

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

June 24, 2021

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

Due to the COVID-19 State of Emergency, this meeting is being held via live video teleconference pursuant to 2020 Senate Bill 150, and in accordance with KRS 61.826.

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: Ivy Barksdale, Headley Bell, Zach Davis, Anthony de Movellan, Janice Meyer, Bruce Nicol, Frank Penn, Carolyn Plumlee, Graham Pohl, and Bill Wilson. Planning staff members present **via video teleconference** were: Jim Duncan, Director; Traci Wade, Tom Martin, Hal Baillie, Jimmy Emmons, Joseph David, Parker Sherwood, Samantha Castro, Stephanie Cunningham, Debbie Woods, Elizabeth Jefferson, and Kenna Johnson. Other staff members present were: Stephen Parker, Division of Traffic Engineering; Vaughn Adkins, Division of Engineering; Captain Greg Lengal, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. de Movellan, seconded by Mr. Wilson, and carried 8-0 (Barksdale, Plumlee, and Pohl absent) to approve the minutes of the minutes of the May 27, 2021.

Note: Mr. Pohl arrived at the meeting at 1:34 p.m.

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

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

- a. PLN-MAR-18-00023: LATA, LLC (AMD) (8/22/21)*- a petition for a zone map amendment from a restricted Highway Service Business (B-3) zone to a Planned Neighborhood Residential (R-3) zone, for 4.98 net and gross acres, for property located at 1800 Bryant Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The Plan's mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World. In addition, the Plan encourages a mix of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes rezoning a portion of the parcel to the Planned Residential Neighborhood (R-3) zone to allow for the development of a 100-unit apartment complex with 172 bedrooms, a club house, pool, and associated off-street parking.

The Zoning Committee Recommended: **Disapproval** for the reasons provided by staff.

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

1. The requested rezoning to a Planned Residential Neighborhood (R-3) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The proposed R-3 zone does not provide for or create a well-designed neighborhood or community, but rather creates an "islanding effect," that isolates residents rather than incorporates them into the broader community.
 - b. The proposed apartment complex will be physically separated from the surrounding neighborhoods, and situated within an area that is heavily focused on commercial activities.
 2. The proposed Planned Neighborhood Residential (R-3) zone is not appropriate for the subject property, for the following reasons:
 - a. The LFUCG Land Subdivision Regulations Article 6-8(q)(3)(a), Land Use Access for Residential Development states that "apartment complexes, condominium developments, as well as all other developments that are accessed through a common private drive or street system, shall be treated as high density residential developments regardless of the actual overall density of the development" and that "high density private driveways should not intersect local streets."
 - b. The high flow of traffic at the intersection of Bryant Road and Pleasant Ridge Drive, and the carrying capacity of Bryant Road creates a safety risk to potential residents.
 3. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would justify a shift from the B-3 zone for the subject property.
- b. PLN-MJDP-18-00088: BRYAN PROPERTY, LOT 2 (AMD) (8/22/21)* - located at 1800 BRYANT ROAD, LEXINGTON, KY

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

Project Contact: Vision Engineering

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Remove Lot 1 information from site statistics.
8. Dimension parking lot drive aisles and parking spaces.
9. Dimension pool.
10. Discuss retention of conditional zoning restriction for buffering.
11. Discuss Bryant Road improvements.

Applicant Representation: Bruce Simpson, attorney representing the petitioner, said that they would like a postponement of this zone change to the July 22, 2021 meeting. He said that they are continuing to work with the staff and would like additional time.

Action: A motion was made by Mr. Penn, seconded by Mr. de Movellan, and carried 9-0 (Barksdale and Plumlee absent) to postpone PLN-MAR-18-00023: LATA, LLC (AMD) and PLN-MJDP-18-00088: BRYAN PROPERTY, LOT 2 (AMD) to the July 22, 2021, meeting.

Commission Comments - Chair Forester said that this will be Ms. Plumlee's and Mr. Wilson's last meeting. He thanked them both for their service and leadership over the years.

Mr. Wilson thanked the staff and said that they have been a pleasure to work with. He also thanked the other Planning Commission members that he has served with over the years.

Mr. Penn added that Mr. Wilson and Ms. Plumlee have exemplified what the Planning Commission means and that he is honored to have served with them over the years.

