

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

July 25, 2019

- I. **CALL TO ORDER** - The meeting was called to order at 1:32 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Mike Owens, Chair; Headley Bell; Larry Forester; Karen Mundy; Bruce Nicol; Graham Pohl and Bill Wilson. Absent Patrick Brewer; Anthony de Movellan; Frank Penn; Carolyn Plumlee.

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; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** - A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 7-0 (Brewer, de Movellan, Penn and Plumlee absent) to approve the minutes of the June 13, 2019, meeting.

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

1. **BALL HOMES, INC. (AMD) ZONING MAP AMENDMENT & BLACKFORD PROPERTY (PHASE 4) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-19-00003: BALL HOMES, INC. (AMD) (7/25/19)*- a petition for a zone map amendment from a Community Center (CC) zone to an Expansion Area Residential (EAR-2) zone, for 19.84 net (20.72 gross) acres, and to an Expansion Area Residential (EAR-3) zone, for 5.9 net and gross acres, for property located at 6600 Man O' War Blvd.

COMPREHENSIVE PLAN AND PROPOSED USE

The Expansion Area Master Plan (EAMP), an adopted element of the 2013 Comprehensive Plan (Expansion Area 2a), recommends Community Center (CC) land use for the subject property. The petitioner proposes to rezone the subject property to the Expansion Area Residential – 2 (EAR-2) and the Expansion Area Residential – 3 (EAR-3) zones to allow an apartment complex development, comprised of 11 3-story and 4-story apartment buildings, at an average residential density of 12.17 units per gross acres, with a total of 308 dwelling units. Within the remaining CC zoned land, the applicant is proposing a 3 story mixed commercial and residential building with 16 dwelling units and 11,600 square feet of non-residential space.

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

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

1. The requested rezoning to EAR-2 and EAR-3 is not in agreement with the Future Land Use Designations as proposed in the 1996 Expansion Area Master Plan. Subarea 2a recommends that the subject property's future land use be Community Center (CC), and the site's current zoning is in agreement with the EAMP.
 2. The requested rezoning separates the Community Center (CC) land use from the Transitional Area Overlay, which is meant to ensure that adequate land is available for civic, cultural, educational or religious institutions in or adjacent to community centers. The proposed EAR-2 and EAR-3 zones are inappropriately sited in that they isolated the remaining CC zoning.
 3. The requested rezoning is not in agreement with the Goals and Objectives of the 2018 Comprehensive Plan as it continues to promote car-centric mobility patterns, and does not promote multimodal connectivity to proposed services (Theme A, Goal #3.b, Theme D, Goal #1.b).
 4. The existing Community Center (CC) zone remains appropriate for this location for the following reasons:
 - a. The intent for the Community Center (CC) zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and non-residential uses which serve the needs of the surrounding residential neighborhoods.
 - b. The CC zone accomplishes the goal of density that is proposed by the applicant, while also allowing for a mix of uses, which are meant to provide community activity, social gathering, and connectivity desired in a well-designed neighborhood.
 - c. The need for neighborhood services will continue to increase as the rest of Expansion Area 2a is developed with multiple types of residential land use.
 5. There have been no major unanticipated changes of an economic, social or physical nature in the area of the subject property since the adoption of the 2013 Comprehensive Plan.
- b. PLN-MJDP-19-00009: BLACKFORD PROPERTY (PHASE 4) (7/25/19)* - located at 6600 MAN O' WAR BLVD., LEXINGTON, KY.
Project Contact: EA Partners

Note: The Planning Commission postponed this item at their May 23, 2019 meeting. The purpose of this amendment is to propose a rezoning of the property.

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

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

1. Provided the Urban County Council rezones the property EAR 2 & EAR 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. Remove optional access through LFUCG property.
8. Revise note #11 to include the Division of Traffic Engineering.
9. Denote improvements to Man o' War Boulevard on proposed cross-section.
10. Include Community Center (CC) zone site statistics per Article 21 & 23A-9 of the Zoning Ordinance.
11. Resolve compliance with Article 23A-2(r)2 of the Zoning Ordinance (landscape buffer).
12. Discuss land use relationships as recommended by the Expansion Area Master Plan (EAMP).

Petitioner Representation: Nick Nicholson, attorney representing the petitioner, said that they would like a postponement of this zone change to the August 22, 2019 meeting. He said that they are amending their application.

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

Action: A motion was made by Mr. Forester, seconded by Mr. Pohl, and carried 7-0 (Brewer, de Movellan, Penn and Plumlee absent) for a postponement of PLN-MAR-19-00003: BALL HOMES, INC. and PLN-MJDP-19-00009: BLACKFORD PROPERTY (PHASE 4) to the August 22, 2019 meeting.

2. BALL HOMES, INC ZONING MAP AMENDMENT & HAMBURG EAST (BELHURST) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00010: BALL HOMES, INC (9/1/19)*- a petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Expansion Area Residential (EAR-1) zone, for 19.84 net (21.22 gross) acres and an Expansion Area Residential (EAR-2), for 18.42 net (19.27 gross) acres, for property located at a portion of 2575 Polo Club Boulevard.

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 an Agricultural Rural (A-R) zone to an Expansion Area Residential-1 (EAR-1) zone for 19.84 net (21.22 gross) and an Expansion Area Residential-2 (EAR-2) zone for 18.42 net (19.27 gross) acres for the rear portion of the property located at 2575 Polo Club Blvd. The proposed development consists of 89 detached single family dwelling units and 56 attached single family dwelling units, for an average density of 3.58 dwelling units per gross acre.

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 address how the petitioner will implement the goals and objectives, nor the policies of the 2018 Comprehensive Plan. Further, the applicant would be best served to review The Placebuilder to address those policies in the most efficient and judicious manner. There are numerous objectives and policies of the 2018 Comprehensive Plan, which have been overlooked. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive recommendation.
 2. The zone change application does not adequately describe the inappropriateness of the Agricultural Rural (A-R) zoning.
- b. PLN-MJDP-19-00036: HAMBURG EAST (BELHURST) (9/1/19)* - located at a portion of 2575 POLO CLUB BOULEVARD, LEXINGTON, KY.
Project Contact: EA Partners

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

1. Provided the Urban County Council rezones the property EAR 1 & 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. Greenspace Planner's approval of the treatment of greenways and greenspace.

