

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

October 24, 2019

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Phoenix Building, 3rd Floor Conference Room, 101 E. Vine Street, Lexington, Kentucky.

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

Planning staff members present: Jim Duncan, Director; Traci Wade, Tom Martin, Hal Baillie, Lauren Hedge, and Debbie Woods. Other staff members present were: Stephen Parker, Division of Traffic Engineering; Vaughan Adkins, Division of Engineering; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire and Emergency Services; Tracy Jones, Department of Law; and Betty Kerr, Historic Preservation.

- II. **APPROVAL OF MINUTES** - A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 7-0 (Bell, Brewer, Pohl and Wilson absent) to approve minutes of the September 26, 2019, meeting.

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

1. **APTITUDE DEVELOPMENT ZONING MAP AMENDMENT & LYNTHURST SUBDIVISION BLK D LOTS 2-7 (THE MARSHALL LEXINGTON) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-19-00013: APTITUDE DEVELOPMENT (11/3/19)*- a petition for a zone map amendment from a High Density Apartment (R-4) zone to a Downtown Frame Business (B-2A) zone, for 1.810 net (2.274 gross) acres, for properties located at 201, 207, 209, 211, 215, 221, 225, 227, & 231 E. Maxwell Street, and 245, 247, & 251 Stone Avenue.

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 High Density Apartment (R-4) zone to a Downtown Frame Business (B-2A) zone for 1.810 net (2.274 gross) acres for the properties located at 201, 207, 209, 211, 215, 221, 225, 227, and 231 E. Maxwell Street, as well as 245, 247, and 251 Stone Avenue. The proposed development is a 10-story multi-family structure, with the first two stories dedicated to parking. The proposed development anticipates 208 dwelling units for a density of 114.9 dwelling units per acre.

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

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

1. The requested Downtown Frame Business (B-2A) 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 by prioritizing a higher density residential development (Theme A, Goal #1.b), while also supporting infill and redevelopment that replaces an aging housing stock with modern, safe, and dense housing types (Theme A, Goal #2.a, b and c).
 - b. The proposed rezoning seeks to provide a well-designed neighborhood (Theme A, Goal #3.b) by varying the mobility patterns of potential residents, and promoting alternative modes of transportation including pedestrian, cycling, and mass transit.
 - c. By situating higher density development in a downtown area, located between the University of Kentucky's campus and the core of the city, and by increasing opportunities for various mobility patterns, the applicant is seeking to reduce Lexington-Fayette County's carbon footprint (Theme B, Goal #2).
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 supports pedestrian mobility, while also providing access to focal points and public green space. Additionally, the proposed rezoning seeks to increase the intensity of use along a corridor, prioritizing a higher density residential development.
 - b. The proposed rezoning includes safe facilities for the potential residents of the site by prioritizing multi-modal connections and increasing bike and pedestrian facilities along the frontage of the proposed development and within the East Maxwell Street right-of-way. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.

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

- 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, and provides new public amenities and access to open space along Stone Avenue.

3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are recommended via conditional zoning:

- a. Prohibited Uses:
- i. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks not exceeding one and one-half (1½) tons, and boats limited to runabout boats.
 - ii. Passenger transportation terminals.
 - iii. Wholesale establishments.
 - iv. Minor automobile and truck repair.
 - v. Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
 - vi. Pawnshops.
 - vii. Stadium and exhibition halls.
 - viii. Telephone exchanges; radio and television studios.
 - ix. Cable television system signal distribution centers and studios.
 - x. Adult entertainment establishments.
 - xi. Parking lots and structures.
 - xii. Automobile service stations.
 - xiii. Retail sale of plant nursery or greenhouse products.
 - xiv. Miniature golf or putting courses.
 - xv. Carnivals, special events, festivals, or concerts on a temporary basis.
 - xvi. Rental of equipment whose retail sale would be permitted in the B-1 zone.
 - xvii. Drive-through facilities.
- b. The maximum height of any structure or portion of a structure with frontage along East Maxwell Street shall be 75 feet.
- c. The maximum height of any structure or portion of a structure with frontage along Lexington Avenue shall be 50 feet.
- d. The maximum height of any structure or portion of a structure with frontage along Stone Avenue shall be 47 feet.

These restrictions are appropriate and necessary for the following reasons:

1. To reduce the potential impact of the most intense uses allowable in the B-2A zone on the existing residential land uses in the immediate area.
2. To establish an appropriate scale of development to respect the context of neighboring structures and intensify corridors consistent with the policies of the 2018 Comprehensive Plan.

4. This recommendation is made subject to approval and certification of PLN-MJDP-19-00050: The Marshall Lexington (Lyndhurst Subdivision, BLK D, Lots 2-7), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. PLN-MJDP-19-00050: THE MARSHALL LEXINGTON (LYNDHURST SUBDIVISION, BLK D, LOTS 2-7) (11/3/19)* - located at 201, 207, 209, 211, 215, 221, 225, 227, & 231 E MAXWELL ST. AND 245, 247 & 251 STONE AVE., LEXINGTON, KY.
Project Contact: Gresham Smith

Note: The purpose of this plan is to rezone the property.

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

1. Provided the Urban County Council rezones the property B-2A; 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. United States Postal Service Office's approval of kiosk locations or easement.
7. Remove all extraneous information.
8. Denote floor area ratio (F.A.R) per Article 21 of the Zoning Ordinance.
9. Denote height of building in feet for both structures per Article 21 of the Zoning Ordinance.
10. Addition of tree inventory map per Article 21 of the Zoning Ordinance.
11. Remove street tree note.
12. Correct plan title to include subdivision name.
13. Clarify open space requirement per Article 18-8(m) of the Zoning Ordinance.
14. Provided the Planning Commission grants the requested variance to reduce required open space.
15. Dimension proposed building.
16. Discuss timing of closure of Hagerman Court.

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17. Discuss compliance with Article 15-7 of the Zoning Ordinance for Infill and Redevelopment.
18. Discuss streetscape and pedestrian facilities adjacent to Maxwell Street and Stone Avenue.
19. Discuss compliance with Placebuilder criteria.

Petitioner Representation: Jacob Walbourn, attorney representing the petitioner, said that they would like a postponement of this zone change to the November 21, 2019 meeting. He said that they are meeting with the neighborhood association to make some refinements to the development plan.

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

Action: A motion was made by Mr. Forester, seconded by Ms. Mundy, and carried 7-0 (Bell, Brewer, Pohl and Wilson absent) for a postponement of PLN-MAR-19-00013: APTITUDE DEVELOPMENT and PLN-MJDP-19-00050: THE MARSHALL LEXINGTON (LYNDHURST SUBDIVISION, BLK D, LOTS 2-7) to the November 21, 2019 meeting.

- IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, October 3, 2019, at 8:30 a.m. The meeting was attended by Commission members: Headley Bell, Anthony de Movellan, Karen Mundy, Mike Owens Frank Penn, and Carolyn Plumlee. Committee members in attendance were: Vaughan Adkins, Division of Engineering and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Hal Baillie, Cheryl Galt, Lauren Hedge, Tom Martin, Denice Bullock, Valerie Friedmann, Scott Thompson, 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.