Mr. Bell thanked Mr. Wilson and Ms. Plumlee for being such great mentors and for their contributions.

Mr. Pohl also thanked Mr. Wilson and Ms. Plumlee for the contributions.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, June 3, 2021, at 8:30 a.m. The meeting was attended by Commission members Headley Bell, Anthony de Movellan, Jan Meyer, 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: Jim Duncan; Traci Wade; Tom Martin; Hal Baillie; Cheryl Gallt; Lauren Hedge; Jimmy Emmons; Samantha Castro; Scott Thompson; Donna Lewis; and Stephanie Cunningham; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire and Emergency Services; Jeff Neal, Division of Traffic Engineering; Tim Queary, Urban Forester; 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.

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

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

- V. ZONING ITEMS** - The Zoning Committee met on Thursday, June 3, 2021, 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, Graham Pohl, and Bill Wilson. Staff members in attendance were: Traci Wade, Tom Martin, Hal Baillie, Jimmy Emmons, Sam Castro, Lauren Weaver, and Debbie Woods, Stephen Parker, Division of Traffic Engineering, and Tracy Jones, Department of Law. The Committee members reviewed application 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. FOUNTAINS AT PALOMAR ZONING MAP AMENDMENT & HOOVER & FORD PHILPOT EVANGELISTIC ASSOCIATION PROPERTY (FOUNTAINS AT PALOMAR)(AMD) ZONING DEVELOPMENT PLAN

- a. PLN-MAR-21-00005: FOUNTAINS AT PALOMAR (7/4/21)*- a petition for a zone map amendment from a restricted Highway Service Business (B-3) zone to a restricted Highway Service Business (B-3) zone with modified conditional zoning, for 16.4 net (20.68 gross) acres, for property located at 3801, 3901 and 3955 Harrodsburg Road.

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,

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accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The applicant is seeking to modify the conditional zoning restrictions for a Restricted Highway Service Business (B-3) zone, which were applied to the property by the owner during the 2018 zone change. The applicant is seeking to remove the restriction that prohibits the establishment of an athletic facility at the properties located at 3801, 3901, and 3955 Harrodsburg Road.

The Zoning Committee Recommended: **Approval** for the reasons provided by staff.

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

1. The applicant has shown that there has been both a major change of an economic and physical nature in the athletic club market, which is focused on a small site, experience driven approach, and in the general area, caused by the shift in the retail market. The modification of the conditional zoning restrictions will allow the applicant to avoid inundation of the area with the big-box stores and provide an amenity to both the traveling public and the neighborhood. The inclusion of these facilities will allow for the growth of the site and provide an amenity to the area.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following modified use and buffering restrictions are recommended via conditional zoning:
 - a. The following uses are prohibited:
 - i. Pawn Shops.
 - ii. Athletic club facilities greater than 6,000 square feet.
 - iii. Mining of nonmetallic minerals.
 - iv. Gasoline pumps available to the public with or without an attendant on site.
 - v. Adult arcades, massage parlors, adult bookstores and adult video stores.
 - vi. Nightclubs.
 - vii. Establishments and lots for the display, rental, sale, service, repair, minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes or supplies for such items, except that there may be permitted an electric car dealership.
 - viii. Billiard or pool halls; dancing halls, skating rinks; miniature golf or putting courses and bowling alleys.
 - ix. Tattoo parlors.
 - x. Carnivals, special events, festivals and concerts.
 - xi. Commercial farm markets and market gardens.
 - xii. Self-service laundry.
 - b. The existing 10-foot tall fence behind the Harrods Village shops shall remain and the screening and buffering provisions for the rest of this subject property shall be as described and depicted on the preliminary development plan.
 - c. Free-standing signage shall be in accordance with Article 17 of the Zoning Ordinance and shall be limited to the signage shown on and approved by the Planning Commission on the final development plan.
 - d. Existing trees bordering the subject property shall be preserved except for deceased or dying trees and those trees which an adjoining owner agrees to be removed.
 - e. Building height on the site shall be restricted to one story, except for the hotel.
3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00020: Hoover and Philpot Evangelistic Association Property (The Fountains at Palomar)(AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-21-00020: HOOVER & FORD PHILPOT EVANGELISTIC ASSOCIATION PROPERTY (FOUNTAINS AT PALOMAR) - (7/4/21)* – located at 3801, 3901 AND 3955 HARRODSBURG RD., LEXINGTON, KY.
Project Contact: Vision Engineering

Note: The purpose of this amendment is to revise the conditional zoning restrictions on the property.