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6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Correct plan title to match staff report.
8. Addition of Tree Inventory Map, per Article 26 of the Zoning Ordinance.
9. Discuss Man o' War Boulevard improvements.
10. Discuss proposed local street relationship to the greenway.
11. Discuss proposed townhome access and the relationship to the single family lots.
12. Discuss proposed Park Road alignment and cross-section per the Expansion Area Master Plan (EAMP).
13. Discuss single family lot access to Park Road.
14. Discuss Placebuilder criteria.

Petitioner Representation: Nick Nicholson, attorney representing the petitioner, said that they would like a postponement of this zone change to the August 22, 2019 meeting. He said that they are amending their development plan.

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

Action: A motion was made by Mr. Forester, seconded by Mr. Pohl, and carried 7-0 (Brewer, de Movellan, Penn and Plumlee absent) for a postponement of PLN-MAR-19-00010: BALL HOMES, INC. and PLN-MJDP-19-00036: HAMBURG EAST (BELHURST) to the August 22, 2019 meeting.

3. 6K AND UNDER AUTO SALES, LLC ZONING MAP AMENDMENT & ELKHORN PARK, BLOCK 8 (A PORTIOON OF) (W.P. LITTLE PROPERTY) (AMD) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00011: 6K AND UNDER AUTO SALES, LLC (9/1/19)*- a petition for a zone map amendment to modify the conditional zoning restrictions in the Highway Service Business (B-3) zone, for 0.85 net (1.14 gross) acres, for property located at 1709 North Broadway.

MODIFICATIONS OF CONDITIONAL ZONING RESTRICTIONS

In order to modify or remove conditional zoning restrictions, the applicant must prove that the request meets the requirements of Article 6-7(c) of the Zoning Ordinance. This section of the Ordinance states that the request may be granted only if it is found that there has been a major change in economic, physical, or social nature on the subject property or within the area containing the subject property. Additionally, the applicant must prove that the basic character of the area has been substantially altered since the time the conditional zoning restrictions were imposed that make the restrictions inappropriate. The burden is on the applicant to prove that such changes have occurred.

The petitioner has requested to remove a conditional zoning restriction on the subject property, which prohibits "establishments for the display, rental, sale, service and/or minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes or supplies for such items," in order to permit automobile sales as a principal use on the subject property. Conditional zoning restrictions were put in place in 1988 by the Urban County Planning Commission and later ratified by the Urban County Council.

The Zoning Committee Recommended: Postponement to the full Commission.

The Staff Recommends: Postponement, for the following reasons:

1. The applicant's justification and corollary development plan do not provide an adequate depiction of how the applicant seeks to utilize the subject property so that the proposed land use will not impact the neighboring properties that the conditional zoning restrictions seek to alleviate.
 2. The applicant has not shown how they seek to address the visual elements along North Broadway, which acts as a gateway into Lexington, and was one of the reasons the conditional zoning restrictions were adopted.
 3. The applicant has not described their outreach with the neighboring properties that would be most affected by the removal of the conditional zoning restrictions.
- b. PLN-MJDP-19-00038: ELKHORN PARK, BLOCK 8 (A PORTION OF) (W.P. LITTLE PROPERTY) (AMD) (9/1/19)* - located at 1709 N. BROADWAY, LEXINGTON, KY.
Project Contact: Vision Engineering

The Subdivision Committee Recommended: Postponement, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-3 with revised conditional zoning restrictions; 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.

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

6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Correct Planning Commission certification.
8. Correct labeling for Purpose of Amendment, and denote area of amendment.
9. Clarify interior landscaping calculations in site statistics and the note labeled interior landscaping.
10. Dimension access points and building on 1701 N. Broadway.
11. Addition of conditional zoning restrictions.
12. Addition of contour lines.
13. Depict parking for 1719 N. Broadway as shown on previous development plan (DP 2001-74).
14. Denote construction access on plan.
15. Addition of street cross-section for Cane Run Road and denote location of cross-section for street on plan face.
16. Denote vehicle display area.
17. Complete site statistics for all 3 lots.
18. Denote: The subject property is located in the Royal Springs Aquifer.
19. Discuss proposed land uses and label on plan.
20. Discuss access between 1701 and 1709 N. Broadway.
21. Discuss parking for employees and customers.
22. Discuss delineation/separation of shared access point between 1709 and 1719 N. Broadway.
23. Discuss need for enhanced landscaping along N. Broadway.

Petitioner Representation: Jacob Walbourn, attorney representing the petitioner, said that they would like a postponement of this zone change to the August 8, 2019 meeting. He said that they have met with staff and opposition, and would like to amend their development plan.

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

Action: A motion was made by Ms. Mundy, seconded by Mr. Wilson, and carried 7-0 (Brewer, de Movellan, Penn and Plumlee absent) for a postponement of PLN-MAR-19-00011: 6K AND UNDER AUTO SALES, LLC and PLN-MJDP-19-00038: ELKHORN PARK, BLOCK 8 (A PORTION OF) (W.P. LITTLE PROPERTY) (AMD) to the August 8, 2019 meeting.

4. FINAL SUBDIVISION PLANS

- a. PLN-FRP-19-00014: WAITS/MOORE LTD. PARTNERSHIP PROPERTY (AMD) (8/4/19)* - located at 2100 AND 2200 OLD HIGBEE MILL ROAD, LEXINGTON, KY.
Council District 10
Project Contact: Vision Engineering

Note: The Subdivision Committee postponed this item at their June 6, 2019, meeting. The Planning Commission postponed this item at their June 13, 2019, meeting due to the lack of notification to adjoining property owners and continued this item at the July 11, 2019 meeting. The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommends: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Correct purpose of plat.
10. Denote Agricultural Urban (A-U) zone front yard setback.
11. Denote non-conforming use discontinuation agreement (Note #19 from Preliminary Subdivision Plan).
12. Document notification to consenting property owners (Note #17 from Preliminary Subdivision Plan).
13. Provided the Planning Commission approves the requested waiver(s).
14. Discuss land surveyor certification.
15. Discuss removal of temporary structure.
16. Discuss Urban County Engineer's certification.
17. Discuss sanitary sewer service.
18. Discuss improvements to Old Higbee Mill Road.