Note: Requests for additional time, stating the basis for the request, must be submitted to The Subdivision Committee no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

- V. ZONING ITEMS - The Zoning Committee met on Thursday, October 3, 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, Bruce Nicol, Graham Pohl and Bill Wilson. Staff members in attendance were: Hal Baillie, Tom Martin, Traci Wade, Samantha Castro, Valerie Friedman, and Debbie Woods; Bettie Kerr, Division of Historic Preservation; and Tracy Jones, Department of Law. The Committee members reviewed applications and made recommendations as noted.

A. ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS

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

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

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

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

~~The procedure for these hearings is as follows:~~

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

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

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

- a. PLN-MAR-19-00010: BALL HOMES, INC (AMD) (10/24/19)*- an amended petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Expansion Area Residential (EAR-1) zone, for 26.34 net (27.19 gross) acres and an Expansion Area Residential (EAR-2), for 11.92 net (13.30 gross) acres, for property located at 2575 Polo Club Boulevard (a portion of).

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The petitioner has requested a zone change from an Agricultural Rural (A-R) zone to an Expansion Area Residential-1 (EAR-1) zone for 26.34 net (27.19 gross) acres and an Expansion Area Residential-2 (EAR-2) zone for 11.92 net (13.30 gross) acres for the rear portion of the property located at 2575 Polo Club Blvd. The corollary development plan depicts of 80 detached single family dwelling units and 78 attached single family dwelling units, for an average density of 3.9 dwelling units per gross acre.

The Zoning Committee Recommended: **Referral** 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. Until the applicant addresses the adopted Comprehensive Plan in a complete manner the staff cannot offer a substantive and fully analyzed recommendation.
 2. The current Agricultural Rural (A-R) zoning is appropriate for the subject property, as supported by the LFUCG Zoning Ordinance.
 3. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, which has significantly altered the basic character of the area.
- b. PLN-MJDP-19-00036: HAMBURG EAST (BELHURST) (10/24/19)* - located at a portion of 2575 POLO CLUB BOULEVARD, LEXINGTON, KY.
Project Contact: EA Partners

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the Placebuilder Criteria.

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

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.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Discuss interior pedestrian system for townhouse area.
8. Discuss proposed relationship to the greenway.
9. Discuss proposed Park Road alignment and cross-section per the Expansion Area Master Plan (EAMP).
10. Discuss single family lot access to Park Road for Lots 1, 2 & 19.
11. Discuss Placebuilder criteria.
12. Resolve second entrance for gate at the time of the final development plan.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the amended zone change application. He said the applicant initially submitted this application in June 3, 2019, and then submitted an amended application on September 20, 2019. He said that during the revisions to the application, the staff discussed the need for the application to address KRS findings in particular, agreement with the 2018 Comprehensive Plan and the need to address the various goals, objectives, and policies in a complete manner. The applicant made a statement within their justification questioning the validity of the 2018 Comprehensive Plan, which is irrelevant and outside of the Planning Commission's decision to be made at today's public hearing.

Mr. Baillie displayed photographs of the subject property and aerial photographs of the general area. He said the subject property is located within Expansion Area 2a, part of a larger agricultural area located along the eastern portion of the Urban Service Boundary that has been platted as Hamburg East, and situated in an area of mixed land uses and zoning. The portion of the subject property that is located west of the North Elkhorn Creek was rezoned to the Expansion Area Residential-3 (EAR-3) zone in 2010, which resulted in the flipping of Community Center (CC) zoned land. The CC land use was recommended by the EAMP to be located on the east side of Polo Club Blvd, and the EAR-3 zoned land was recommended to be located on the west side of Polo Club Blvd.

Mr. Baillie said that since the Zoning Committee meeting on October 3, 2019, the applicant has provided the staff with additional information regarding the alternative justifications for the proposed zone change. The Zoning Ordinance states that before any map amendment is granted, the Planning Commission must find that the map amendment is in agreement with the adopted Comprehensive Plan. In the absence of such a finding, KRS and Article 6 of the LFUCG Zoning Ordinance provide two potential justifications for the Commission to consider: 1) that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate; and/or, 2) that there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area. He said that the applicant suggests that their application meets two of the findings: 1) the Planning Commission must find that the map amendment is in agreement with the adopted Comprehensive Plan; and 2) that the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate. He said that the applicant has stated their objection to addressing the development criteria of the Comprehensive Plan, which necessitates a full review of how they are complying with the goals, objectives, and policies of the Plan. Since the submission of this revised plan, the applicant has not provided additional information as to how they are addressing each of the goals, objectives, and policies. He said that the applicant has only addressed 10 of the 42 total goals, objectives, and policies and that they have exclusively focused on the design policies.

Mr. Baillie stated that this proposal deviates from the recommendations made in the Land Use Element of the Expansion Area Master Plan (EAMP). This property was recommended for EAR-1 and EAR-2 land uses and zones, as well as for the extension of the park road. The EAMP proposed the EAR-1 land use and zoning to be located along the greenway with the park road as a divider of the two zones. He said that the greenway was meant to be a unifying feature to provide integration between various land uses on both sides of Man o' War Boulevard. He said that the applicant is proposing to flip the location of the EAR-1 and EAR-2 land uses. The EAR-2 land use is proposed to be located along the greenway, southwest of the proposed roadway, and the EAR-1 land use is proposed to be located northeast of the proposed roadway, extending to the edge of the subject property and that this change is not in agreement with the EAMP Land Use Element, an adopted element of the 2018 Comprehensive Plan.

Mr. Baillie said that the staff has determined that the applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, they have deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change cannot be found to be in agreement with the 2018 Comprehensive Plan.

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Mr. Baillie said that the petitioner argues that the current zoning and any type of agricultural use is inappropriate, as it has become increasingly difficult due to the development of the surrounding area as residential subdivisions, multi-family developments, commercial uses, and the interstate system. In terms of inappropriateness, this argument is flawed as it contends the agricultural uses cannot occur in proximity to areas of residential or commercial development. This would indicate that all farms or farmland along the Urban Service Area boundary are inappropriately zoned and should be slated for rezoning. The petitioner also stated that the grade of the land, which slopes toward the floodplain, has made the use of the land for cattle production difficult, which resulted in the discontinuation of cattle production approximately 50 years ago. They state that there has been little interest in utilizing the land for production of crops outside of the production of hay. Furthermore, the ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property is approximately 40 acres of a much larger farm that was added to the Urban Service Area boundary, via the adoption of the Expansion Area in 1996. Although the parcel is approximately 40 acres, it is limited because the subject property has a significant floodplain, which covers approximately 7.5 acres of land. The floodplain limits the ability to consistently utilize the property for crop production. He added that in the initial staff report, it discussed agricultural uses of land or agricultural uses of buildings or structures, which would continue on until development actually occurs. He said that the staff agrees with these elements of the applicant's justification for the inappropriateness of the current Agricultural Rural (A-R) zoning.