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

1. Provided the Urban County Council rezones the property to the B-3 zone; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Update conditional zoning restriction note and re-number list.

Staff Zoning Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and aerial photographs of the general area and stated that construction had begun with the associated certified development plan. He said the applicant is seeking to modify the conditional zoning restrictions for a

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Restricted Highway Service Business (B-3) zone, in an effort to modify the restriction that prohibits an athletic club facility use on these properties. The property is surrounded by various types of zoning, including Planned Neighborhood Residential (R-3), Agricultural Urban (A-U), Single Family Residential (R-1C & R-1D) and Commercial Center (B-6P) zoning.

Mr. Baillie said that the Article 6-7(c) of the Zoning Ordinance describes the process whereby the restrictions and /or conditions designated by the Urban County Council can be modified or removed. He said that this restriction can only be changed by the Urban County Council, because they are the final deliberative body for zone changes. He added that the findings provided by the applicant must state a clear preponderance of evidence of what has changed, a major economic, physical, or social change; or how it was improperly applied previously. He said that the establishment of athletic club facilities were initially restricted on the site by the applicant, because in 2018 they focused on restricting potential uses that would be considered as large-scale facilities or big box stores. In their communication with the neighborhood prior to the 2018 zone change, they indicated their intention to blend the Neighborhood Business (B-1) zone uses and Highway Service Business (B-3) zone uses.

Mr. Baillie said that the applicant has proposed including small "boutique style" athletic club facilities, which typically serves a higher income bracket range and varies from 3,000 to 6,000 square feet in size. The applicant has provided information that there has been both a major change of an economic and physical nature in the athletic club market, which is focused on a small site, experience driven approach, and in the general area, as a result of the shift in the retail market. The modification of the conditional zoning restrictions will allow the applicant to avoid an inundation in the area with the big-box stores and provide an amenity to both the traveling public and the neighborhood. The inclusion of these facilities will allow for the growth of the site and provide an amenity to the area. The staff is recommending approval for the following conditional zoning restrictions:

- a. The following uses are prohibited:
 1. Pawn Shops.
 2. Athletic club facilities greater than 6,000 square feet.
 3. Mining of nonmetallic minerals.
 4. Gasoline pumps available to the public with or without an attendant on site.
 5. Adult arcades, massage parlors, adult bookstores and adult video stores.
 6. Nightclubs.
 7. Establishments and lots for the display, rental, sale, service, repair, minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes or supplies for such items, except that there may be permitted an electric car dealership.
 8. Billiard or pool halls; dancing halls, skating rinks; miniature golf or putting courses and bowling alleys.
 9. Tattoo parlors.
 10. Carnivals, special events, festivals and concerts.
 11. Commercial farm markets and market gardens.
 12. Self-service laundry.

Development Plan Presentation – Mr. Martin presented a rendering of the final development plan associated with this zone change and said that there are not any physical changes being proposed at this time. He identified the access point for the property and said that the full access point will be signalized. He said that the site is currently under development and that there may be some amendments to this plan in the future, most likely with the proposed structures and their sizes. He added that the Subdivision Committee recommended approval of this plan.

Commission Questions – Mr. Penn asked if this plan is the Final Development Plan. Mr. Martin replied affirmatively. Mr. Penn then asked if the hotel is located on the plan. Mr. Martin said that it is still identified on the plan. The applicant will need to amend the Final Development Plan if they do not intend to build the hotel. He added that the change in the economy may be the reason for the hotel to not be constructed.

Note: Ms. Plumlee arrived at the meeting at 1:55 p.m.

Applicant Presentation – Mr. Bruce Simpson, attorney representing the petitioner, said that they are in agreement with the staff's recommendations and he is available for any questions.

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

Zoning Action – A motion was made by Mr. Bell, seconded by Mr. Pohl, and carried 9-0 (Barksdale absent; Plumlee abstained) to approve PLN-MAR-21-00005: FOUNTAINS AT PALOMAR, for the reasons provided by the staff.

Note: Ms. Barksdale arrived at the meeting at 1:56 p.m.

