

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

September 24, 2020

I. CALL TO ORDER - The meeting will be called to order at 1:30 p.m. via video teleconference.

Due to the COVID-19 pandemic, state of emergency and Governor Beshear's Executive Orders regarding social distancing, this meeting is being held via teleconference pursuant to Senate Bill 150 (as signed by the Governor on March 30, 2020) and Attorney General Opinion 20-05, and in accordance with KRS 61.826, because it is not feasible to offer a primary physical location for the meeting.

ATTENDANCE - Chair Larry Forester called the meeting to order at 1:30 p.m. via video teleconference from the Division of Planning, 7th Floor, 101 E. Vine Street, Lexington, KY 40507. Planning Commission Members present via video teleconference were: Headley Bell, Zach Davis, Anthony de Movellan, Bruce Nicol, Frank Penn, Carolyn Plumlee, Graham Pohl, and Bill Wilson (Absent Janice Meyer). Planning staff members present via video teleconference were Jim Duncan, Director; Traci Wade, Hal Baillie, Stephanie Cunningham, and Debbie Woods. Other staff members present were: Jeff Neal and Deepika Eyunni, Division of Traffic Engineering; 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 Ms. Plumlee, seconded by Mr. Pohl, and carried 9-0 (Barksdale and Meyer absent) to approve minutes of the August 13, 2020 and August 27, 2020.

Note: Ms. Barksdale arrived at the meeting at 1:35 p.m.

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

1. JUBY, LLC (AMD) ZONING MAP AMENDMENT & RAMSEY SULLIVAN PROPERTY (FKA BELMONT INDUSTRIAL PARK TRACT 1) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-20-00002: JUBY, LLC (AMD) (9/24/20)*- an amended petition for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Light Industrial (I-1) zone, for 37.87 net (40.82 gross) acres, from a Professional Office (P-1) zone to a Highway Service Business (B-3) zone, for 7.98 net (9.12 gross) acres, from an Agricultural Rural (A-R) zone to a Highway Service Business (B-3) zone, for 1.69 gross and net acre, and from a Planned Neighborhood Residential (R-3) zone to a Highway Service Business (B-3) zone, for 0.82 gross and net acre, for properties located at 2501 and 2701 Spurr Road, and 2710 Sullivans Trace.

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.

With this amended application, the petitioner has requested two zone changes for the properties located at 2710 Sullivan Trace, 2701 Spurr Road and 2501 Spurr Road. The first zone change remains the same and is seeking to rezone 2710 Sullivan Trace, 2701 Spurr Road and a portion of 2501 Spurr Road from a Planned Neighborhood Residential (R-3) zone to a Light Industrial (I-1) zone. The proposed development includes the creation of four (4) industrial lots. The petitioner has amended their request for the second area of rezoning and is now seeking to rezone the remaining portion of 2501 Spurr Road from a Professional Office (P-1) zone to a Highway Service Business (B-3) zone. The proposed development includes the creation of a retail center and three (3) associated outlots with unspecified businesses. As the application involves two disparate development types and the petitioner has indicated different Place-Types, the review of the application will include a separate discussion of each of the zone changes, followed by a review of how they integrate to the area. A Traffic Impact Study was submitted with the requested zone changes.

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

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

1. The zone change application for the subject property, as proposed, does not completely address the Goals and Objectives of the 2018 Comprehensive Plan. The following Goals and Objectives require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. Theme A, Goal #3.b: Strive for positive & safe social interactions in neighborhoods, including, but not limited to, neighborhoods that are connected for pedestrians & various modes of transportation.
 - b. Theme D, Goal #1: Work to achieve an effective and comprehensive transportation system.
 - c. Theme D, Goal #1.c: Concentrate efforts to enhance mass transit along our corridors in order to facilitate better service for our growing population, as well as efficiencies in our transit system.
 - d. Theme D, Goal #1.d: Improve traffic operation strategies.