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

Petitioner Representation: Steve Vicroy, attorney representing the petitioner, said that they would like an indefinite postponement of this plan. He said that they need to meet with opposition and stated that the temporary structure has been moved.

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

Action: A motion was made by Mr. Pohl, seconded by Mr. Forester, and carried 7-0 (Brewer, de Movellan, Penn and Plumlee absent) for an indefinite postponement of PLN-FRP-19-00014: WAITS/MOORE LTD. PARTNERSHIP PROPERTY (AMD).

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Wednesday, July 3, 2019, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Frank Penn, Mike Owens and Headley Bell. Committee members in attendance were: Hillard Newman, Division of Engineering; and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Jim Duncan, Traci Wade; Tom Martin; Cheryl Gallt; Hal Baillie; Denice Bullock; Lauren Hedge; Captain Greg Lengal, Division of Fire & Emergency Services; and Tracy Jones, 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.*

- A. NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria: (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
 (2) the Petitioner agrees with the Subdivision Committee recommendation and conditions listed on the agenda, and
 (3) no discussion of the item is desired by the Commission, and
 (4) no person present at this meeting objects to the Commission acting on the matter without discussion, and
 (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee 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 OR 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)
- Commission discusses and/or votes on the plan.

- V. ZONING ITEMS** - The Zoning Committee met on Thursday, July 3, 2019 at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Bruce Nicol, Caroline Plumlee and Bill Wilson. Staff members in attendance were: Traci Wade, Tom Martin; Hal Baillie, Jim Marx, Chris Taylor, Chris Woodall, Jim Duncan, Valerie Friedman, Samantha Castro, 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.

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.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

Note: Mr. Owens stated that ZOTA 2019-3: AMENDMENT TO ARTICLE 17: SIGN ORDINANCE UPDATE is a continuation and will be presented to the Planning Commission first.

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 revised staff report and recommendations for this text amendment, and said that the Planning Commission has received an updated comparison table and a red-lined version of Article 17 from the Zoning Ordinance. He said that this is a continuation of the hearing from the June 27, 2019 presentation. The revisions were presented to the Planning Commission at their work session on July 18, 2019. The main focus was on combining free-standing sign areas; "all other permitted uses"; hotels in Economic Development zones; and "and" versus "or" for religious or educational uses.

Mr. Bencz said that in regard to combining free-standing sign area, the workgroup proposed to remove the originally proposed text "combining free-standing sign area" in the B-1, B-3, B-4, I-1, I-2, B-5P, MU-2, and MU-3 zones. He said that this has been returned to the original text that is currently in Article 17 of the Zoning Ordinance. In regards to the "all other permitted uses" the Agricultural and Residential (A-R, A-U, A-B, A-N, R-1 (A through E), R-1T, R-2, R-3, R-4, and R-5) zones have also been reverted back to the original text that is currently in Article 17 of the Zoning Ordinance, which includes signage for farms and estates, religious or educational activities, bed and breakfast facilities, "all other permitted uses", and group residential projects. He added that in the R-5 zone, the incidental retail has been revised to limit the wall sign to 16 square feet and the office uses have been limited to two square feet per office. He said that after the last hearing, it was discovered that home occupations don't allow signs on the exterior of the property (per Article 3-10 of the Zoning Ordinance), therefore they were left out this revision.

Mr. Bencz said that the hotel language for the Economic Development (ED) zone was originally proposed as a hybrid of B-1 for the height and B-3 for the area. He said that this language has been amended to allow hotels one freestanding sign per frontage, which is the same for the B-3, B-4, I-1, and I-2 zones. He said that extended-stay hotels are separate from the language and remain unchanged from the current Article 17 of the Zoning Ordinance. He said that in regards to "and" versus "or", as it relates to religious or educational uses, has been changed back to allow one freestanding sign or one wall sign, not both.

Commission Question – Mr. Nicol asked why extended-stay hotel are treated differently than regular hotels. Mr. Bencz said that the current Article 17 of the Zoning Ordinance has extended-stay hotels defined with signage requirements in the Economic Development (ED) zone and the workgroup agreed to leave that requirement as it is. Mr. Nicol then asked if the proposed language is the same as the B-3 zone. Mr. Bencz said that originally the proposed sign requirements for all hotels allows for one wall mounted sign, 32 square feet, and one monument sign, 8 feet in height and 32 square feet in area. He said that the workgroup separated hotels and extended-stay hotels and kept the extended-stay hotels at the existing language. Mr. Nicol asked if all hotels could have the same sign requirements. Mr. Bencz said that the Planning Commission could make that change. Ms. Wade added that extended-stay hotels have less signage because they are allowed in the highest density residential (R-5) zone and the Professional Office (P-1) zone. She said that the sign requirements will be consistent with the office signage, as well as appropriate for a residential zone. Extended-stay hotels are only allowed in the ED zone when they are associated with a medical campus.

Mr. Owens asked for clarification of the construction screening around the perimeter on construction sites. Mr. Bencz said that the screening around the perimeter of the property is still allowed, however any additional signage is not.