Development Plan Action – A motion was made by Mr. Bell, seconded by Mr. Pohl, and carried 9-0 (Barksdale and Plumlee abstained) to approve PLN-MJDP-21-00020: HOOVER & FORD PHILPOT EVANGELISTIC ASSOCIATION PROPERTY (FOUNTAINS AT PALOMAR), for the reasons provided by the staff.

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2. WEK JR. INVESTMENTS, LLC ZONING MAP AMENDMENT & VALLEY PARK ZONING DEVELOPMENT PLAN

- a. PLN-MAR-21-00007: WEK JR. INVESTMENTS, LLC (8/1/21)*- a petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a High Density Apartment (R-4) zone, for 0.46 net (1.39 gross) acres, for property located at 850 De Roode Street. Four dimensional variances and a parking variance have also been requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The applicant is seeking to rezone the subject property from the Townhouse Residential (R-1T) zone to the High Density Apartment (R-4) zone in an effort to construct multi-family residential development with sixteen (16) dwelling units on a property that is currently vacant.

The Zoning Committee Recommended: **Postponement** for the reasons provided by staff.

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

1. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the 2nd Tier Urban Place Type, and the Medium-Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1 Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS7-2 Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
 - c. A-DS8-1 At the individual street level, medium-density housing types should be interspersed with single-family detached units and should be context sensitive.
 - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
 - e. B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3).
 - f. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - g. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
 - h. A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.
 - i. B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
 - j. B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.
- b. VARIANCE REQUEST – Four dimensional variances to reduce the required front yard setback minimum along De Roode Street from twenty (20) feet to ten (10) feet, along Valley Avenue from twenty (20) feet to ten (10) feet, and along High Street from twenty (20) feet to five (5) feet and a variance to reduce the minimum building setback from a floodplain from twenty-five (25) feet to nine (9) feet. A parking variance has also been requested to reduce the required parking from twenty-seven (27) parking spaces to twenty-four (24) parking spaces in the Planned Neighborhood Residential (R-3) zone.

The Zoning Committee recommended: **Postponement** for the reasons provided by staff.

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

1. The applicant should depict or describe how the proposed project will lessen the impact on surrounding properties and meet the intent of the setbacks while also providing the relief caused by the decrease of required off-street parking. For this reason the staff cannot support the requests at this time. The applicant must address the following in their justification:
 - a. How the unique characteristics of the site will lessen the impact of the height and mass of the proposed development or ways to lessen the impact of the height of the building on the surrounding properties.
 - b. How the multi-modal infrastructure will alleviate some of the need for off-street parking for the proposed development.
- c. PLN-MJDP-21-00026: VALLEY PARK (8/1/21)* - located at 850 DE ROODE ST., LEXINGTON, KY.
Project Contact: Barrett Partners, Inc.

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

1. Provided the Urban County Council rezones the property to R-4; otherwise, any Commission action of approval is null and void.

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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. Provided the Planning Commission grants the requested frontage setback variance.
9. Provided the Planning Commission grants the requested parking variance.
10. Provided the Planning Commission grants the requested floodplain setback variance.
11. Discuss dumpster location.
12. Discuss Placebuilder criteria:
 - a. A-DS3-1 Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS7-2 Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
 - c. A-DS8-1 At the individual street level, medium-density housing types should be interspersed with single-family detached units and should be context sensitive.
 - d. B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.
 - e. B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3).
 - f. D-CO1-1 Rights-of-way and multi-modal facilities should be designed to reflect and promote the desired place-type.
 - g. D-CO2-1 Safe facilities for all users and modes of transportation should be provided.
 - h. A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.
 - i. B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.
 - j. B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.

Staff Zoning Presentation – Mr. Baillie presented the revised staff report and recommendations for the zone change application. He displayed photographs of the subject property and aerial photographs of the general area. He said that the petitioner submitted their application under the Second Tier Urban Place-Type and a Medium-Density Residential Development type of the 2018 Comprehensive Plan. He said the applicant is seeking to allow for the construction of a multi-family residential structure and associated open space and off-street parking. The proposed residential development would include sixteen (16) one and two-bedroom dwelling units, at a residential density of 35 dwelling units per net acre. The property is primarily surrounded by the Planned Neighborhood Residential (R-3) zone to the north, east and southeast, and Light Industrial (I-1) zone to the southwest. He said that the subject property has three frontages, which are on De Roode Street, Valley Avenue, and West High Street, as well as the Norfolk Southern Railroad along the rear of the subject property. He said that the historical development of this area is associated with the residential housing that was attributed to the industrial practices that occurred along Manchester Street. This area has been categorized as the Irishtown Neighborhood. He said that the West High Street viaduct is approximately 42 feet above ground level and that there is a sound barrier along the Southend Park area blocking that development from the rail line, but it does not extend to the subject property. The railroad is also approximately 10-12 feet above the subject property.