Mr. Baillie said that the applicant states that the proposed zoning is compatible with the surrounding land uses and zoning at this location. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development. The subject property is currently supported by urban services, including the transportation network and sewer services. He added that the staff is recommending approval of this zone change for the following reasons:

1. The applicant has not provided sufficient and complete information to demonstrate agreement with the Goals, Objectives, Policies, or Development Criteria of the 2018 Comprehensive Plan. Additionally, the applicant has deviated from the Land Use Element of the EAMP, an adopted element of the 2018 Comprehensive Plan. As such, the proposed zone change is not in agreement with the 2018 Comprehensive Plan.
2. The existing Agricultural Rural (A-R) zoning is inappropriate for the subject property, for the following reasons:
 - a. The grade of the subject property has resulted in the difficulty of utilizing agricultural uses and those conditional uses in the A-R zone.
 - b. The ownership of the once contiguous farm has been divided overtime, as the land has passed from one owner to another. The subject property was added to the Urban Service Area (USA) boundary, via the adoption of the Expansion Area in 1996 and has a significant area of land that is unsuitable for agricultural land uses due to the floodplain, which covers approximately 7.5 acres of land.
3. The proposed Expansion Area Residential-1 (EAR-1) Expansion Area Residential-2 (EAR-2) zones are appropriate for the subject property, for the following reasons:
 - a. The proposed zoning is compatible with the surrounding land uses and zoning at this location.
 - b. The proposed zoning presents an appropriate step-down in the residential uses from the highest intensity residential zoning to the lowest intensity, as the zoning in the area transitions away from the interstate corridor and Polo Club Boulevard toward the Urban Service Area boundary.
 - c. Positioning higher density residential land uses adjacent to the greenway at this location allows for greater access for those residents to the open space, while also providing connectivity and infrastructure that is needed for denser development.
 - d. The subject property is located within the Urban Service Area and is currently supported by urban services, including the transportation network and sewer services.
4. There has been no physical, social, or economic change in the immediate area, since the adoption of the 2018 Comprehensive Plan, that has significantly altered the basic character of the area.
5. This recommendation is made subject to approval and certification of PLN-MJDP-19-00036: Hamburg East (Belhurst), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Development Plan Presentation – Mr. Martin presented a revised 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 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.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. ~~Discuss~~ Resolve interior pedestrian system for townhouse area at the time of the final development plan.
8. ~~Discuss~~ Resolve proposed relationship to the greenway at the time of the final development plan.

9. ~~Discuss~~ Resolve proposed Park Road alignment and cross-section per the Expansion Area Master Plan (EAMP), to the approval of the Divisions of Traffic Engineering and Planning.
10. ~~Discuss~~ Resolve single family lot access to Park Road for Lots 1, 2 & 19.
11. ~~Discuss~~ Placebuilder criteria Resolve compliance with the Community Design Element of the EAMP at the time of the final development plan.
12. Resolve second emergency gate entrance for gate at the time of the final development plan.
13. Resolve proposed design standards at the time of the final development plan, including front facing garage setbacks along the Park Road.
14. Depict extension of Man o' War Boulevard improvements along entire frontage of subject property.

Mr. Martin identified Blackford Parkway, Man o' War Boulevard, and the proposed entrance into this development. He said that the applicant is proposing 80 single family lots and 78 townhouses. He said that the applicant is demonstrating that the park road, which is Blackford Parkway, has a relationship with the greenway. He also pointed out the greenway that Mr. Baillie had referred to and said that the EAMP had envisioned it to coordinate, compliment, and connect the area. It is also a drainage feature for stormwater. He said that the applicant will continue to discuss and resolve some of the staff's concerns. One of those is condition #9, the cross-section of park road (Blackford Parkway) and how the roadway will function adjacent to the properties, in particular in providing the appropriate pedestrian and shared-use trail facilities that are envisioned. Another concern is condition #11, which is to be resolved at the next stage. The EAMP requires that the applicant submit statements addressing the community design element and the infrastructure element of the EAMP at the time of the final development plan. He added that the extension of the park road is identified as part of the infrastructure in the EAMP, and it is an exactable feature. He said that condition #7, is focused on the internal pedestrian system for the townhouses and the trail system, which will both be resolved at the time of the final development plan.

Mr. Martin said that the EAMP allows developers to set their own design standards, which include lotting standards and setbacks, and that the minimum setback is only five feet. These also need to be resolved at the time of the final development plan. He said that staff had a concern with the driveways and vehicular conflict along the Blackford Parkway, which will be a collector street. The single-family lots along that roadway have a twenty-five foot setback. He said that the staff is recommending that the applicant show improvements to Man o' War Boulevard, because it needs to be improved to urban standards.

Applicant Presentation – Mr. Nick Nicholson, attorney, Buddy Goodwin, Ball Homes, LLC and Rory Kahly, EA Partners, were present to represent the petitioner. He said that this zone change has been planned for more than 20 years and it is to transform 38 acres of vacant and under-utilized agricultural land. He said that they are proposing to change 26 acres to the EAR-1 zone and 12 acres to the EAR-2 zone. He added that this not the first development in this area nor on this farm. He said that at the Zoning Committee meeting there was discussion regarding the statute that governs the zone change process and how the Planning Commission can recommend approval. He said that the first question in a zone change hearing is, is the project in compliance with the Comprehensive Plan. He added that if the that answer is no, then there are two more questions and if the answer is yes to either of them, the Commission can recommend approval to their legislative body. He said that they believe that the existing zoning is inappropriate and the proposed zoning is appropriate. He added that that they will not be submitting any separate findings at today's hearing because all three of these provisions of the statute are viewed equally and any of them are appropriate to recommend approval.

Mr. Nicholson said they believe that this proposal is in compliance with the Comprehensive Plan because the proposed mix of EAR-1 and EAR-2 zoning will allow for a development that will activate an under-utilized agricultural parcel that has long been recommended for this exact type of residential use, at this exact density, and even the exact zones. He said that this will 1) expand housing choices by having a 50/50 single-family and townhomes development; 2) support infill and redevelopment throughout the Urban Service Area by completing full urban improvements at Man o' War Boulevard; 3) provide well-designed neighborhoods and communities by matching zones, types, and density levels with the adjacent neighborhood, while maintaining character and context; and 4) address community facilities at a neighborhood scale by protecting the environment.

Mr. Nicholson said that with regards to the effective and comprehensive transportation system, the change of location of Blackford Parkway impacted the future development of this property. He said that they believe that this is compliance with the Comprehensive Plan because this development is sustainable and will match the character and context of the existing area, in an under-utilized corridor. He said that this property has been within the Urban Service Area boundary for more than 20 years and has remained vacant. He believes that this is exactly where development should be going. Theme E, Goal 1 states to activate large, undeveloped landholdings within the Urban Service Area boundary, which is what they are proposing to do.

In regards to the design policies, Mr. Nicholson said that the adopted Comprehensive Plan encourages utilizing a people-first design to ensure proper road connections, to provide pedestrian-friendly street patterns and walkable blocks, to adhere to the recommendations of the MPO Bike/Ped Master Plan, and to connect to adjacent stub streets in order to maintain connectivity. He said that they are providing a stub street to the adjacent vacant land to make a fully connected neighborhood. He said that there will be pedestrian improvements throughout the property. He added that they are proposing a secondary emergency entrance on the northern end of the development, which will need to be approved by the state. He made a correction that Mr. Martin had

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provided, the applicant is showing a thirty-five foot building line setback for the houses along Man o' War Boulevard, which will allow for larger driveways to discourage parking on Blackford Parkway. He said that they are providing a development that is sensitive to the surrounding concept, designing car parking areas to not be the primary component and providing varied housing choices. He said that all of the townhouses facing Man o' War Boulevard and Blackford Parkway are rear-loaded. He said that they are also providing adequate greenspace for all neighborhoods within walking distance, having the focal points accessible to all residents, and the single-loaded streets.