Public Comment – Mr. Dick Murphy, attorney representing Anderson Communities, distributed a handout to the Planning Commission. He presented an exhibit from the 1996 Expansion Area Master Plan depicting the Economic Development properties within Lexington. He said that last year the Zoning Ordinance was amended, there were no provisions for signs for the supportive uses in the ED zone. He displayed photos of hotels that are allowed three wall signs in the P-2 zone. He said that hotels are only one example of the need for additional signage. He said that the principal uses, manufacturers and corporate headquarters, along with the supportive uses need additional signage because they are all currently limited by the draft text amendment to the sign requirements of the B-1 zone. He said that the B-1 zone allows smaller signs, and the speed limit in most of those areas is 25 mph, whereas the B-3, B-4, I-1, and I-2 zones the speed limit is at least 45 mph and the signs are larger. The B-5P zone has a speed limit of 70 mph and even larger signs. He said that larger signs are needed as the traffic is moving faster. He is proposing that the Economic Development (ED) zone have the same sign requirements as the B-3 zone for all non-residential uses.

Mr. Murphy said the intent of the Neighborhood Business (B-1) zone is to serve the surrounded residential area and the Economic Development zone is to provide employment opportunities. He said that they agree with the staff on their proposal for the signage requirements for the residential uses. He said that for the non-residential uses, they are proposing signage that is allowed in the B-3 zone and the B-5P zone when next to the interstate, 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, signage shall be regulated as in the B-3 zone and interstate signs shall be allowed as in the B-5P zones.
- Eliminate staff proposal (e) and (f), relating to hotels.

Mr. Murphy said that at the work session held on July 18, 2019, there was discussion that Commerce Lexington had reviewed this and agrees. He said that they had agreed with staff, as far as the content neutrality items, but not regarding the ED zone. He read part of a letter from Mr. Robert Quick, Commerce Lexington, which states “the ED zone should not be handicapped by sign limitations which do not apply to other similar businesses.” Mr. Murphy said that this statement underlies his position of having a level playing field with other similar businesses in the community. He said that when a new user is looking at the area, we don't want to have to inform them that they are not allowed the same signage as the manufacturing plant across the street. He added that businesses want a sense of place and visibility.

Mr. Murphy referred to Townley Center, which is a mixed-use area. He said that they have restaurant and service uses that make the residential part attractive because they can walk to restaurants and other services. He said that Townley Center is being supported by people in the area and other parts of the community who visit the hotel and restaurants. He said that they would like to have those uses in the Economic Development (ED) zone support the manufacturing corporate headquarters, but they can't be supported only by those uses. He said that the restaurants, hotels, and shops that are proposed for Providence Park Place, must be able to appeal to other people than those there to visit. They need to have signs to let people know that they are there and how to get to them. He said that the interstate signs that are allowed in the B-5P zone in addition to the B-3 zone, are proposed by his client to be limited to 1,200 feet from the interstate so that they could have taller signs.

Commission Questions – Mr. Nicol asked if these are the only two ED properties located within the county. Mr. Murphy confirmed. Mr. Nicol also asked if there is a reason they are both located on highways. Mr. Murphy said that it was originally designed for manufacturing, with access to the interstates for distribution.

Mr. Bell asked Mr. Murphy to explain the sign separation if there are multiple tenants in one building. Mr. Murphy said that the B-3 zone allows one wall sign on all four walls, and if they are allowed to use those regulations, each tenant should be allowed to have a sign on the wall and possibly two freestanding signs. Mr. Bell then asked what the sign spacing would be

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for more than two tenants. Mr. Murphy said that they may need a monument sign, like in a professional office park. He added that a wall sign will most likely only have the largest four users on it.

Mr. Walbourn, attorney representing Cowgill Partners, LLC, said that he concurs with Mr. Murphy, with the exception of the difference between extended-stay and hotels. He believes that regulating them differently can cause confusion with potential users. He said that extended-stay hotels also operate as a hotel and could ask to be regulated as a hotel. He said that the operators of extended-stay hotels may be confused if that regulation is different. He is proposing to eliminate 17-11(p)(2)(f) of the Zoning Ordinance and to allow extended-stay hotels to be regulated as the same as hotels. He agrees with Mr. Murphy to also eliminate 17-11(p)(2)(e), provided that there be a permissive signage allowed in 17-11(p)(2)(b), changing it the B-3 zone.

Mr. Walbourn also said that during the Economic Development (ED) zone text amendment, it was discussed in detail that the ED properties that have difficulty developing. He said that the ED land is costly because of its location and the exaction program. He said that signage has value and one of the ways to make those properties more valuable and attractive to users will be to allow them to advertise their business in permissible signage. He reiterated that the vehicles traveling by these ED properties are traveling at a high rate of speed and he doesn't believe that B-1 signage will be sufficient for those users. He said that they are also in support of the Anderson Communities proposal and encourages the Planning Commission to adopt it.

Commission Questions – Mr. Nicol asked how the exactions in the ED zone make that zone less competitive than in other zones. Mr. Walbourn said that in order to develop property, exactions are paid per acre and the ED zone has the highest rate. He added that that cost is generally passed on through the cost of the land, causing an extra expense that is not associated with developing these parcels.

Mr. Dennis Anderson, Anderson Communities, said that from a marketing standpoint, many people don't understand exactions and avoid developing these areas.

Mr. Nicol asked if better signage will help recoup that cost or make that area a more competitive marketplace. Mr. Anderson said that better signage will help the area attract more people. He said that 20% of his business comes from signage and they are inexpensive.

Mr. Bell asked Mr. Anderson where he is, timing wise, with developing this property. Mr. Anderson said that he has invested a lot into this property and has been able to sell a portion of it. He has had users interested in the property, but they developed on properties that don't have exaction fees and better signage. He believes that expanding the uses will promote more businesses.

Mr. Murphy distributed a handout to the Planning Commission that states their proposal, as follows:

(d) Non-Residential Principal and Supportive Uses: On land designated for non-residential principal and supportive uses within the development, signage shall be regulated as in the B-3 zone (see Section 17-11(g)), except that any parcel that is located within 1,200 feet of a federal interstate highway shall also be permitted interstate signs as allowed in the B-5P zone (see Section 17-11(j)).

Delete sub (e) and (f).

Mr. Nicol asked why he wants B-5P zone signage within 1,200 feet rather than all of the ED land. Mr. Murphy said that the B-3, B-4, I-1, and I-2 zones are more consistent with manufacturing and other uses. He believes that they need have the ability to be allowed taller signs near the interstate. They would be under the B-3 zone, but have a taller sign if they are located within 1,200 feet of the interstate.