Mr. Baillie said that after the Subdivision and the Zoning Committee meetings on June 3, 2021, the applicant provided the staff with a revised plan, which has more information regarding the orientation of the building. They also provided a setback study, which indicates where the proposed face of curb will be located. The structure is proposed to be approximately 27 feet at the least and 43 feet at their largest setback from the edge of the curb. That study also provided the location of the pedestrian facilities, which includes an 8-foot wide multi-use trail along De Roode Street that will connect to a planned public project and then to Manchester Street and the Town Branch Trail. He said that the applicant had also provided a shadow study, which was completed in October. This study displays the location of the shadow caused by the viaduct and the shadow caused by the proposed structure.

Mr. Baillie said that there are many limits on the site and that the applicant had provided substantial information to show compliance with the Comprehensive Plan. He said that the staff is recommending approval for the following reasons:

1. The requested High Density Apartment (R-4) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning accommodates the demand for housing in Lexington responsibly, prioritizing a mixture of housing types by incorporating multi-family residential in an area that is primarily single family in nature (Theme A, Goal #1.b.; Design Policy #8; Sustainability Policy #3).
 - b. The proposed rezoning addresses the goal of absorbing vacant and underutilized land within the Urban Service Area (Theme E, Goal #1.d.; Theme E, Goal #3, Theme E, Goal #1.a).
 - c. The proposed development accommodates the demand for housing in Lexington responsibly (Theme A, Goal #2.a), prioritizing higher-density and mixture of housing types by incorporating the missing middle housing type (Growth Policy #9) into an area that is primarily single-family residential in character.

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- d. The proposed development will include new pedestrian connections and encourage bicycle use through the inclusion of bicycle parking at the site (Theme A, Goal #3.b; Theme D, Goal #1.a; Theme D, Goal #1.b; Sustainability Policy #2) and the establishment of an eight foot wide shared-use trail that will connect to surrounding amenities (Design Policy #5; Sustainability Policy #4; Livability Policy #7; Connectivity Policy #3, Theme C, Goal #2.d; Livability Policy #6).
 - e. The application of the mixed income parking reduction and the ADA compliant units will allow for safe, affordable and accessible housing to meet the needs of older and/or disadvantaged residents (Theme A, Goal #1.c).
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 acting as a buffer between the higher intensity roadway and the existing single family structures along Valley Avenue. The proposed development is in agreement with the Multi-Family Design Standards; however, some elements necessitate greater discussion during the final development plan.
 - b. The proposed rezoning includes safe facilities for the potential users, through the incorporation of enhanced pedestrian facilities along the property's frontages and the shared-use trail. These improvements address the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works will increase tree canopy coverage and establish green infrastructure that will help alleviate the impact on the surrounding development and the stormwater system.
 3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00026: Valley Park, 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 rendering of the preliminary development plan associated with this zone change. He said that as Mr. Baillie stated, this site has frontage along Valley Avenue, De Roode Street, West High Street and the Norfolk Southern Railroad. He said that the applicant is proposing a 4,436 square feet, four-story (48 feet in height) apartment building. He said that the lot coverage and the floor area ratio are within compliance of the requested zone. He said that the building is oriented along Valley Avenue and the proposed multi-use trail. Access to the building will be from the trail and from the proposed parking lot, which will be located in the rear of the site. The applicant is requesting 24 parking spaces and access will be from De Roode Street. He said that this site is heavily impacted by the frontages, which is the reason for the variances, and by the large electrical transmission lines that cover the easement area. He said that one of the variance requests is for a 25 foot setback from a floodplain, which is located in an A-zone floodplain. This area has never been studied and there isn't any base-flood elevation determined. He said that it didn't even appear on the floodplain maps until the 2014 revisions and is related to the backflow from the Town Branch Creek, and most of the drainage is located in a large culvert.