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

2. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the Industrial and Production Place-Type, specifically the Industrial and Production Non-Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. B-SU11-1: Green infrastructure should be implemented in new development.
 - b. D-CO1-1: Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - c. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
 - d. B-PR7-2: Trees should be incorporated into development plans; prioritize grouping of trees to increase survivability.
 - e. B-PR7-3: Developments should improve the tree canopy.
 - f. E-ST3-1: Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area.
 3. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the Corridor Place-Type, specifically the Medium Density Non-Residential / Mixed Use Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS5-4: Development should provide a pedestrian-oriented and activated ground level.
 - b. A-DS7-1: Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
 - c. A-EQ3-1: Development should create context sensitive transitions between intense corridor development and existing neighborhoods.
 - d. B-SU11-1: Green infrastructure should be implemented in new development.
 - e. D-CO1-1: Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.
- b. PLN-MJDP-20-00001: RAMSEY SULLIVAN PROPERTY (FKA BELMONT INDUSTRIAL PARK TRACT 1) (9/24/20)* - 2501 & 2701 SPURR RD AND 2710 SULLIVANS TRACE, LEXINGTON, KY.
Project Contact: Strand Associates

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

The Subdivision Committee Recommended: Postponement. There were some questions regarding the compliance with Article 21, proposed access and the Placebuilder criteria.

1. Provided the Urban County Council rezones the property B-3 and I-1; 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. United States Postal Service Office's approval of kiosk locations or easement.
8. Complete site statistics per Article 21 requirements.
9. Revise notes #11 and #12.
10. Discuss proposed access to Spurr Road.
11. Discuss re-alignment of and improvements to Spurr Road.
12. Discuss proposed access to Georgetown Road and need for a waiver.
13. Revise cross-sections to meet Land Subdivision Regulations.
14. Discuss cross access between Lots 2, 3, and 4.
15. Discuss Placebuilder criteria.

Proposed Zone Change from the R-3 zone to the I-1 zone

- a. B-SU11-1: Green infrastructure should be implemented in new development.
- b. D-CO1-1: Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
- c. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
- d. B-PR7-2: Trees should be incorporated into development plans; prioritize grouping of trees to increase survivability.
- e. B-PR7-3: Developments should improve the tree canopy.
- f. E-ST3-1: Development along major corridors should provide for ride sharing pick up and drop off locations along with considerations for any needed or proposed park and ride functions of the area.

Proposed Zone Change from the P-1 zone to the B-3 zone

- a. A-DS5-4: Development should provide a pedestrian-oriented and activated ground level.
- b. A-DS7-1: Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.

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- c. A-EQ3-1: Development should create context sensitive transitions between intense corridor development and existing neighborhoods.
- d. B-SU11-1: Green infrastructure should be implemented in new development.
- e. D-CO1-1: Rights-of-way and multimodal facilities should be designed to reflect and promote the desired place-type.

Applicant Representation: Branden Gross, attorney representing the petitioner, said that they would like a postponement of this zone change to the October 22, 2020 meeting. He said that this postponement will allow additional time to work with the staff on the proposed zone change.

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

Action: A motion was made by Ms. Plumlee, seconded by Mr. Wilson, and carried 10-0 (Meyer absent) for a postponement of PLN-MAR-20-00002: JUBY, LLC and PLN-MJDP-20-00001: RAMSEY SULLIVAN PROPERTY (FKA BELMONT INDUSTRIAL PARK TRACT 1) to the October 22, 2020 meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 3, 2020, at 8:30 a.m. The meeting was attended by Commission members: Headley Bell, Jan Meyer, Frank Penn, Carolyn Plumlee, Ivy Barksdale and Headley Bell. Committee members in attendance were: Deepika Eyunni, Division of Traffic Engineering and Vaughan Adkins, Division of Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Hal Baillie, Lauren Hedge, Stephanie Cunningham, Allison Morris; 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.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, September 3, 2020, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Zach Davis, Larry Forester, Bruce Nicol, Graham Pohl, and Bill Wilson. Staff members in attendance were: Traci Wade, Hal Baillie, and Debbie Woods, 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.

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

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA 20-00004: AMENDMENT TO ARTICLE 1: DEFINITION OF TENANT HOMES (12/2/20)*** – a petition for a Zoning Ordinance text amendment to update Article 1 of the Zoning Ordinance to replace the definition of “Tenant Home.”

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT:

~~TENANT HOME – An accessory residence, located in an agricultural zone, occupied by a person other than the owner's family or the farm manager, engaged full-time in an agricultural use on the property.~~

DWELLING UNIT, FARM EMPLOYEE – Any accessory residence located in an agricultural zone, maintained exclusively for the occupancy of employees and their families, or the owner's immediate family, in connection with an agricultural use on the property.