Mr. Nicholson said that it was a difficult decision to not follow the EAMP's recommendations, but after meeting with the staff and determining that the alignment of Blackford Parkway was a major concern. The road needed to near the greenway and he believes that this integrates this development into the greenway system and provides dedicated access for the single-family and any residents along the pedestrian infrastructure, it's a visual and key component for everyone who enters this development. He said that since they are not in agreement with the future land use map of the EAMP, they believe that they are in compliance with the EAMP, and will submit a compliance statement at the final development plan phase.

Mr. Nicholson said that in regards to the appropriateness and inappropriateness of the current zoning, this property is ill-suited for agricultural land because of the layout and the topography of the parcel. He said that they searched back fifty years and couldn't find any type of livestock that was actively using this land. He also believes that this property is ready to be developed because of the infrastructure that is already available to serve it. He said that the EAMP acted as a guide to provide the community, the developers, and the government as to how this large piece of land will be developed. He added that the EAMP provided a list of the infrastructure that was needed, the street system, the sanitary sewer, and stormwater system. He said that the current property owner installed trunk sewer line beneath the property, to serve this property, the adjacent commercial and residential areas. He said that the inappropriateness of this property to remain agricultural is the unwillingness to expand the Urban Service Area boundary, because there is sufficient amount of vacant land located inside of the boundary. He then displayed a map from Imagine Lexington, which depicts 64% Residential, 25% Employment, and 11% Commercial. There isn't any agricultural use recommended inside of the Urban Service Area boundary. He said that the Fayette Alliance specifically identified this parcel as a potential new residential growth area.

Commission Questions – Ms. Plumlee what would be the developer's and the state's improvement along Man o' War Boulevard. Mr. Nicholson said that the developer is proposing to install curb and gutter and the sidewalks along Man o' War Boulevard.

Mr. Penn said that he is appreciative of the single-loaded streets within the development. He said that Kentucky is the largest state east of the Mississippi River producing cattle and that hay is indeed a crop.

Mr. Owens asked Mr. Nicholson if they are in agreement with the staff's revised recommendations. Mr. Nicholson agreed.

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

Staff Rebuttal – Mr. Baillie said that there are numerous other policies from the Comprehensive Plan that should also be addressed when reviewing an application in compliance and agreement with the Comprehensive Plan. He said that the applicant complied with ten of the forty-two policies. He said that the other policies that were not addressed include density, equity, protection, sustainability, restoration, livability, connectivity, place making, accountability, and growth policies. He said that reducing the Comprehensive Plan to the design of the site is not the community's desire nor the directive of the Planning Commission.

Commission Comments – Mr. Nicol commended the staff for working with the applicant to get to an approval recommendation. He said that there was a lengthy discussion regarding the Comprehensive Plan and Placebuilder at the October 3, 2019 Zoning Committee meeting. He said that he believes that the Placebuilder was not a checklist, but it is a distillation of the criteria that's within the Comprehensive Plan. He said that with enough time, the applicant could have gotten to a staff approval recommendation based on the Comprehensive Plan. If they had used the Placebuilder, the approval most likely would have been received earlier, which could have allayed any concerns with lack of transparency. He said that Fayette County is expecting a population growth of more 20,000 over the next ten years, which would be 2,000 per year. He said that this proposed development is a small percentage of what is needed to meet these growth objectives. He added that he believes that this is good plan and is supporting it.

Mr. Penn said that the Planning Commission worked for the past two years to approve of the 2018 Comprehensive Plan and it needs to be respected. As Mr. Nicol stated, the design was transparent, but the development plan should be as well. He said that plan will be submitted again as a final development plan, and there are many conditions that need to be completed. He said that the process was meant to be followed and the applicant has made the decision to only follow it on the design standards. This property fits the narrative of K.R.S. 100, which is the only reason why it is moving forward. He stated that he doesn't want the community to feel that every piece of property, going forward, will be able to not address the Comprehensive Plan.

Mr. Owens said that the recommendation is that this gets approved, but the Planning Commission hasn't voted on it at this time.

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Ms. Plumlee said that it is unusual to get approval from the staff with the first reason being that the applicant hasn't provided complete and sufficient information to demonstrate agreement with the Comprehensive Plan. She said that she is concerned that this may set a precedence in the future. She said that each zone change is individual and is considered with individual aspects within those realms.

Mr. Owens said that there is a different set of circumstances with any request/application and he doesn't believe that there will be any precedence setting with this decision. He said that there had been many revisions since the original application and more can be still be completed. He agrees with Mr. Nicol that taking a different path would have provided easier and better results. He added that failure to address the majority of elements of the 2018 Comprehensive Plan shows a lack of respect for the City of Lexington, which includes the Planning Commission, the staff, the city government, and the citizens of Lexington who live and work here. We are all after the same desire, to make Lexington a better place. He said that he hopes that this is a single occurrence and that future request will not necessitate these types of statements that have been presented here today.

Zoning Action – A motion was made by Mr. Forester, seconded by Ms. Mundy, and carried 7-0 (Bell, Brewer, Pohl, and Wilson) to approve PLN-MAR-19-00010: BALL HOMES, INC (AMD), for the reasons provided on the supplemental report by the staff.

Development Plan Action – A motion was made by Mr. Forester, seconded by Ms. Mundy, and carried 7-0 (Bell, Brewer, Pohl, and Wilson) to approve PLN-MJDP-19-00036: HAMBURG EAST (BELHURST), for the revised reasons presented by the staff.

Note: Planning Commission took a recess at 3:20 p.m. until 3:30 p.m.

Note: Mr. Nicol left the meeting at 3:20 p.m.

Note: Mr. Bell arrived at the meeting at 3:20 p.m.

2. URBAN COUNTY PLANNING COMMISSION (PENSACOLA PARK) ZONING MAP AMENDMENT

- a. PLN-MAR-19-00015: URBAN COUNTY PLANNING COMMISSION (PENSACOLA PARK) (11/3/19)*- a petition for a zone map amendment to create an Historic District (H-1) zone for the Pensacola Park neighborhood for 94.53± gross acres, for properties located at, 96-171 Goodrich Ave., 101-224 Lackawanna Rd., 1733-1915 Nicholasville Rd. (Odd Addresses Only), 1855-1859 Norfolk Dr., 101-177 Penmoken Park, 1847-1877 Pensacola Dr., 108-199 Rosemont Garden, 105-175 Suburban Ct., and 101-166 Wabash Dr.

PROPOSED USE

A petition for a zone map amendment to create an Historic District Overlay (H-1) zone for the Pensacola Park neighborhood for 94.53± gross acres, for properties located at 96-171 Goodrich Ave., 101-224 Lackawanna Rd., 1733- 1915 Nicholasville Rd. (Odd Addresses Only), 1855-1859 Norfolk Dr., 101-177 Penmoken Park, 1847-1877 Pensacola Dr., 108-199 Rosemont Garden, 105-175 Suburban Ct., and 101-166 Wabash Dr.