Mr. Owens asked if non-residential principal uses includes businesses and manufacturing. Mr. Murphy said that it does.

Staff Rebuttal – Mr. Owens asked for clarification of the non-residential principal and supportive uses. Mr. Bencz said that the wall signage is essentially the same in the B-1 and B-3 zones, but the difference between them is the freestanding signage. The B-1 zone allows a 50 square foot freestanding sign that is 20 feet high, where the B-3 zone allows a 75 square foot freestanding sign that is 25 feet high. He added that the B-3 zone allows billboards. He said that the workgroup is proposing that B-1 signage be in the ED zone because the B-1 zone's uses closely mirror the supportive uses of the ED zone. He said that the workgroup also discussed that the ED zone's supportive uses would be impacted by more intense commercial or non-residential signage on the site. He said that the B-5P zone allows a 356 square foot freestanding sign, per use, with a minimum height of 75 feet and a maximum of 90 feet. He said that staff is concerned with the remainder of the ED property and residential supported uses. Ms. Wade said that the staff had some Google images of some of the signage associated with the B-5P zone, which Mr. Murphy had referred to as an "interstate sign." She said that "interstate signs" are not a defined

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sign type within the Zoning Ordinance. She said the B-5P zone allows freestanding signs, with an extra special tall and large sign. She said that the staff is concerned with how those would be placed along the interstate. She added that the B-5P is very concentrated near interstate interchanges and that not only does the ED zone also have residential within it, but it is also adjacent or nearby other residential areas. She said that those large signs will have a great impact on apartments, nursing homes, and assisted living facilities, which are nearby. She said that 356 square foot, tall, well lit signs and billboards will be on the entire frontage of the property. She said that sign is four times as large as the sign that is permitted currently, and would create more sign clutter and has an aesthetic impact on the community.

Mr. Nicol asked if these large signs will be placed 1,200 feet away from the highway. Ms. Wade said that they place the signs on their property. She said because they are so large and tall that the intent is to draw vehicles off of the interstate.

Mr. Wilson asked if there are any regulations on illumination of these signs. Mr. Bencz said that within the B-1 zone, which the staff is proposing, signs can be either directly illuminated, indirectly illuminated, or internally illuminated.

Mr. Owens said that the workgroup has been reviewing this for over a year, he asked the staff if these concerns have been brought to their attention. Mr. Bencz said that the ED signage text was recently added as a community comment and has been discussed by the workgroup over the last few months.

Mr. Wilson asked if the lights allowed to illuminate the signs will be regulated for brightness. Mr. Bencz said that the types of lighting are defined on page 17-19 of the Zoning Ordinance, but there are not any specifications for the type of lumens that can be used. It doesn't list the intensity of the lights. Mr. Wilson said that he would be more concerned with the brightness of the sign over the size of it. Ms. Wade said that all signs along the interstate that are regulated are allowed to be illuminated. She said that the non-illuminated or indirectly illuminated signs are allowed in the residential or agricultural zones. She said that the internally illuminated signs are used by most businesses.

Mr. Pohl asked if there was no concern with prohibiting billboards by those who proposed alternative text and the distance from the highway could be decided with a methodology that the staff could agree on, what other concerns are there with the proposed changes. Mr. Bencz said that those are the primary issues. Regarding height and freestanding sign between the B-1 and B-3 zones, the workgroup believed that it was appropriate to recommend the B-1 requirements.

Mr. Nicol referred to the spreadsheet that Mr. Bencz distributed and said that in the B-5P zone, the workgroup had proposed to remove nameplates, construction screening, and permitted pole banner signs, and asked where billboards are mentioned. Mr. Bencz said that billboards are allowed in the B-3 zone, on page three. Mr. Nicol then asked if there are billboards allowed in the B-5P zone. Mr. Bencz said that they are allowed in the B-3 zone but not in the B-5P zone. Ms. Wade added that when the Zoning Ordinance refers to another section, as proposed in the ED zone, they want all the signage as per the B-3 zone. The sign code interpretation flips B-3 and you get every sign that is allowed in the B-3 zone, which includes billboards. Mr. Nicol said that since the billboards are problematic, could the entire property be B-5P. Ms. Wade said that the staff had expressed concern regarding the size and height of the signs within that zone.

Mr. Owens said that he can be sympathetic to the ED properties and owners as far as the need for some visibility from the interstate. He believes that a 1,200 foot distance is too far and that the ED zone needs its own recommendations instead referencing it to another zone that may not be a good fit.

Mr. Bell agrees with Mr. Owens and believes that the ED zone needs to be studied further.

Mr. Forester said that since there are only two properties in the ED zone within the entire county that they should be studied separately. He added that jobs are needed in that area and the land is limited. He believes that more time is needed to work with the opposition.

Mr. Murphy said that they would like to move forward today. He said that they are not here to get billboards, and would be willing to agree to the B-3 zone allowances without billboards. He said that in regards to illuminations, they propose that all of the tall signs be internally lit.

Mr. Walbourn said the Cowgill's do not intend to have billboards on their property, and they will gladly remove them from the proposal. He said in regards to the depth of their property and its distance from the interstate, the property at Winchester Road is 2,000 feet wide, it does narrow to approximately 1,200 feet at the rear of the property.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion. Commission member discussed their thoughts at this time.

Commission Discussion - Mr. Bell asked the staff how they feel with requests made today at this hearing. Mr. Forester asked Mr. Bell if that includes the removal of billboards and the concerns with illumination. Mr. Bencz said that these requests were reviewed by the workgroup and it may not be appropriate for the staff to comment without discussing them with the workgroup.

Mr. Pohl said that if the staff is hesitate about the 1,200 foot distance and the billboards, do they have a different recommendation. Mr. Duncan said the staff hasn't considered a distance requirement and he agree that the staff shouldn't acknowledge that as an appropriate number without additional discussion and research. He added that Mr. Bencz said that this has not been discussed with the workgroup.

