said that there are standard sign-off conditions on this plan and that the staff is recommending approval.

Commission Questions – Mr. Pohl asked for clarification of condition #7, III. Mr. Martin said that the floodplain is the geographical feature and the land use feature is the long, linear lots in the area. Mr. Pohl then asked what the focal point is. Mr. Martin said that it is the access to the floodplain. It will be greenspace for the citizens to utilize. Mr. Pohl also asked if the community center will have a visual connection to the floodplain. Mr. Martin said that could be examined more at the time of the final development plan.

Mundy asked if the applicant has had meaningful conversations with the neighborhoods. Mr. Martin said the staff believes that they have but the applicant could elaborate on that.

Conditional Use Request – Ms. Wade presented the conditional use request associated with this zone change. She said that the applicant originally filed this application, they depicted a community center and the staff asked if it was a conditional use or will it be utilized as a clubhouse for the property. The applicant said that their intention was for it to be a community center and they amended their application before the notifications letters were mailed out. She said that the community center will be centrally located off of Hill Rise drive so it will be easily assessable to the residents and the neighboring communities.

Ms. Wade said that the applicant is proposing approximately 4,300 square foot structure, with 11 parking spaces, which meets the required number of parking spaces. She said that the staff believes that this request is appropriate at this location, the staff believes that it will support the proposed multi-family residential and provide public facilities and services to the immediate area. She said that the staff recommended approval of this conditional use to the Zoning Committee, finding that it won't have an adverse effect on the subject property or the surrounding area and that all of the necessary public services and facilities are available to serve this center. She added that the staff recommended three conditions; it is contingent on the

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zone change; all the permits be secured through the normal process; and that the parking lot be constructed with the appropriate landscaping and screening, following Articles 16 and 18 of the Zoning Ordinance. She said that the Zoning Committee recommended approval at their June 6, 2019 meeting.

Applicant Presentation – Mr. Clifford Ashburner, attorney; Zach Warshen, Winterwood, LLC; and Scott Southall, CDP Engineers, were present representing the petitioner. He said that in regards to Ms. Mundy's question about the neighborhood engagement, Mr. Warshen reached out to several neighborhood organizations. He said that there was an open house style meeting at the public library for 2 hours, with approximately 20 residents. Also present at that meeting were representatives from architectural firm and the CDP Engineers. He said that there were discussions about pedestrian connectivity and the access to Versailles Road, and landscaping. He said that the residents also expressed their concerns of affordable housing. He said that this plan does reflect some of the changes made by the community.

Mr. Ashburner said that they are proposing four, two-story buildings, with a total of 28 units. He believes that this is a respectful development of the site, they are not trying to over-develop the subject property. He said that they are protecting the open space and connecting to it. He said that Mr. Pohl had asked how the community center addresses the open space and said that would be addressed at the time of the final development plan. He said that he is in agreement with the staff's recommendations.

Commission Questions – Mr. Owens asked what kind of uses the community center will be used for. Mr. Ashburner said that this project is in conjunction with AVOL of Kentucky, who is acting as the coordinator of assisting medically vulnerable individuals to find housing and have gatherings/meetings in the community center. These meetings are open to the public.

Citizens in Opposition - Mr. Mark Smith, 1808 Versailles Road, concerned about the density and the privacy of his home. He doesn't believe that this will be an improvement to the corridor.

Applicant Rebuttal - Mr. Ashburner said that Mr. Smith's property is currently zoned R-2 and could be developed with duplexes in the future, with similar yard requirements. He said that the development plan depicts a 20-foot setback with landscaping adjacent to Mr. Smith's property. If this property were to be developed under the R-2 zone, it could have a side yard setback of only 6 feet from the property line. He believes that the buffers that are being proposed on the site design significantly protects Mr. Smith's property.

Citizen Rebuttal – Mr. Smith said at the meeting held at the library, he was told that the setback was going to be 10 feet. He also said that there will be dumpsters outside of his windows.