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

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

1. The proposed Historic District Overlay (H-1) zoning for this area is consistent with the following Themes, Goals, Objectives, and Policies of the 2018 Comprehensive Plan, as it relates to Historic Preservation:
 - a. Growing a successful community through well-designed neighborhoods, by encouraging existing neighborhoods to flourish through the use of neighborhood character preservation (Theme A, Goal #3.a).
 - b. Protecting and enhancing the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image (Theme D, Goal #3) by protecting historic resources and archaeological sites (Theme D, Goal #3.a), and incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3.b).
 - c. Infill residential can and should aim to increase density while enhancing existing neighborhoods through context sensitive design (Design Policy #2).
 - d. Honor Lexington's History by requiring new development and redevelopments to enhance the cultural, physical, and natural resources that have shaped the community (Placemaking Policy #9).
 - e. Utilize critical evaluation to identify and preserve Lexington's historic assets, while minimizing unsubstantiated calls for preservation that can hinder the city's future growth (Growth Policy #5).
2. The Historic District Overlay (H-1) zoning for this area is mostly consistent with the recommendation of the Board of Architectural Review for an H-1 overlay district. The H-1 overlay district matches the recommendations found in the Pensacola Park Historic District (H-1) Designation Report (with one exception), and with the provisions of Article 13-3(g) of the Zoning Ordinance. Specifically, the following findings are applicable to the Pensacola Park neighborhood:
 - a. The study area is a cohesive, dense concentration of significant domestic architecture mainly dating from 1919 until 1944. This was a time of expansion and growth in Lexington's history. During this roughly 20 years (mostly between

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- the world wars), the proposed historic district development offered well-designed, affordable, well-built homes to many first time homeowners and others.
- b. The area includes over 400 period examples of the residential architecture popular during the development of Lexington between the wars. The historic buildings within the proposed district cover a range primarily of small and medium scale houses of one and one-and-one-half story in height. The area also includes a limited number of two-story, larger houses.
 - c. The structures within the study area are representative of several nationally popular architectural styles quite representative of the development period, including Colonial Revival, Craftsman, Bungalow, Tudor Revival, American Foursquare and Small American House.
 - d. The level of architectural integrity is very high throughout the study area. The historic houses maintain their character-defining styles and forms. The streetscapes and layout remain unchanged. There are very few incidents of adverse character altering changes to structures or sites within the boundaries of the proposed district.
 - e. The study area meets five of the nine criteria necessary for Local Historic (H-1) Overlay Zoning as established in Article 13, Section 13-3(g) of the Lexington-Fayette Urban County Zoning Ordinance. The historical importance and impact of the study area's diverse architectural styling on the Lexington community are only heightened by the continuity and integrity of the structures themselves, as well as the defined geographic area in which they were built. According to the Designation Report, the criteria met are:
 - i. Criteria 13-3(g)(1): It has value as part of the cultural or archaeological heritage of the county, state, or nation.
 - ii. Criteria 13-3 (g)(3): It is identified with a person or person or famous entity who significantly contributed to the development of the country, state, or nation.
 - iii. Criteria 13-3(g)(6): It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.
 - iv. Criteria 13-3(g)(7): It has character as a geographically definable area possessing significant concentration of buildings or structures united by past events or by its plan or physical development.
 - v. Criteria 13-3(g)(8): It has character as an established and geographically definable residential neighborhood, agricultural area, or business district, united by culture, architectural style or physical plan and development.

Staff Zoning Presentation – Mr. Baillie said that this is the Planning Commission's application, therefore any changes, as this application moves forward, it will be as recommended today to the Urban County Council. He then presented the staff report and recommendations for the zone change application. He said that the subject area is primarily comprised of residential zones, including Single Family Residential (R-1C), Planned Neighborhood Residential (R-3), and High Density Apartment (R-4) zones. While 420 of the lots within the neighborhood are zoned for single family residential, there are various examples of nonconforming duplexes or multi-family structures throughout the area. There is one lot that is zoned Neighborhood Business (B-1), located at 1915 Nicholasville Road. Currently, the lot houses El Toro Mexican Restaurant, a T-Mobile retail establishment, and associated off-street parking.

The subject area is surrounded by a mixture of zoning and land uses. The north, west, and east boundaries of the subject area are characterized almost entirely by residential land uses. Despite the area being primarily comprised of single family residences, there are three different classifications of residential zoning: Single Family Residential (R-1C), Two-Family Residential (R-2), and High Density Apartment (R-4) zones. Along the northeast portion of the proposed area is the Baptist Hospital Complex, zoned Professional Office (P-1), which along with the University of Kentucky, is one of the major employment centers in the area. Along the northwestern portion of the proposed area is the now shuttered General Electric Lamp Plant, which is zoned Light Industrial (I-1). South of the subject area, along Southland Drive there are various commercial operations, including the Hampton Inn, Days Donuts, Don Wilson Music Company, and the several restaurants. The subject area is in close proximity to the Seven Parks Historic (H-1) District, which mimics many of the different housing styles, which is somewhat unique compared to some of the other areas. He then displayed photographs of the subject property and aerial photographs of the general area. He said that there are four local streets that connect to Nicholasville Road, one collector street that connects Nicholasville Road to S. Broadway.

Mr. Baillie said that it important to note that the Historic District Legislation has been determined to be constitutionalized to produce an equitable distribution of benefits and burdens. The neighborhood receives the average reciprocity advantage whereby the individuals may be restricted on some elements of what they are able to do on the exterior of their property, they gain the benefits from the restrictions of the surrounding properties. The restrictions provide construction consistency over time, while respecting the historical character of an area. For any property within an H-1 Overlay, a Certificate of Appropriateness is required prior to the initiation of any new construction, any exterior change to, or the demolition of all or part of any building, structure, or sign on any premises in the zone protected by the H-1 Overlay.

Mr. Baillie said that this H-1 Overlay was initiated on March 28, 2019, and before the Board of Architectural Review (BOAR) recommendation, which was made on August 14, 2019, the staff of the Division of Historic Preservation and their contractor researched and analyzed the area and produced the designation report. At a public hearing held on August 14, 2019, the Division of Historic Preservation presented their findings at the BOAR meeting, which voted 4-0 to accept the designation report for this district and to forward it to the Planning Commission with a recommendation of approval. The designation report indicates that the proposed area meets five of the nine criteria necessary for Local Historic Overlay (H-1) zoning as established in Article 13, Section 13-3(g) of the Lexington-Fayette Urban County Zoning Ordinance. They are:

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- Criteria 13-3(g)(1): It has value as part of the cultural or archaeological heritage of the county, state, or nation.
- Criteria 13-3 (g)(3): It is identified with a person or person or famous entity who significantly contributed to the development of the country, state, or nation.
- Criteria 13-3(g)(6): It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction, or use of indigenous materials.
- Criteria 13-3(g)(7): It has character as a geographically definable area possessing significant concentration of buildings or structures united by past events or by its plan or physical development.
- Criteria 13-3(g)(8): It has character as an established and geographically definable residential neighborhood, agricultural area, or business district, united by culture, architectural style or physical plan and development.

Mr. Baillie said that for an H-1 Overlay within the Article 13 of the Zoning Ordinance, only one of these criteria must be met to allow for an establishment of an H-1 Overlay.