Mr. Martin said that there is a discussion item regarding the location of the dumpster, which is usually addressed at the time of the Final Development Plan. He said that because of the challenges and functionality of this site, staff had early concerns with the location of the dumpster and their parking arrangements. He said that condition #12 will be resolved at the time of the Final Development Plan.

Commission Questions – Mr. Penn asked if the proposed building will be greater in height than the West High Street viaduct. Mr. Martin said that the site will be graded, therefore the base elevation will change and the proposed building will be away from the viaduct. He added that the viaduct is approximately 60 feet high at its peak. Mr. Penn then asked if the multi-use trail will be located under the shadow of the viaduct. Mr. Martin said that a section of the trail will be in the shadow of the viaduct. He said that the trail is a public project, and that the developer is constructing a very small part of it that is located along their frontage.

Variance Presentation – Mr. Baillie presented the variance requests associated with this application. He said that the applicant is seeking three dimensional variances specifically focused on the setback requirements along the street right-of-ways on De Roode Street, Valley Avenue, and High Street. There is a fourth dimensional variance for the reduction of the building setback from the floodplain. Additionally, the applicant is seeking a parking reduction associated with this zone change and development plan, which is for an 11% reduction of the required parking from 27 parking spaces to 24 parking spaces.

Mr. Baillie displayed the development plan and said that the applicant is requesting a setback from 20 feet to 10 feet along De Roode Street specifically for the parking area because the layout of the site is prohibiting them from constructing the parking lot behind the building line. They are also requesting a setback from 20 feet to 5 feet along West High Street for the parking screening. He said that along Valley Avenue, the setback study displayed the amount of land that would be between the structure and the proposed back-of-curb that is associated with the roadway improvements.

Mr. Baillie then identified the floodplain area and said that it is an A-zone, which is an unstudied floodplain. This floodplain is actually encapsulated underground within a pipe system and captures the water from the Town Branch Creek area. He said that

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some of the grade improvements along De Roode Street, associated with the South End Park Urban Village development, have alleviated some of the stormwater issues near this site. The applicant has incorporated additional green infrastructure, which is meant to alleviate more of the stormwater impacts from this site along the street frontages, which will create a buffer between the proposed 8-foot multi-use trail. He said that the applicant is also requesting an 11% reduction of the parking within the Infill and Redevelopment Area and they have provided both short-term and long-term bicycle parking, as well as the shared-use trail.

Mr. Baillie said that the staff is recommending approval of the various variances for the following reasons:

1. Granting the requested variances should not adversely affect the public health, safety, or welfare; nor should it affect the character of the general vicinity, as the proposed project will buffer the existing single family land use from the elevated highway.
2. The need for the variances arises from the special circumstances of the existing lot, and the development will help buffer the established neighborhood from the higher intensity roadway.
3. The strict application of the minimum front yard setback requirements and the floodplain setback would create an unnecessary hardship on the proposed development forcing the placement of the structure to be closer to the viaduct and in the show of the roadway. Finally, the inclusion of the three (3) parking spaces would result in the decrease in useable open space and building footprint.
4. The requests are not a result of a willful violation of the Zoning Ordinance. The applicant has taken care to go through the necessary process for this project and has requested the variances prior to commencing construction.

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

- a. Provided the Planning Commission approves the requested zone change to the R-4 zone, otherwise the requested variances shall be null and void.
- b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- d. Action of the Planning Commission shall be noted on the Development Plan for the subject property

Applicant Presentation – Mr. Branden Gross, attorney; and Tony Barrett, Barrett Partners, Inc. were present representing the petitioner. Mr. Gross said that they are in agreement with the staff's recommendations for the zone change and the variances and that he is available for any questions.

Commission Questions – Mr. Penn asked if the parking area will have enough space for the dumpsters and not leave residents to park along De Roode Street. Mr. Gross said that they have eliminated 3 parking spaces to create space for the location of the dumpsters in the parking lot. He said that they have spoken with staff and the Division of Waste Management and they now have a few other parking options, which will be resolved at the time of the Final Development Plan. Mr. Penn then asked if the variance requests will make construction of the multi-use trail difficult. Mr. Gross said that the multi-use trail will have enough space to be constructed, but because of the right-of-way boundaries, they are proposing part of the trail to be utilized as a sidewalk easement on their property. Mr. Barrett added that they initially had a 5-foot sidewalk proposed within the right-of-way, but added 3 feet to the width to create the 8-foot multi-use trail.