Staff Rebuttal - Mr. Baillie said that the applicant initially had a 10-foot side yard setback, but the staff asked them to expand that and the revised plan depicts a 20-foot side yard setback. He said that the zone-to-zone buffering will be discussed in greater detail at the time of the final development plan, which requires a 6-foot fence and landscaping.

Commission Comments – Mr. Wilson said that Mr. Smith also mentioned the location of the dumpsters and asked the applicant for clarification. Mr. Ashburner said that the dumpster will be located between the shelter and the buildings, which is a requirement of the Zoning Ordinance. He added that he will confirm with his clients if there are specific screening requests and would be willing to work with Mr. Smith before the submitting the final development plan.

Mr. Pohl said that he respects Mr. Smith's comments and said that there is a cluster of five trees on the plan, which is a higher density than the 40-foot set spacing by the Zoning Ordinance and encouraged the applicant to work with Mr. Smith to protect his views with the right kind of buffering.

Zoning Action – A motion was made by Mr. Berkley, seconded by Mr. Owens, and carried 11-0 to approve PLN-MAR-19-00009: WINTERWOOD, INC., for the revised reasons presented by the staff.

Development Plan Action – A motion was made by Mr. Berkley, seconded by Mr. Owens, and carried 11-0 to approve PLN-MJDP-19-00031: WINTERWOOD, LLC (1812 VERSAILLED RD), for the revised conditions presented by staff, with the following changes:

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.
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.

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Subsequent to the Technical Committee meeting, Planning Staff completed an evaluation of the Placebuilder development criteria.

7. ~~Resolve~~ ~~Discuss~~ the following Placebuilder Criteria:
 - I. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - II. B-PR7-1: Connections to greenways, tree stands, and stream corridors should be provided.
 - III. E-GR3-2: New focal points should emphasize geographic features unique to the site.

Conditional Use – A motion was made by Mr. Berkley, seconded by Mr. Owens, and carried 11-0 to approve the CONDITIONAL USE, for the reasons provided by the staff.

Note: Planning Commission took a recess at 2:50 p.m. until 3:00 p.m.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **ZOTA 2019-3: AMENDMENT TO ARTICLE 17: SIGN ORDINANCE UPDATE** – a petition for a Zoning Ordinance text amendment to update Article 17 for content neutral language in the sign ordinance. This amendment also updates sign regulations and updates references throughout the Zoning Ordinance.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval.**

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

1. The proposed text amendment to Article 17 to adopt content neutral signage regulations ensures compliance with the *Reed v Town of Gilbert* U.S. Supreme Court decision, is responsive to the Urban County Council's direction for the Planning Commission to initiate and proceed with this text amendment, and addresses other known issues throughout this article of the Zoning Ordinance.

Staff Text Amendment Presentation – Mr. Bencz presented and summarized the staff report and recommendations for this text amendment. He said that there were items uploaded onto the Planning Commission screens for them to review, including the proposed text for Article 17, a comparison table, and staff reports. He said that this was initially presented to the Planning and Public Safety Committee in 2017 related to the *Reed v. Town of Gilbert* Supreme court case. He said that the result of that case was a requirement for content neutral sign code language that applies to both residential and non-residential uses. He said that at the direction of the Urban County Council and the Administration, a Sign Ordinance Workgroup was organized, which was made up of representatives from the Divisions of Planning, Building Inspection, the Department of Law, and the Council Office. He said that the workgroup met and completed a comprehensive redraft of Article 17, removing all references related to content. The workgroup also emphasized consistency throughout the ordinance language, addressed frequent requests, such as combining sign types, and clarified requirements regarding temporary signs.

Mr. Bencz said that language referencing sign type has been removed. He said that the workgroup proposed that the Board of Adjustment consider the transfer of unused signage square footage along the same street frontage, for signage types. Advertising signs will now be referred to as "billboards." In addition, the construction screening signs provisions are proposed to be removed. He said that in regards to temporary signage, the workgroup is proposing that the existing 100 square-foot requirement for non-rigid material be reduced to 50 square feet. These signs can currently be displayed for 30 days; the proposed language reduces the duration to 14 days. The total time that a temporary sign can be displayed will decrease from 150 days to 56 days per year.