The Zoning Committee Recommended: **Approval of the alternative text.**

The Staff Recommends: **Approval of the staff alternative text**, which includes updating all references within the Zoning Ordinance (Articles 8-1, 8-2, 8-3, and 10-12), for the following reason:

1. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan for the following reasons:
 - a) The proposed text supports the agricultural economy, horse farms, general agricultural farms, and rural character of the rural service area, by allowing for employees of the farm, no matter the relationship to the owner, to live and work on site (Theme E, Goal #3).
 - b) The proposed text supports the PDR program, allowing for its expansion and the preservation of farms in the area (Theme E, Goal #3.b).

Staff Text Amendment Presentation – Mr. Baillie presented and summarized the staff report and recommendations for this text amendment, and said that the Urban County Council initiated this Zoning Ordinance text amendment to modify the definition of tenant home. He summarized the concerns that led to this text amendment, which include:

- No changes have been made since it was first defined in 1983.
- A tenant home was intended to supply housing for those actively engaged in agriculture on the property beyond the property owner.
- They were permitted to be a standard built house, a manufactured home or a mobile home.
- They cannot be occupied by a farm manager or family members.
- Agricultural use definition already allows for family member occupancy/dwelling units.
- Standard built tenant house has no quantity limit, but mobile homes utilized as tenant homes do.
- Accessory use, so cannot be subdivided from agricultural tract.
- Inconsistent restrictions on single family homes within the KRS 100 definition of Agricultural Use.
- They are the only type of dwelling unit that is regulated based on activity or use of the property.
- Enforcing the restrictions have been discussed as an issue.

Mr. Baillie said that in 1999, a text amendment was approved restricting the quantity of mobile homes in the Agricultural Rural (A-R), Agricultural Buffer (A-B), and Agricultural Natural Areas (A-N) zones, and included a restriction on the quantity of tenant homes, which the Urban County Council later removed. He said that the Division of Building Inspection issues permits for all single family homes and agricultural structures. The Rural Land Management Board (RLMB) has relied on the existing Zoning Ordinance to draft conservation and Purchase of Development Rights (PDR) easements, which was a significant concern that brought this amendment forward. These easements have been changing along with the operation of family farms.

Mr. Baillie said that the Planning Commission discussed this text amendment at the August 20, 2020 Work Session, which focused on the proposed language. He said that currently, there is a separation between “workforce housing residential” and “residential.” It is allowable to limit the occupants of a dwelling unit so long that it is associated with agricultural business operations. In this case, the proposed definition is considered to be “workforce housing,” because it is connected to the business side of the agricultural use and not the residential aspect. He said that by limiting the residential use of a property beyond workforce housing to certain individuals or groups of individuals, the government can run afoul of the Fair Housing Act. He added that expanded housing options within the agricultural lands should be further researched, especially when related to increased density, infrastructure, and potential impacts on other articles of the Zoning Ordinance.

Mr. Baillie said that currently “tenant home” is defined as an accessory residence located in an agricultural zone, occupied by a person other than the owner's family or the farm manager, and engaged full-time in an agricultural use on the property. During the Planning Commission Work Session, the term “dwelling unit, farm employee” was preferred, which will be defined as any accessory residence located in an agricultural zone that is maintained exclusively for the occupancy of employees and their families, or the owner's immediate family, in connection with an agricultural use on the property.

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Mr. Baillie said that there are other references to "tenant homes" in the Zoning Ordinance, which will be replaced with the term "farm employee dwelling unit." He said that Article 8-1(c)(12): Agricultural Rural (A-R) zone, Article 8-2(c)(12): Agricultural Buffer (A-B) zone, and Article 8-3(c)(12): Agricultural Natural (A-N) zone; will have the following replacement language:

"Farm employee dwelling unit ~~Tenant homes~~, provided all yard requirements for a principal residence are met."

Mr. Baillie said that Article 10-12(b) Mobile Homes in the agricultural zones will have the following replacement language:

"In any A-R, A-B, A-N or A-U zone, one (1) mobile home used as a ~~farm employee dwelling unit~~ ~~tenant home~~ accessory to the principal residence, which shall not be permitted to be a mobile home, may be located on a farm of forty (40) net acres or more as provided in Section 10-12(b)(1) through (3) below. On a farm of one hundred (100) net acres or more, a second mobile home used as a ~~farm employee dwelling unit~~ ~~tenant home~~ shall be permitted as set forth in Section 10-12(b)(1) through (3). On farms of two hundred (200) net acres or more, mobile homes used as ~~farm employee dwelling unit~~ ~~tenant homes~~, in addition to the first two (2) permitted, shall be allowed at the rate of one (1) per one hundred (100) net acres, as set forth in Section 10-12(b)(1) through (3)..."