Mr. Pohl asked for clarification of the retaining wall and how the grade change will be effected. Mr. Barrett said that they are proposing a 12-foot retaining wall at the end of the parking lot, which will be the tallest at the rear of the parking lot and it will then taper down towards De Roode Street. Mr. Pohl then asked if there will be a steep hill on the west side of the property. Mr. Barrett said that is the location of the railroad track. He added that the railroad track will have a retaining wall along High Street. Mr. Pohl also asked what kind of safety precautions will be taken for a 12-foot retaining wall. Mr. Barrett said that there will be a railing at the top of the wall.

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

Zoning Action – A motion was made by Mr. Wilson, seconded by Mr. Davis, and carried 11-0 to approve PLN-MAR-21-00007: WEK JR. INVESTMENTS, LLC, for the reasons provided by the staff.

Development Plan Action – A motion was made by Mr. Wilson, seconded by Mr. Davis, and carried 11-0 to approve PLN-MJDP-21-00026: VALLEY PARK, as presented by the staff, with the following changes

1. Provided the Urban County Council rezones the property to R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.

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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. Provided the Planning Commission grants the requested frontage setback variance.
9. Provided the Planning Commission grants the requested parking variance.
10. Provided the Planning Commission grants the requested floodplain setback variance.
11. Resolve ~~Discuss~~ dumpster location at the time of the Final Development Plan.
12. ~~Discuss Placebuilder criteria:~~
 - ~~A-DS3-1 Multi family residential developments should comply with the Multi family Design Standards in Appendix 1.~~
 - ~~A-DS7-2 Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.~~
 - ~~A-DS8-1 At the individual street level, medium-density housing types should be interspersed with single family detached units and should be context sensitive.~~
 - ~~B-PR9-1 Minimize disturbances to environmentally sensitive areas by utilizing the existing topography to the greatest extent possible.~~
 - ~~B-SU11-1 Green infrastructure should be implemented in new development. (E-GR3).~~
 - ~~D-CO1-1 Rights of way and multi-modal facilities should be designed to reflect and promote the desired place type.~~
 - ~~D-CO2-1 Safe facilities for all users and modes of transportation should be provided.~~
 - ~~A-EQ7-3 Community open spaces should be easily accessible and clearly delineated from private open spaces.~~
 - ~~B-PR2-1 Impact on environmentally sensitive areas should be minimized within and adjacent to the proposed development site.~~
 - ~~B-RE1-1 Developments should incorporate street trees to create a walkable streetscape.~~

Variance Request Action – A motion was made by Mr. Wilson, seconded by Mr. Davis, and carried 11-0 to approve the associated variances, for the reasons provided by the staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA-21-00003: AMENDMENT TO ARTICLE 6-1 AND ARTICLE 21-4: TRAFFIC IMPACT STUDIES** (10/15/21)* – a petition for a Zoning Ordinance text amendment to Articles 6-1 and 21-4 of the Zoning Ordinance in an effort to simplify and modernize regulations related to Traffic Impact Studies.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval of the Staff Revised Text,** for the following reason:

1. The proposed update to Article 6 and 21 of the Zoning Ordinance accomplishes the goals to modernize the Traffic Impact Study requirements, to increase both the predictability and flexibility in the process, and to remove standards and data references that are no longer applicable.
2. The proposed text amendment increases the focus on multi-modal opportunities - such as pedestrian, bicycle, and transit ridership - while still analyzing the necessary vehicular infrastructure needs for a complete, safe and efficient transportation system for all. This is consistent with and directly related to the following Goals, Objectives, and Policies of the adopted 2018 Comprehensive Plan:
 - a. Establish and promote road network connections in order to reduce police, EMS, and fire response times (Theme A, Goal #4.c).
 - b. Prioritize multimodal options that de-emphasize single occupancy vehicle dependence (Theme B, Goal #2.d).
 - c. Support the Complete Streets Concept, prioritizing a pedestrian first design that also accommodates the needs of bicycles, transit, and other vehicles (Theme D, Goal #1.a).
 - d. Develop a viable network of accessible transportation alternatives for residents and commuters, which may include the use of mass transit, bicycles, walkways, ride-sharing, greenways, and other strategies (Theme D, Goal #1.b).
 - e. 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 (Theme D, Goal #1.c).
 - f. Improve traffic operation strategies (Theme D, Goal #1.d).