Mr. Bell said in regards to Mr. Forester's comment that the staff and the parties present at this hearing should discuss the issues and hold another hearing. Mr. Owens said that there are options with the sign ordinance ZOTA, such as: 1.) continuation; or 2.) approve the current revisions with the recommendations but have continued discussions regarding the ED zone. Ms. Jones said that this process began two years ago because of the decision of the U.S. Supreme Court regarding content neutrality of the sign ordinance. She said that continuing this hearing is an option, but she advised against separating the ordinance to approve specific pieces today. Mr. Owens also believes that this should be continued or approved as it is now and at a later date file another text amendment specifically for the ED zone. Mr. Bell said that he would prefer to approve the document as a whole and continue to discuss the concerns with the ED zone. Ms. Jones said that this will move forward to the Council for their consideration and should remain in a one piece, not in sections. Mr. Duncan said that since the landowner's proposals were discussed in great detail, if this is approved with the staff's recommendations, the Council could hear the applicant's proposals for consideration.

Ms. Mundy asked the staff if the workgroup had any consideration of proposing the ED zone separately. Mr. Bencz said that there were two separate comments received regarding this issue and the workgroup believed that they only needed to respond to those and not postpone this. Ms. Mundy then asked if there was any discussion for separating it out. Mr. Bencz said that there was not.

Mr. Wilson asked if the staff would take this back to the workgroup as an open discussion item or for their approval of the recommendations made at this meeting. Mr. Bencz said that the staff has only provided the workgroup with the information and the meetings have been open discussion. He added that the staff does not provide a recommendation unless it is asked for by the workgroup.

Mr. Nicol asked the staff if they had any discussions with the property owners of the ED land for their ideas and thoughts. Mr. Bencz said they had submitted their comments to the workgroup, which has resulted to the language being presented today. Mr. Nicol then asked if the staff would inform the workgroup of the proposals being made today. Mr. Bencz stated that they would should the Commission not make a recommendation.

Mr. Pohl asked if Mr. Anderson has considered a less amount of setback and the elimination of billboards. He believes that most of the concern is with the 1,200 foot distance. Mr. Nicol agreed and said that he would like to move this forward today and not continue this hearing again.

Mr. Duncan stated that this statement is not meant as an endorsement of the staff's recommendation on the proposals made by the landowner's, however, in fairness to the process, the Planning Commission can make those decisions without the workgroup reviewing them.

Mr. Murphy said in regards to the setback, they would like to suggest 800 feet.

Mr. Wilson clarified that billboards will be removed. Mr. Murphy agreed.

Mr. Owens said that he appreciates Mr. Murphy's offer to reduce the distance. He said that he would agree to even less of a setback. Mr. Wilson then asked how much of a setback. Mr. Owens suggested 500 feet.

Mr. Bell asked if the aerial could be displayed for the properties. Mr. Nicol said that there was discussion regarding the measurement of the setback. Mr. Owens said that the amount of the supportive uses for the entire property will not be greater than the setback; however, Mr. Murphy is asking for their principal uses to have the same signage, as well. He said that this has expanded from the supportive uses to the principal uses of the ED zones, which he believes that people need to know where they are located. He said that if the opportunity is there for them to have signage near the interstate, it should be near the interstate. Mr. Bell asked if there is any residential areas near these properties. Mr. Owens said that of the 18 percent, there is only 8 percent of residential allowed in the ED zone.

Mr. Bell asked Mr. Anderson for his vision of this area. Mr. Anderson displayed the aerial of the property and pointed to the area where he believes needs the elevated signage. He said that he envisions office, manufacturing, and a small residential area. Mr. Bell asked if this will set a precedent regarding signage. Mr. Anderson said that he can't speak regarding the Cowgill property.

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Motion – A motion was made by Mr. Pohl, seconded by Mr. Wilson, to approve ZOTA 2019-3: AMENDMENT TO ARTICLE 17: SIGN ORDINANCE UPDATE, for the reasons provided by the staff, with the exception of section 17-11(p) to be amended as follows:

(d) Non-Residential Principal and Supportive Uses: On land designated for non-residential principal and supportive uses within the development, signage shall be regulated as in the B-3 zone, with no billboards allowed and with freestanding signage to be limited to 600 feet setback from the interstate, and freestanding signs shall be non-illuminated or internally illuminated.

And eliminate sub (e) and (f) relating to hotels.

Discussion and Comments – Mr. Nicol verified that the motion was in reference to Mr. Murphy's proposal, and asked for more clarification of the illumination of signs. Mr. Pohl said that it refers back to the language in B-3 zone, which states "no illumination, indirectly illuminated, or internally illuminated, or directly illuminated." He is suggesting that freestanding signs be limited to no illumination or internally illuminated so that there will be no directly or indirectly illuminated freestanding signs. They will either be internally illuminated or not illuminated at all. This will avoid spot lights and upward pointing lights.

Mr. Nicol said that he agrees with not handicapping the ED property by limiting their sign requirements. He believes that 800 feet would be a compromise.

Mr. Wilson reminded the Commission members that the motion was made at 600 feet.

Mr. Pohl asked if Mr. Wilson will accept the change of the freestanding signage to be limited to 800 feet, instead of 600. Mr. Owens stated that was only a comment. Ms. Wade said that procedurally an amendment to the motion will need to be made. The staff agreed to draft the exact text to reflect the motion, if passed.

Amended Motion – An amended motion was made by Mr. Forester, seconded by Ms. Mundy and carried 5-2 (Owens and Pohl opposed; Brewer, de Movellan, Penn and Plumlee absent) to amend the motion for freestanding signage to be limited to an 800 feet setback from the interstate.

Action – Passes with vote of 7-0 (Brewer, de Movellan, Penn and Plumlee absent).