Mr. Bencz said in the Agricultural Zones (A-R, A-U, A-B, and A-N), the signage requirements for home occupations and bed and breakfast facilities have been removed and consolidated into an "all other permitted uses" section. For farms, there has been a proposal to allow an additional sign for an entrance on a wall or fence, in addition to a freestanding sign. For religious or educational uses, the proposed text would permit one freestanding and one wall sign. In the Mobile Home Park (M-1P) zone, the setback for freestanding signs is proposed to be reduced from 20 feet to 10 feet, to remain consistent throughout the Article. For low density residential (R-1 [A-E], R-1T, R-2) zones, the sign setback is proposed to be 10 feet, and specific signage requirements for certain uses are proposed to be consolidated into "all other permitted uses". For religious or educational uses, the proposed language allows one freestanding and one wall sign. For high density residential (R-3, R-4, and R-5) zones, the sign setback is proposed to be 10 feet and one freestanding sign would be permitted per entrance, up to 32 square feet combined. Group Residential Projects would be regulated under the "all other permitted uses" section. Pole banner signs are proposed to be removed because the content cannot be regulated; however, they would be permitted in nonresidential and mixed-use zones. For Professional Office and Mixed-Use 1 (P-1 and MU-1) zones, the information sign

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allowance and the third wall-mounted sign are proposed to be removed. For the Neighborhood Business (B-1) zone, proposed language would allow freestanding business signage to be combined (50 square feet each) into a single 100 square-foot sign, as applicable. For the Highway Service Business, Warehouse/Wholesale, and Industrial (B-3, B-4, I-1, and I-2) zones, the setback is proposed to be 10 feet for freestanding signs. For the Downtown Business (B-2 and B-2A) zones, the annual permit fee for A-frame or sandwich board sign is proposed to be removed. For the Lexington Center Business, Interchange Services Business (B-2B and B-5P) zones, changes for content neutrality language are proposed. For the Commercial Center (B-6P) zone, the proposed text amendment would allow projecting signs in lieu of wall signs, and add sign requirements for residential uses. In the Planned Unit Development and University Research Campus (PUD and P-2) zones, content neutrality language amendments are proposed. For the Mixed Use 2 (MU-2) zone, the proposed language would allow the freestanding signage to be combined into a single 150 square-foot sign. For the Mixed-Use 3 (MU-3) zone, the proposed language allows an increase in freestanding sign size from 75 square feet to 150 square feet per sign. In the Expansion Area (CD, EAR -1, EAR -2 and EAR-3) zones, content neutrality language amendments are proposed.

Mr. Bencz said that comments from the community have been received requesting amendments to the Economic Development (ED) zone to allow signage for supportive uses. He said that the workgroup is proposing that residential supportive uses in the ED zone be consistent with the R-3, R-4, and R-5 zones. The nonresidential supportive uses in the ED zones are proposed to have signage consistent with the B-1 zone. Hotel and extended-stay hotels are proposed to have one wall-mounted sign and one freestanding sign, 20 feet in height, a total of 75 square feet. He also reviewed many of the community comments, which included the signage sizes for conditional uses, pole banner signs, projecting signs, incidental signs, off-site signs, internally illuminated sign, combining sign areas, freestanding sign setback, and objection to applying content neutrality requirements to commercial uses. He said that the staff is recommending approval of this proposed text amendment.

Commission Questions – Ms. Plumlee asked what the difference is between commercial and non-commercial content allowed on their signs. Mr. Bencz said that content is not regulated in the proposed ordinance.

Mr. Brewer asked why they changed the construction screening. Mr. Bencz said that a screen and/or fence can still be installed but not additional signs. Mr. Brewer asked if a screen with pictures of a proposed building will be able to be posted. Mr. Bencz agreed and said that those are not classified as signs. Mr. Duncan said that a picture of the proposed building, along with contact information can be posted on the construction site. He said that Mr. Bencz was referring to leasing the construction site for commercial signage, which would then be a zoning enforcement issue.