Mr. Baillie said that the 2018 Comprehensive Plan has several Goals, Objectives, and Policies, which affirm the need for historic preservation within the community. This includes growing a successful community through well-designed neighborhoods, by encouraging existing neighborhoods, like the Pensacola Park neighborhood, to flourish through the use of neighborhood character preservation. The establishment of an H-1 Overlay zone in the Pensacola Park Neighborhood would also allow for both the protection and enhancement of the natural and cultural landscapes that give Lexington-Fayette County and the subject area its unique identity and image. This is achieved through the protection of historic architectural resources by requiring increased review, requiring a Certificate of Appropriateness (COA), and by incentivizing the renovation, restoration, development and maintenance of historic structures, which can be done with the help of Historic Tax Credits. In addition to the Goals and Objectives, Design Policy #2: infill residential can and should aim to increase density while enhancing existing neighborhoods through context sensitive design, is reinforced by the process of review established when a property is located within an H-1 Overlay zone. Additionally, an H-1 Overlay zone supports the enhancement of the cultural, and physical qualities that have shaped the Lexington community, as called for in Placemaking Policy #9. Finally, through the proper evaluation of the subject area, as presented in the Designation Report, the Historic Preservation Office has shown that this area is one of Lexington's historic assets (Growth Policy #5).

Mr. Baillie said that during the review of any zone change or the establishment of an overlay zone, staff evaluates an application utilizing the whole of the adopted Comprehensive Plan, including the Goals, Objectives, and Policies. Many of the recommendations made within the 2018 Comprehensive Plan are focused on the need for increased housing opportunities within our community, while making appropriate and incremental changes that respect the context of the areas in which development is occurring. This is exemplified by the need to expand housing choices by pursuing incentives and regulatory approaches that encourage creativity and sustainability in housing development, accommodating the demand for housing in Lexington responsibly, prioritizing higher-density and mixture of housing types, planning for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents, and creating and implementing housing incentives that strengthen the opportunities for higher-density and housing affordability. The staff believes that adding density and increasing housing opportunities in the Urban County, while also preserving the history of our community are not mutually exclusive. While it necessitates greater review, there are opportunities by which new and denser development can occur by working with both the Division of Planning and the Office of Historic Preservation. These opportunities will allow the city to grow while honoring our past and looking forward towards our future.

Mr. Baillie said that the staff, generally, does agree with the recommendation of the BOAR and the Division of Historic Preservation. However, there is one parcel that the staff recommends for withdrawal from this application. The staff recommends the removal of 1915 Nicholasville Road due to its location along the very southeastern edge of the proposed H-1 area, the age of the structure, and the lack of contribution to the historic district or significance of the property with respect to historic preservation. While 1915 Nicholasville Road has historically acted as a commercial property, the commercial use has changed overtime. From the 1930s to the 1980s the property acted as boarding house or hotel, like many of the other properties fronting Nicholasville Road. The use of the property changed to purely residential following the demolition of the structure along the southern edge of the subject property. Like many other properties in the area, 1915 Nicholasville Road was rezoned to the Single Family Residential (R-1C) zone in 1969, during the comprehensive rezoning of the county. The property was then rezoned in 1996, with conditional zoning restrictions, to the Neighborhood Business (B-1) zone. In its current form and with the zoning and modification of the property, 1915 Nicholasville Road is more representative of the commercial uses and the construction time and style along Southland Drive, rather than the residential uses and layouts proposed for inclusion into the H-1 Overlay zone. Lastly, the site has already been restricted via the imposition of conditional zoning restrictions, which prohibited 18 principal permitted uses, three accessory uses and seven conditional uses within the B-1 zone. These restrictions regulate both the use and function of what can occur on the site and are meant to protect against the adverse impacts of future development on the surrounding neighborhood. He displayed the 1927 Subdivision Plat and said that the configuration of the lots was not part of the original plat for the Goodrich area. He said that the lots along Nicholasville Road are longer and were meant for residential use. On the 1950 plat, there was a change in which there was a consolidation of the rear portions of the lots. This represents a change that is outside of the period of construction for the

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vast majority of the other portions of the neighborhood. As such, it does not conform to the original plat or criteria within the justification for the Historic Overlay.

Mr. Baillie said that the proposed Historic District Overlay (H-1) zoning for this area is consistent with the following Themes, Goals, Objectives, and Policies of the 2018 Comprehensive Plan, as it relates to Historic Preservation, and the staff is recommending approval. He said that the following needs to be read into the record:

The Historic District Overlay (H-1) zoning for this area is mostly consistent with the recommendation of the Board of Architectural Review for an H-1 overlay district. The H-1 overlay district matches the recommendations found in the Pensacola Park Historic District (H-1) Designation Report (with one exception), and with the provisions of Article 13-3(g) of the Zoning Ordinance. Specifically, the following findings are applicable to the Pensacola Park neighborhood:

- a. The study area is a cohesive, dense concentration of significant domestic architecture mainly dating from 1919 until 1944. This was a time of expansion and growth in Lexington's history. During this roughly 20 years (mostly between the world wars), the proposed historic district development offered well-designed, affordable, well-built homes to many first time homeowners and others.
- b. The area includes over 400 period examples of the residential architecture popular during the development of Lexington between the wars. The historic buildings within the proposed district cover a range primarily of small and medium scale houses of one and one-and-one-half story in height. The area also includes a limited number of two-story, larger houses.
- c. The structures within the study area are representative of several nationally popular architectural styles quite representative of the development period, including Colonial Revival, Craftsman, Bungalow, Tudor Revival, American Foursquare and Small American House.
- d. The level of architectural integrity is very high throughout the study area. The historic houses maintain their character-defining styles and forms. The streetscapes and layout remain unchanged. There are very few incidents of adverse character altering changes to structures or sites within the boundaries of the proposed district.
- e. The study area meets five of the nine criteria necessary for Local Historic (H-1) Overlay Zoning as established in Article 13, Section 13-3(g) of the Lexington-Fayette Urban County Zoning Ordinance. The historical importance and impact of the study area's diverse architectural styling on the Lexington community are only heightened by the continuity and integrity of the structures themselves, as well as the defined geographic area in which they were built. According to the Designation Report, the criteria met are:
 - i. Criteria 13-3(g)(1): It has value as part of the cultural or archaeological heritage of the county, state, or nation.
 - ii. Criteria 13-3 (g)(3): It is identified with a person or person or famous entity who significantly contributed to the development of the country, state, or nation.
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 - v. Criteria 13-3(g)(8): It has character as an established and geographically definable residential neighborhood, agricultural area, or business district, united by culture, architectural style or physical plan and development.

Mr. Baillie said that the staff is also recommending the withdrawal of 1915 Nicholasville Road, for the following reasons:

1. The existing conditions of the property are not consistent with the rest of the proposed H-1 Overlay zone.
 - a. The configuration of the lot part of the original plat for the Goodrich area, as shown on the 1930 Subdivision Plat for Goodrich Avenue. The change to show the modification was not included into the area until around the 1950s, as represented by the 1958 Sanborn Insurance Map.
 - b. The property is located along the very southeastern edge of the proposed H-1 overlay zone area.
 - c. The existing commercial structure was constructed in 1998; therefore, it is not similar to the construction period, construction style, or time period of the rest of the proposed overlay zone.
 - d. The site is not "contributing", per the National Park Service guidelines, nor is the site significant with respect to historic preservation.