2. **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 Text Amendment Presentation – Ms. Wade distributed revised text and a draft memorandum to the Planning Commission. She said that the staff received four letters from citizens related to this text amendment, which she also passed on to the Commission. She then presented and summarized the staff report and recommendations for this text amendment. She said that this amendment was initiated by the Planning staff. This amendment is to Article 6, which generally deals with amendments. She said that KRS 100.211 establishes the procedure for the entire state, by which the Planning Commission adopts changes. KRS 100.211 states the notices that are required, how the hearings are held, and how final action occurs. She said that in 1988 there was an amendment to KRS to allow for an alternative regulation, however, Fayette County has never utilized it. KRS does still require that all zone changes and text amendments be heard by the Planning Commission for a full public hearing. Approximately 85% of them move forward to the Council and they adopt what the Planning Commission recommended. The Council then places the item on their docket and holds two readings, which is then adopted. She said that the other 10-15% of the cases, the Council holds a second public hearing, which are held at the request of either the applicant or by a neighbor/neighborhood group.

Ms. Wade stated that this amendment will not make any changes to what is presented to the Planning Commission, but will change the process after their recommendations. Instead of the staff sending every case to the Council, this amendment proposes an opportunity to shorten the process. Within 21 days, anyone who deems themselves as aggrieved can contact Planning staff with

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a written request asking for the Council to act; or the Council, themselves can ask the Planning Commission and the Planning staff that they take the final action. If neither of those two action occur, the zone change will be deemed approved, without going to through the Council process of holding two readings. She said that this will lessen the amount of items that the Council will act upon.

Ms. Wade reviewed the current zone change process and stated that it currently takes 4-6 months, which the Planning Commission has a minimum of a two month process, and then the Council has another minimum two month process. She said that the alternative process would remain the same though the Planning Commission process, but if no one is aggrieved, the Planning Commission recommendation becomes final within 21 days. This would save the applicant 3-6 weeks of time. She said that if the item is forwarded to the Council, the timeline doesn't change, and it will then be placed on their docket and have two readings, or have a public hearing.

Ms. Wade said that the internal process will change to accommodate the Council. She said that the staff will continue to prepare a final report, depending on whether or not the Council is acting. If the council is acting on a zone change, the Planning staff will send the final reports to the Department of Law, the Council members, and the Council clerk. If there isn't a need for Council action, there is the opportunity to decide what happens with that record, either the Planning staff can keep that record (final report) or it can be forwarded to the Council. She added that currently the Council doesn't know when the Planning Commission acts on an item, until they receive that final report. She said that they will need to find out sooner, so that they can ask to hear a case. The staff would send the Council a written memo, which a draft was distributed to the Commission, the day after the zoning hearing took place. This memo would include the Planning Commission votes and if there were objectors present or not. The staff would also communicate with neighbors and participants at the hearing to make sure that they understand that they can still ask for the Council to take final action.

Ms. Wade said that KRS states the request must be a "written" request; therefore, the aggrieved person must submit something in writing, either by email, fax, or a letter. She said that some of the benefits would be the time saved for the uncontested zone changes, ensuring that they don't get encumbered by extended Council breaks, and allowing the staff to focus on the zone changes likely to be contested. She said that this alternative will require the citizens and Council members to monitor the zone change requests to be able to communicate if they want further action. She added that there will be a statement added to the agendas so that citizens know they can request final action by the Council.

Ms. Wade said that there was a concern about defining an "aggrieved" person. She said that KRS 100 states that if any aggrieved person files a written request with the Planning Commission, the final decision should be made by the LFUGC Council. She said that KRS doesn't define what an aggrieved is, therefore the staff hasn't either. She said that the staff, on behalf of the Planning Commission, would take a generous interpretation of the term, such as, if you attended the meeting, if you own property nearby, if you submitted an email, anyone else who wants to say they are aggrieved. When a written letter is received, the staff will process it the way it is currently being done. She said that the staff will continue to provide guidance to participants.

Ms. Wade said that the Department of Law had suggested that individual Council members could also ask for the Council to take final action. In addition, the final record keeping has been of great concern. She said that the staff has added to this amendment that the Council will make the decision as to what to do with the final records for zone changes and text amendments. She said that there are other counties that utilize this alternative process and that the staff is recommending approval of this text amendment.

Commission Question – Mr. Nicol said that he believes this is a great way to encourage developers to work more with the staff and the neighbors to end with an uncontested result. He then asked how the staff will eliminate a person that is continually aggrieved on every case. Ms. Jones said that we generally found those filing appeals or asking for hearings have had some kind of connection to the subject property. She said that since the interpretation of who an aggrieved person is, is so broad that they can't eliminate certain people or require certain people to request a hearing.

Mr. Duncan said that Ms. Wade stated that the staff may continually get someone that states they want the Council to make the final decision for every zone change. He said that doesn't guarantee that they will receive a second public hearing. They will still need to go to their Council member and request a public hearing.

Ms. Jones added that this process only allows a by-pass of the Council, entirely, if there is no request made. If there is a request made within the 21 days, the item will go to the Council, and then it is their determination to either place on their docket for a reading or schedule a public hearing.

Bell asked if there is a time frame for letters of opposition or support for items, to be received by the staff. He said that they can't read those letters during the meeting. Ms. Wade said that the staff doesn't limit when the letters can be submitted to the Planning Commission. Letters can be submitted until the time the staff leaves their office to attend the hearing. She said that if the Planning Commission determines when letters needed to be received by, the staff will share that information with the public. Mr. Bell said that he would like to review that because he doesn't believe that it is feasible for the Commission to read those letters during the meeting. Ms. Wade said that with zone changes, the staff has been advised not to share the communication with the Commission prior to the hearing because the Commission is supposed to act on the information that is

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submitted during the public hearing. Mr. Bell then asked if the items are approved, do they move onto the Council within 21 days. Ms. Wade agreed and said when zone changes are approved, the aggrieved person will have 3 weeks to notify the Planning staff that they wish to have another decision. Mr. Bell also asked if from the Council standpoint, the fact that the Planning Commission has given their stamp of approval, they don't feel the need to listen to it. Ms. Wade said that the staff can't generalize in that manner and said that she believes it is more at the request of the neighbors to a property. If neighbors feel that they have been heard by the Planning Commission and their main concern is an issue with the development plan, many leave the meeting feeling that they have another chance of arguing their concern at the time of the final development plan.