Mr. Berkley said that he served on the committee that developed the supportive uses for the ED zone and he does not recall much discussion regarding the signage. He said that the main focus of that committee was on what the percentage of use would be. He said that he believes that the Planning Commission needs to review this proposal in greater detail because he sees inconsistencies throughout this text amendment. He said that in the Economic Development zone, the companies do want signage. Mr. Bencz said that the workgroup discussed this and said that the nonresidential supportive uses were intended to be supportive of what is already located on the site and be pedestrian friendly. Mr. Berkley said that he doesn't agree with that because of their locations, near the interstates.

Mr. Owens agrees with Mr. Berkley regarding the ED zone. He said that in the past work sessions the discussion was mostly regarding content neutrality, where he received a draft of the Zoning Ordinance, but it didn't have any red lines, marking the proposed amendments. At today's hearing they received a sheet with the various changes listed on it. He also believes that they are not prepared to move on this item.

Citizens in Opposition - Mr. Murphy, attorney representing Anderson Communities, distributed a handout to the Planning Commission. He said that they are in favor of content neutrality amendments in the Zoning Ordinance but are concerned with the ED provisions. He said that last year the supportive uses were reviewed and those discussions were related to the uses, with no changes to the sign ordinance. He said that there are now some new uses in the ED zone and no provisions for signs, such as hotels and extended-stay hotels. He said that many uses in the ED zone are currently regulated under B-3 zone. He said that they are competing with Lexington Industrial Foundation, Georgetown Road, Citation Road, Stanton Way, which are B-4, I-1, and I-2 zones that all pick up the B-3 sign regulations. He said that this new proposal for supportive uses and principal uses in the ED zones are being regulated to the B-1 zone, which is allowed smaller signage. He added that hotels are being proposed to have the fewest signs allowed. He is asking for an equal amount of signage as the neighboring zones. He said that to businesses, signs are important and are needed.

Mr. Murphy said that the intent of the B-1 zone is to accommodate neighborhood shopping facilities to serve the needs of the surrounding residential area. This zone should be oriented to residential neighborhoods. He also said that the B-1 zone doesn't allow hotels. He said that the intent of the Economic Development zone is to provide land within the Expansion Area for employment opportunities. He also compared signage differences with the B-1 zones, which are oriented to surrounding residential zones, with high levels of pedestrian and bicycle traffic with low speed limits. He said that the ED zone is designed to create high-paying jobs, businesses that want exposure to the interstates with higher speed limits. He believes that these signs need to be legible and visible to those drivers.

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Mr. Murphy said that he doesn't agree with the staff's proposal to apply B-1 signage to the ED zone, with the exception of hotels, which currently have less signage than the B-1 zone allows. He said that his proposal agrees with the staff recommendations on signage for residential uses, but not for the nonresidential, including principal uses. They are requesting the signage allowed in the B-3 zone and for hotels they are requesting B-3 zone signage with the opportunity for B-5P zone allowance, which would be a taller sign, as follows:

17-11(p) Expansion Area Zones

- (2)(d) Non-residential Principal and Supportive Uses: On land designed for non-residential principal or supportive uses within the development (as defined by Article 23 A-10(j)(12)), signage shall be regulated as in the B-3 and B-5P zones.
- Eliminate staff proposal (e), limiting hotels.

Mr. Murphy displayed photos of a hotel within Coldstream Research Park and their wall signs, and summarized the differences of the signage allowances in the different zones. He said the staff had concerns that the supportive uses in the ED zones are only for the ED uses. He said that the Embassy Suites in Coldstream Research Park was the first use built in the park. He said that he doesn't believe that everyone staying there is going to businesses in Coldstream Park, but are traveling to other areas of the county. He said that every hotel owner will say that they need signs to get people to them, especially people who are not attending functions in the industrial parks. He read part of a letter from Mr. Robert Quick, CEO of Commerce Lexington, which said "signs are important to a business and its ability to market to customers. With limited land availability for job creation, Commerce Lexington supports efforts to make it easier for businesses to create jobs including modifications or innovations with sign requirements to create a level playing field for developers and businesses. The ED zone should not be handicapped by sign limitations which do not apply to other similar businesses."