Commission Questions – Mr. de Movellan asked for clarification of the dash lines on the map. Mr. Baillie said the dash lines signify different zones in the area. He pointed to the R-3, R-4, and B-1 zones on the map, and stated that the rest of the neighborhood are Single-Family Residential (R-1C) zone. Mr. de Movellan also asked where the adjoining H-1 Overlay is located. Mr. Baillie said that Cherokee Park neighborhood is located to the north of the proposed H-1 Overlay, which is not part of an H-1 Overlay, and the Seven Parks H-1 Overlay, is located north and east of Cherokee Park.

Mr. Owens asked if there are other businesses on Nicholasville Road that will be within this overlay. Mr. Baillie said that there is a dental office located within the area. Mr. Owens then asked if it could be part of this and adhere to the overlay. Mr. Baillie affirmed and said that the H-1 Overlay doesn't preclude a zone change, densification, or demolition.

Historic Preservation – Ms. Janie-Rice Brother, consultant, gave a brief history of the neighborhood. She displayed a map from 1934 displaying the neighborhood and said that Pensacola Park was farmland until 1898, when L.C. Price purchased the land. He began developing the land with homes on two-ten acre parcels. She said that some of the styles found in the neighborhood are: the Colonial Revival, the Craftsman, the Bungalow, the American Foursquare, the Tudor Revival, the Dutch Revival, the Cape

Cod, the Minimal Traditional, and the American Small House. However, there have been some recent additions to the neighborhood. The proposed district was developed with similar type houses, to be appealing and affordable for working and middle-class residents and remains as such, with an array of historic homes that are architecturally intact. She said that every house has a front yard, drive way, and a comparable setback from the street. There is a distinct sense of place, because the porches are well used, and the sidewalks are well traveled. She added that the houses retain stylistic details, including windows and doors surrounds, porches, roof forms, and other elements that conveyed historic style design of each building.

Ms. Brother said there is a National Register nomination being prepared for this district has been received by the Kentucky Heritage Council and will be reviewed by their Review Board in the spring.

Mr. Baillie submitted two letters of support and three letters of opposition into the record and distributed them to the Planning Commission.

Citizens in Support

The following individuals were in attendance:

Wanda Jaquith, Historic Preservation Commission member
 Candace Wallace, 130 Goodrich Avenue
 Kevin Katlic, 103 Penmoken Park
 Carol Hulse, 120 Wabash Drive
 Mareth Birmingham-Gillespie, 164 Penmoken Park
 Phil Theobald, 128 Rosemont Garden
 Vicki Barenberg, Kentucky Heritage Council
 Hanley Loller, 197 Rosemont Garden
 Michael Bardo, 107 Lackawanna Road
 Alison Connell, 155 Goodrich Avenue
 Mike Brower, 114 Shady Lane
 Jackson Osborne, Blue Grass Trust for Historic Preservation
 Rebecca Glasscock, 145 Wabash Dive
 Walt Gaffield, Fayette County Neighborhood Council
 Kay Myer, 1511 Richmond Road
 Jody McKee, 128 Penmoken Park
 Dennis Webb, 120 Suburban Court
 Tenley Terrier, 99 Goodrich Avenue
 Bill Egan, 105 Wabash Drive
 Dee Bailey, 105 Wabash Drive
 Jesse Voight, 1859 Nicholasville Road
 Isaac Moore, 105 Cherokee Park
 Amy Clark, 628 Kastle Road

Those individuals in support of the H-1 Overlay zone, made the following comments:

- Overwhelmingly received support from the neighborhood for this request (65% of the neighborhood).
- Supports the vision and recommendation of the 2018 Comprehensive plan.
- Historic consultant created a Designation Report stating the neighborhood met five of the nine criteria for the historic guidelines.
- Board of Architectural Review unanimously recommended this overly with the entire boundary.
- Preserves and protects existing neighborhoods.
- Should include whole properties, with an uninterrupted perimeter boundary.
- Want to halt the demotion of historical homes and the building non-conforming homes.
- Protect unique neighborhood against density.
- Keep properties intact while undergoing rehabilitation work.
- Maintain high-level of architectural quality.
- National Register designation.
- Sense of identity and quality of life.
- Preserve characteristics of neighborhood.
- Maintain a safe, walkable, welcoming and supportive neighborhood.
- Keep all properties in the Overlay.
- Protection of design guidelines.
- Neighborhood benefits the city as a whole.

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Citizen Questions

Alison Connell, 155 Goodrich Avenue, asked if this overlay will decrease property values and inhibit people from continuing any-home improvements, such as adding solar panels.

Bill Parker, 146 Penmoken Park, asked what kind of requirements are there to have the businesses change their appearance to meet the characteristics of the neighborhood and to be included in this overlay. He also asked if any rehabilitation is to be done to those buildings, will they need to go before the Architectural Board of Review for review.

Citizen Comments - Chris Clendenen, attorney representing 1739 Nicholasville Road, said that they are not in opposition of this overlay, for the rest of the neighborhood. However, this property is currently zoned R-4 and located on the extreme north end of the neighborhood. Its current use is a rooming house with nine bedrooms. He said that that it isn't significant in any way. He asked if this property could be removed from the H-1 Overlay. He added that he is agreement with the staff that the 1915 Nicholasville Road property be removed from this overlay.

Jacob Walbourn, attorney representing Arcadia Rentals, LLC, 1733 & 1737 Nicholasville Road. He said these are the two furthest northern parcels and is requesting to be excluded from this overlay. They are currently zoned R-4, which mirrors the 1739 Nicholasville Road property. He added that these properties have been identified as prime parcels for redevelopment for many years. He said that these properties do not connect to the neighborhood in any way, and their sole access in onto Nicholasville Road. They are located immediately adjacent to one of Lexington's largest employers and believes that there is a higher and better use for these properties than single-family housing. He said that there are numerous Comprehensive Plan elements that speak to the inappropriateness of their inclusion, which include density development, corridor development, and transit oriented development. He added that the R-4 zone is considered in the corridor place type for the Placebuilder, which was identified as one of the least intense developments and called for mid-rise structures, attached and multi-family dwellings. He said that Nicholasville Road is proposed to undergo a corridor study in regards to density and transit. In the 2014, the Metropolitan Planning Organization study suggested that these parcels be a Bus Rapid transit station. He submitted findings to the Planning Commission to exclude these two properties.

Staff Rebuttal - Ms. Betty Kerr, Historic Preservation, said that in regards to replacing windows in historic houses, if the windows have already been replaced one or more times, they will need a staff issued certificate of appropriateness/permit. If the house still has its original windows, they will be protected by the design guidelines, but the Historic Preservation will assist the property owner with repair and the addition of storm windows. She said that in regards to property values, other areas with designated local historic districts, property values have increased at a higher ratio than in a similar area that is not protected.

Ms. Kerr said in regards to bringing the property located at 1915 Nicholasville Road, the El Toro building, into compliance with the characteristic of the neighborhood; there are not any requirements to make any changes to the building in the existing design and utilization. She added that if a property does wish to remodel their building, permits will either be granted at the staff level or they must go before the Board of Architectural Review. Any demolition permit would also necessitate BOAR review.