Mr. Pohl asked what the reasons for a written grievance are and why does that person have to include the term "aggrieved" person; why can't any person that expresses concern be interpreted as an "aggrieved" person. Ms. Wade said that there isn't any documentation if an aggrieved person makes a phone call to request a hearing. She said that the staff encourages people that call to express their concerns, to put it in writing, otherwise it is hearsay. She said that it was the staff's preference to include the language that they are "aggrieved." Mr. Pohl said that he believes that anyone that expresses concern about an issue that suggests it should need another decision shouldn't have to be referred to as "aggrieved."

Ms. Jones said in regards to Mr. Pohl's question, after reviewing the statute, we can't change what the requirements are in KRS as to how the Planning Commission can act. She said that the statute states that: 1) if the alternative process is to be utilized, the 21 day notice must be in writing; and 2) you have to use the term "aggrieved." She added that it is a serious legal requirement and that she has had appeals dismissed because of that term was not used.

Public Comment – Walt Gaffield, President of Fayette County Neighborhood Council, displayed a presentation and acknowledged that there are a limited number of local governments that use the alternative process. He researched seven local governments within the state. He said that they have essentially eliminated the Council in zoning cases and the Planning Commission is the final decision. The communities or counties that he researched are Owensboro, Hardin, Elizabethtown, Shelbyville, Henderson, Bardstown, and Murray. He said that the staff's indication that the alternative process be put in place with no changes, which they agree with. However, they also believe that this is a principal reason for rejecting this process, because it doesn't allow for compromise or improvements. He also believes that there is a problem with the requirement of notifying the staff within 21 days. He said that doesn't account for Council breaks, so that they may not be able to ask for another hearing themselves. He said that according to the staff's notes, an individual Council member could not give notice to the Council or make a final decision, which would mean they would need to place it on the docket. He added that the information that will go to the Council, after the Planning Commission hearing, will be very limited. He also said that the definition of an "aggrieved" person is not defined in the statute. He believes that the current process works very well and if a case is uncontested, Council can do the first and second reading at the same meeting.

Brittany Roethemeier, Fayette Alliance, said that she had previously submitted a position statement to the staff. She said that they are in support of this text amendment for two reasons: 1) it isn't if we grow, it's how we grow; and 2) that we recognize some of the difficulties that the development community faces, especially with infill and redevelopment, including time and financial constraints. She believes we should remove these obstacles where we can, and that this text amendment promotes efficiency for the Planning staff and the developers. She agrees that it is important to protect the citizens and neighborhoods and she commends the staff for continuing to work on that concern.

Blake Hall, 36 Richmond Ave., said that he supports this text amendment. He said that he agrees with Ms. Roethemeier's comments. He added that he agrees with the requirements of a written notice from an aggrieved person, but believes that any person can contact their Council member who will be able to interject on their behalf. He said that this proposed text amendment doesn't change the existing process for contested zone changes. He also said that removing any barriers that don't have purpose or protection of the citizens is an improvement.

Amy Clark, 628 Kastle Road, distributed a letter to the Planning Commission and said the newly implemented 2018 Comprehensive Plan has a goal to engage the citizens in the planning process. This process lengthens the preliminaries by urging the applicant to hold meetings with neighboring parties before the zone change application process formally begins. She said that this text amendment will shorten the end of the process, which will burden both the citizen and the Council with a new and additional step in the process. She believes that the last step is critical and already moves too fast. She added that many times there are revised materials being presented up until the time of the Planning Commission hearing. She doesn't believe that the proposed memorandum from the staff to the Council will contain enough information for them to decide if they need to take action on a particular case.

Commission Comments – Ms. Mundy asked if the minutes from the hearing are including in the packet that the Council currently receives. Ms. Wade said that the current final report, which examples were distributed to the Planning Commission, includes a summary of the Planning Commission's actions, the application, notification map, staff's report and a "draft" form of minutes. She added that the Department of Law also receives the legal description. This text amendment proposes limited information, because it will be sent the next day and the minutes will not be complete. She stated that an example of this

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memorandum was also distributed to the Planning Commission. She said that the application, map and staff report could be attached to the memorandum. She added that the Council may not receive the minutes within the 21-day period.

Mr. Owens said that he believes if the Council asks for more information that the staff will provide it to them. He added that constituents can go their Council member and they can still file as an aggrieved person.

Mr. Wilson said he understands that the Commission's duties are three-fold; legislative, judicial and ministerial, and that the most important thing is the process and that the public gets heard. He added that sometimes there is a mistake by members of the public that if you are heard and don't agree than you haven't been heard.

Motion – A motion was made by Mr. Wilson, seconded by Ms. Mundy, and carried 7-0 (Brewer, de Movellan, Penn and Plumlee absent) to approve ZOTA 2019-2: ALTERNATIVE REGULATION FOR ZONING MAP AMENDMENT (KRS 100.2111), with the revised text for the reason provided by the staff.

- VI. **COMMISSION ITEMS** – Mr. Wilson recognized that Mr. Duncan made a presentation to the Lexington Rotary Club, which can be viewed at rotarylexky.org.
- VII. **STAFF ITEMS** - Mr. Duncan reminded the Planning Commission of the Work Session next Thursday, August 1st, in the Phoenix Building on the 7th Floor.
- VIII. **AUDIENCE ITEMS** - No such items were presented.
- IX. **MEETING DATES FOR JULY 2019**
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| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | August | 1, 2019 |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street)..... | August | 1, 2019 |
| Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | August | 8, 2019 |
| Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building..... | August | 15, 2019 |
| Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers..... | August | 22, 2019 |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street)..... | August | 28, 2019 |
| Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building..... | August | 29, 2019 |
- X. **ADJOURNMENT** – There being no further business, Chairman Owens declared the meeting adjourned at 4:11 p.m.

Mike Owens, Chair

Karen Mundy, Secretary

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