Commission Questions - Mr. Nicol asked if there is a requirement for residential uses in the ED zones. Mr. Murphy said that they are not required to have any particular supportive uses, but they are limited in the space and the amount of the supportive uses that they can have. He said that only 18% of the area can have supportive uses, which can be restaurant, hotels, and retail shops. Mr. Nicol then asked if the 18% is a maximum amount and asked if there could be a 0% residential component. Mr. Murphy affirmed. Mr. Nicol then said that if there is 0% residential uses that wouldn't work with the B-1 neighborhood business sign ordinance. Mr. Murphy agreed.

Mr. Walbourn, attorney representing the Cowgill Partners, agree with Mr. Murphy's concerns regarding the ED zone. He addressed Mr. Berkley's comment about the signage in the ED zone and said that it was omitted last year when changes were made to the ED zone. He said that he had met with the staff regarding sign allowances for supportive uses in the ED zone and he is mostly concerned with the limitations on wall signs. He said that nearly every hotel in Lexington has multiple wall signs, which will no longer be available. He said that he is supporting the proposal presented by Anderson Communities and that the ED zone signage does need to be carefully considered because of the commercial impact.

Mr. Walbourn commented on Mr. Brewer's issue regarding the construction screening signs. He said that he was the attorney that brought forth that text amendment and said that he was disappointed to see that those have been removed.

Walt Gaffield, President of Fayette County Neighborhood Council, displayed a presentation and said the 2015 Reed vs. Gilbert case asked for content neutrality in signage. He said that the proposed text amendment is an overreach, by allowing off-site commercial signs, which is currently only permitted on billboards. He said by aggregating sign requirements, signage size in neighborhoods has increased by as much as 800%. He quoted articles from Law Review from Harvard and the University of Chicago, which stated that "Reed vs. Gilbert does not or should not apply to commercial signage." He added that some of the Supreme Court Justices whom served on that case, supported the decision but wrote in their opinion that "some of the rules might not be content based including sign size, location, lighting and placement on residential and commercial property." He said that there is strong legal precedent that suggests that local governments have more control over commercial signage. He also said that the 9th Circuit Court of Appeals ruled that Reed vs. Gilbert does not apply to commercial speech and the Supreme Court allowed that ruling to stand in that particular Circuit and refused to hear the case. He also said that there is a substitution clause in the proposed text amendment that allows the owner of any sign to substitute noncommercial speech in lieu of commercial speech and vice versa and "prevails over any more specific provision to the contrary." He said that he believes that commercial speech would be allowed in all approved signs without restriction, including neighborhoods. He said that the Supreme Court usually allows multiple decisions in the Federal Appeals Court prior to hearing a case, which would have provided more clarity. He believes that without legal clarity, the proposed text amendment jumps the gun unless the Planning Commission believes that more commercial signage is a good idea. He looked at other cities in the 6th Circuit, which Kentucky is part of, and none of those cities had a substitution clause that suggests that commercial and noncommercial signage should be interchangeable. In regards to the signs located at bed and breakfasts (B&B), they have been increased 800%. They were allowed to be up to 2 square feet for freestanding signs and are now permitted to be 16 square feet and 12 square feet for wall mounted signs. He said that he researched other ordinances and found that B&B's are permitted a sign with a maximum area surface from 3 to 8 square feet and found another city that does not permit any signs. He said that in other cities, identification signs for home occupations are not permitted to have any signs or can only have them in higher

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density residential zones, and they shall not exceed 2 square feet in area (6 feet square feet in others). He believes that with the growing technology, the younger population uses their cell phones for directions rather than signs to find certain properties. He also believes that "other permitted uses" should be removed from this text amendment and be more explicit.