Mr. Baillie said that in regards to the process, as this application moves forward, if the Planning Commission makes any withdrawals of certain properties; that is how this application will move forward. He said that the Urban County Council can't add any properties back in and will proceed as such.

Commission Question – Mr. de Movellan asked what the percentage is for those in favor of this overlay compared to the total of all property owners. Mr. Baillie said that overall 55% of the neighborhood responded, 40% were in support, 14% were opposed, and less than one percent had no opinion, and 45% gave no response. He continued with the information of the respondents, 72% were in support, 26% were opposed, and 1.3% had no opinion.

Ms. Mundy asked if the staff is in agreement to removing the properties at 1733, 1737, and 1739 Nicholasville Road from the overlay. Mr. Baillie said that the removal of 1915 Nicholasville Road was not only because of the differential use at that location, as a business, but it is was also replatted at a later date. There have been changes that don't mimic the same kind of development that occurred throughout the rest of the area. He said that in regards to 1733, 1737, and 1739 Nicholasville Road, they have changed in zoning, but they haven't changed in residential use, so that there is continuity with those properties. He added that there is continuity with the platting of those three locations, and the staff is supporting the recommendation of the BOAR in the Designation Report for those locations.

Mr. de Movellan asked about the citizen comment in regards to adding solar panels to properties within the H-1 Overlay. Ms. Kerr said that solar is permitted and is addressed in the design guidelines. She said that they have approved several applications, they just need to not be located on the rear face of the roof of the house.

Ms. Mundy asked if solar panels can be on towers, posts, or poles. Ms. Kerr said that free-standing panels are allowed, but it would depend on the placement and the size of the site, and have no adverse effect on the property or neighbors.

Commission Discussion – Mr. Owens announced that if the board chooses to withdraw any properties, to do so before a motion is made. He reiterated that this will be heard by the Urban County Council, who cannot add any properties back in, however they can also withdraw properties.

Ms. Plumlee thanked the citizens in the neighborhood for their dedication in this long process and wished them success with their neighborhood.

Motion to Remove - A motion was made by Ms. Plumlee, seconded by Mr. de Movellan, and carried 7-0 (Brewer, Nicol, Pohl, and Wilson) to withdraw 1733, 1737, and 1739 Nicholasville Road, for the findings provided by the attorneys, Mr. Walbourn and Mr. Clendenen, such findings should also include 1739 Nicholasville Road

1. 1733, 1737, and 1739 Nicholasville Road are presently zoned for denser development and possess different zoning restrictions than virtually every other parcel contemplated for inclusion in the historic overlay.
2. The adjacent properties to 1733, 1737, and 1739 Nicholasville Road are more intense uses, making the preservation of the existing single-family homes on these properties less appropriate.
3. The properties at 1733, 1737, and 1739 Nicholasville Road are not integrated in to the remainder of the Pensacola Park neighborhood. Their sole access is to Nicholasville Road.
4. The 2018 Comprehensive Plan calls for barriers to infill development to be reduced, and inclusion of these properties in the historic overlay would not facilitate that goal.
5. There is a study currently being conducted regarding the Nicholasville Road corridor by the Lexington Metropolitan Planning Organization. The study includes 1733, 1737, and 1739 Nicholasville Road. As that study remains outstanding at this time, it would be inappropriate to make determinations regarding the appropriateness of the preservation of single-family properties until such time as the study is completed.

Motion to Remove - A motion was made by Mr. Penn, seconded by Mr. Bell, and carried 7-0 (Brewer, Nicol, Pohl, and Wilson) to withdraw 1915 Nicholasville Road, for the reasons provided by the staff.

Zoning Action – A motion was made by Ms. Plumlee, seconded by Mr. Bell, and carried 7-0 (Brewer, Nicol, Pohl, and Wilson) to approve PLN-MAR-19-00015: URBAN COUNTY PLANNING COMMISSION (PENSACOLA PARK), for the reasons provided by the staff.

Note: Mr. Forester left the meeting at 5:00 p.m.

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

- a. ADOPTION OF 2020 MEETING & FILING SCHEDULE - The Chair will announce that the Commission will consider adoption of the "Official Meeting and Filing Schedule for 2020" at this time. Once adopted, the staff will distribute copies of the 2020 schedule for use by the Commission and the general public.

Staff Zoning - Ms. Wade said that the meeting and filing schedule of the 2020 was reviewed at the October 17, 2019 Planning Commission Work Session.

Action – A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 6-0 (Brewer, Forester, Nicol, Pohl and Wilson absent) to adopt the ADOPTION OF 2020 MEETING & FILING SCHEDULE.

- b. INITIATION OF ZONING ORDINANCE TEXT AMENDMENT FOR ARTICLE 23 OF THE ZONING ORDINANCE - Staff will report at the meeting.

Staff Zoning – Ms. Wade said that the staff is asking the Planning Commission to initiate a text amendment to update Article 23C-7(c) of the Zoning Ordinance. She said that the proposed text had been distributed to the Planning Commission. She said that this will be in regards to how credits are claimed in the exactions process.

Zoning Action – A motion was made by Mr. Penn, seconded by Mr. Bell, and carried 6-0 (Brewer, Forester, Nicol, Pohl and Wilson absent) for the INITIATION OF ZONING ORDINANCE TEXT AMENDMENT TO UPDATE ARTICLE 23.

VII. STAFF ITEMS - The staff will report at the meeting.

- a. Article 4-5(b) IMPROVEMENT PLAN PROGRESS REPORT - When the project engineer has completed approximately fifty percent (50%) of the infrastructure design for the development, the project engineer shall submit a preliminary report to the Planning

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Commission informing the Commission of how stormwater, sanitary sewer and environmental conditions imposed by the Commission at the time of the approval of the preliminary subdivision plan will be addressed in the improvement plan. The report shall be distributed to the Commission at the next convenient meeting. The report is for information only, and no action by the Commission shall be taken; however, there shall be no issuance of the Notice To Proceed, as outlined in section 4-5(d), until the Planning Commission meeting is complete.

1. PLN-MJDP-19-00057: ANDERSON 2 SUBDIVISION (AMD) (1/1/20)* - located at 425 CHILESBURG RD., LEXINGTON, KY.
Council District 7
Project Contact: Barrett Partners

Zoning Staff – Ms. Wade said that this is for information only, there is no action necessary.

- b. Mr. Duncan thanked the Planning Commission for their willingness to relocate today's hearing. He reminded the Planning Commission of the Work Session next Thursday, October 31st, at 1:30 p.m., in the Phoenix Building on the 3rd Floor.

Mr. Duncan also thanked the Division of Communications for setting up the conference room for today's hearing.

VIII. AUDIENCE ITEMS - No such items were presented.

IX. MEETING DATES FOR OCTOBER & NOVEMBER 2019

Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building.....	October	31, 2019
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November	7, 2019
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	November	7, 2019
Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	November	14, 2019
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....	November	21, 2019
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November	27, 2019

- X. ADJOURNMENT** - There being no further business, Chairman Owens declared the meeting adjourned at 5:10 p.m.

Mike Owens, Chair

Karen Mundy, Secretary

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