Mr. Baillie said that this language complies with the 2018 Comprehensive Plan and that the staff is recommending approval of the staff alternative text, which includes updating all references within the Zoning Ordinance (Articles 8-1, 8-2, 8-3, and 10-12), for the following reason:

1. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan for the following reasons:
 - a. The proposed text supports the agricultural economy, horse farms, general agricultural farms, and rural character of the rural service area, by allowing for employees of the farm, no matter the relationship to the owner, to live and work on site (Theme E, Goal #3).
 - b. The proposed text supports the PDR program, allowing for its expansion and the preservation of farms in the area (Theme E, Goal #3.b).
 - c. The proposed text allows for the modernization of the Zoning Ordinance to encourage family farms, while also maintaining a clear tie between those living on the farm and agricultural production (Accountability Policy #2).

Commission Question – Mr. Nicol asked if there had been any considerations for Air B&B or other short-term rental homes since they were excluded from this text amendment. Mr. Baillie said that this text amendment is being established for workforce housing, which is anyone that will be living in a tenant home and will be an employee of that farm. He said that Air B&B's function as a residential use, as outlined under "dwelling units" in the Zoning Ordinance. This farm employee dwelling unit will not be rented, unless the resident is working on site in the agricultural process. Mr. Baillie added that accessory dwelling units (ADUs) were also excluded from this discussion.

Mr. Penn asked if this text amendment will negate the need for an affidavit that Building Inspection is currently requiring. Mr. Baillie said that the property owner will need to continue to sign an affidavit for Building Inspection indicating that this is not to be used as a residential accommodation, such as a rental, short-term rental, or Air B&B. This will be focused exclusively on employment / workforce housing. He added that family members are included. He added that this is clearly focused on the continuation of agricultural uses.

Ms. Plumlee asked if more information needs to be added to the affidavit as part of this text amendment. Ms. Wade said that if this text amendment is approved by the Urban County Council; the Division of Building Inspection will be asked to update their affidavit to reflect the new definition.

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

Ms. Wade said that Ms. Overman had forwarded a letter to the staff, and asked her to read it to the Planning Commission, for the record.

Ms. Beth Overman, Director of Purchase of Development Rights Program, stated that the letter is presented on behalf of the Rural Land Management Board and the Purchase of Development Rights (PDR) program. She read that they support the proposed text amendment, which was shared with them on their September 22, 2020 meeting. She added that they appreciate the inclusion of the PDR program as a supportive citation in the staff's recommendation for approval and asked that this process be completed as soon as possible.

Motion – A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 10-0 (Meyer absent) to approve PLN-ZOTA 20-00004: AMENDMENT TO ARTICLE 1: DEFINITION OF TENANT HOMES, for the reason provided by the staff.

- VI. **COMMISSION ITEMS** - No such items were presented.
- VII. **STAFF ITEMS** – Mr. Duncan reminded the Planning Commission that the Committee meetings will be held next Thursday, October 1st, 2020, via Zoom video teleconference.
- VIII. **AUDIENCE ITEMS** – No such items were presented.
- IX. **MEETING DATES FOR OCTOBER 2020**
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| Subdivision Committee, Thursday, 8:30 a.m., via teleconference..... | October 1, 2020 |
| Zoning Committee, Thursday, 1:30 p.m., via teleconference..... | October 1, 2020 |
| Subdivision Items Public Meeting , Thursday, 1:30 p.m., via teleconference | October 8, 2020 |
| Work Session, Thursday, 1:30 p.m., via teleconference | October 15, 2020 |
| Zoning Items Public Hearing , Thursday, 1:30 p.m., via teleconference | October 22, 2020 |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)..... | October 23, 2020 |
| Work Session, Thursday, 1:30 p.m., via teleconference | October 29, 2020 |
- X. **ADJOURNMENT** - There being no further business, Chairman Owens declared the meeting adjourned at 1:56 p.m.

Larry Forester, Chair

Carolyn Plumlee, Secretary

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