Amy Clark, 628 Kastle Rd., distributed the intent of the sign ordinance to the Planning Commission. She said that she has reviewed the proposed sign ordinance and urges the Planning Commission to not approve this text amendment. She asked them to not adopt what they can't understand, meaning that this is too complex. She said that the entire Article has been rewritten and has different organizational principles and the staff has only presented a spreadsheet of the sizes and heights of signs as they relate to the zones and uses. She added that there isn't a strike-through draft depicting the changes made. She said that the staff grouped uses together so that they didn't have to make distinctions between them and to streamline regulations. She believes that the generalizing of this proposal has gone in the direction of being more permissive and less protective of the encroachment of commercial signage. She believes that the sign ordinance is great as it is and better than what is being proposed. She said that the intent states that the purpose of Article 17 of the Zoning Ordinance is to furnish needed signage allowance that is appropriate to the differing uses and this proposal is generalizing the uses instead of being specific to the use. She added that the general provisions are also missing from the proposed text amendment. She also displayed the Principles for Guiding Development from the Expansion Area Master Plan and said that the increase of signage is not appropriate in the ED zone.

Staff Rebuttal - Mr. Bencz said that in regards to combining sign types, it results in less signs. In regards to the pole banner signs not having size requirements, he said that they do have requirements and that in the zones that do allow them, it states that they have a maximum size of 2x4 feet and no more than two allowed per pole. He added that the poles can be spaced no closer than 45 feet from each other. In regards to making the current Zoning Ordinance work with the content neutrality requirements, he said that when the workgroup began to remove the descriptors of the signs, the current language became meaningless. In regards to the general provisions that are missing, such as off-site signage regulations, he said that those were not addressed because of content neutrality requirements. However, they do refer to defunct uses and maintenance standards in section 17-14. He said that staff tried to create a red lined document, but the new language is so different from the existing language that the workgroup's consensus was to proceed as if it were a new ordinance. He said that this is truly a rewrite and the workgroup wanted it to be evaluated on its own and by its own merits. Regarding off-site advertising, he said that couldn't be addressed without addressing content. B&B signage is a result of combining uses; B&B's become part of "all other permitted uses". He said that staff has been in contact with the Kentucky League of Cities, the Division of Law and other communities throughout the state that are going through this or have already and it has been very clear that all of the content neutrality requirements apply to both residential and commercial signage. He said that the ED zone is for supportive uses. He added that the current language in the P-2 zone, particularly for extended-stay hotels, doesn't allow a freestanding sign and only one wall sign per wall. He said that the language for one wall sign is existing language in the ED zone. He said that the requests for the ED zone were brought forth to the workgroup at the end of the process and were evaluated and included in the regulations and they agree that some amendments are necessary.

Citizen Rebuttal - Mr. Walbourn agrees that the ED issues need to be addressed.

Mr. Murphy said that his concern is the supportive uses in the ED zone. They are not only for the businesses in the ED zone. He believes that they are there because the businesses need the supportive uses for the businesses to succeed. The supportive uses cannot succeed if they are limited to people who are there for the businesses. They have to be able to draw from outside the site and he believes that this is setting them up to fail if the sign ordinance is not adequate for the business owners. He asked that these guidelines apply not only to the supportive uses but to the principal uses as well.

Mr. Gaffield agrees that there should be free speech on signs. He said that he provides the sign ordinances in other cities and he believes that this city could do better.

Ms. Clark said that the signs could regulate the message according to use. She believes that this text amendment has gone too far with generalizing different activities. She said that she would like a side-by-side comparison of the existing and proposed ordinance. In regards to the provisions, she said that the prohibition of the signs for off-site uses, is critical and if not regulated by language, regulate it by use. She asked if the transfer of the sign area is within the authority of the Board of Adjustment or the Planning Commission if the sign is not a dimensional variance. She said regarding the three opinions of the Supreme Court justices, that they each had different reasons for singling a greater limitation to the scope of the decision.

Commission Questions - Ms. Mundy asked if the workgroup reviewed deed restrictions. Mr. Bencz said that they did not review those, because they understood that those would still exist. Ms. Mundy then asked if even if they have expired. Mr. Bencz said that they did not review deed restrictions for any particular HOA. Ms. Mundy said in regards to the signage in the ED zone being shown as not important for newcomers, which she said that she disagrees with. She believes that there are areas, such as Citation Blvd., that the employees don't have any restaurants nearby.

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Mr. Pohl said that he would support postponing this text amendment because of the changes that involve size and location that were made for various reasons. He believes that the workgroup didn't include members of the public who have a vested interest in this and that there needs an effort to rectify these disagreements.

Mr. Penn said that he doesn't believe that this is a public hearing and he doesn't believe that the Planning Commission is ready to vote on this after hearing all of the disagreements involved. He believes that the staff should incorporate some of the concerns that have been heard and said that this needs to be treated as a public hearing.

Ms. Wade stated that this is a public hearing and if there are changes that the Planning Commission requests the staff to make to the text they need to be enumerated. She said otherwise they have taken the requests from the citizens to the workgroup and they were considered and the result is what was presented today. She added that if there are specific recommendations that are different, they need to be presented so that the staff can make revisions to the text and they can be acted on at a separate meeting. She said that today's hearing can be continued.

Mr. Penn asked if any of the comments made to Planning Commission were new to the staff. Ms. Wade said that the staff has heard all of these comments already.

Mr. Wilson said that he believes that the issue regarding the ED zone deserves more consideration.

Ms. Plumlee said that there are 9 cases where the signage has increased, in neighborhoods. She said that she doesn't believe that the proposed text amendment complies with Article 17 with the intent of Article 17.

Mr. Owens appreciates the spreadsheet that the staff has supplied them with, but agrees that more time is needed to review the material and to return to a work session. He agrees with Mr. Walbourn and Mr. Murphy regarding the ED zone being omitted at the previous text amendment.

Mr. Brewer said that he doesn't understand the difference of the context of the signs and their locations. He stated that he cannot support this and also believes that a work session is needed.

Mr. Nicol agrees with Mr. Walbourn and Mr. Murphy regarding the ED zone and the proposed language. He said that that in the low density residential, most of the uses have been decreased, with the exception of, the home occupation/bed and breakfast. He said that he would prefer those to remain as they are currently.

Mr. Pohl agrees with Mr. Nicol about having a work session to further discuss why these recommendations were made.

Mr. Wilson said that there seems to be an unreadiness to vote this today and the recommendation seems to be a work session to go further in depth. He stated that the Commission should not state that they don't like the staff's proposal without giving the staff some kind of direction. He agrees with a work session and asked the staff to make arrangements. He then asked if they should postpone or continue this hearing.

Ms. Wade said that the staff would request this hearing be continued for one month, to the July 25, 2019 meeting. She reminded them that the work session is on July 18, 2019, which is only one week prior to the next hearing. Mr. Wilson also said that there is not a definitive timeline of this text amendment.

Zoning Action – A motion was made by Mr. Brewer, seconded by Mr. Forester, and carried 9-0 (Mr. Berkley and Mr. Brewer abstained) to continue ZOTA 2019-3: AMENDMENT TO ARTICLE 17: SIGN ORDINANCE UPDATE, to the July 25, 2019 Planning Commission meeting.

- VI. **COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.
- VII. **STAFF ITEMS** – Ms. Wade reminded the Planning Commission that the Committee meetings will be held on Wednesday, July 3, 2019, due to the holiday.
- VIII. **AUDIENCE ITEMS** – No such items were presented.
- IX. **MEETING DATES FOR JULY 2019**

Subdivision Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	July 3, 2019
Zoning Committee, Wednesday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	July 3, 2019
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	July 11, 2019
Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building.....	July 18, 2019
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	July 24, 2019
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	July 25, 2019

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- X. **ADJOURNMENT** - There being no further business, Chairman Wilson declared the meeting adjourned at 4:53 p.m.

William Wilson, Chair

Carolyn Plumlee, Secretary

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