Staff Text Amendment Presentation – Mr. Emmons presented and summarized the staff report and recommendations for this text amendment, and said that the Urban County Planning Commission initiated this Zoning Ordinance text amendment to modify the regulations for Traffic Impact Studies. He said that the requirements were originally passed in 1983, with very few amendments since that time and need to be modernized. He said that the proposed text is in agreement with the Goals and Objectives of the 2018 Comprehensive Plan. He said that current Traffic Impact Studies are heavily focused on vehicular traffic and improvements and that the proposed amendment will elevate the analysis of multi-modal improvements (pedestrians, bike, and transit) to be on the same level as traditional vehicular operations.

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Mr. Emmons said that this amendment will create tiers of traffic studies based on the infrastructure needs of the areas and the proposed intensity of the use. These tiers will simplify the thresholds of when a Traffic Impact Study is required. The tiers include: a) 100 new peak hour vehicular trips, if the proposed development will impact congestion bottlenecks and known safety areas; b) 200 new peak hour vehicular trips, will require a study, regardless of location; and c) 600 new peak hour vehicular trips, will require an increased analysis of the regional impact of travel times and demographic data.

Mr. Emmons said that Traffic Impact Studies are only currently required with Map Amendment Requests (zone changes). He said that most of the concerns that the Planning Commission receives about development are in regards to traffic and stormwater conditions on final development plans. If a final plan has a very different traffic impact than the preliminary plan when the original traffic study was completed with the zone change, then the Subdivision Committee could require a new study. He said that the proposed amendment to Article 21-4(c) is proposing to give the Subdivision Committee the authority to require a Traffic Impact Study along with the final development plan, but only if the proposed development plan would otherwise qualify for one per Article 6-1.

Mr. Emmons also said that the Urban County Government will cooperate and coordinate with the applicant's team to provide any available information that the government has. He said that the LFUCG is also trying to improve predictability and flexibility, because standards can be tailored to the needs of a particular site based on the professional judgment of both the applicant's engineer and the Planning Commission's staff, which leads to better outcomes. Some of these areas will have defined characteristics measured from the boundary of the property to the arterial intersections in all directions within one mile, or otherwise necessary as agreed to with the Transportation Planning staff. Another proposed update is to change the acceptable and safe level of service from D to E, if agreed to with the Transportation Planning staff.

Mr. Emmons said that there are also new requirements being added to this amendment. The first is that if the development proposal will likely result in a future Subdivision Regulation waiver request of any part of the transportation infrastructure, then additional development scenarios which meet the regulations will also need to be modeled and/or evaluated in addition to the applicant's proposal, as determined by the Division of Planning. The second is that an additional assessment of anticipated commercial vehicles will be necessary if a proposed non-residential use is defined in the ITE industrial category 100 series (industrial uses) for FHWA Class 7 (semi tractor-trailers) or above. A third is that an assessment of and recommendations regarding any concerns in the study area related to safety, neighborhood traffic calming techniques, and multi-modal improvements to encourage a mode-shift from single-occupancy vehicles including, but not limited to, pedestrian, bike, transit, or ride-sharing programs. Also being included in the capacity requirements is queue lengths, functional area of operation of intersections, and level of service determination during the peak or critical period(s) for the full development year for all affected streets/roads and all intersections, within the study boundary. The last additional requirement is if the proposed use will generate 600 or more peak hour trips, then a mapped assessment of the access to opportunity shall be provided. The mapped assessment shall demonstrate access to the number of households, employment, schools, parks, public amenities and shopping available within a 15-minute walk and bicycle route, and a 30-minute transit mode from the subject property. If necessary, the study will include any recommendations to improve equitable transportation options and/or priorities to increase access to opportunities in the study area. He said that the staff is recommending approval of this revised text amendment.

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

Motion – A motion was made by Ms. Plumlee, seconded by Ms. Barksdale, and carried 11-0 to approve PLN-ZOTA-21-00003: AMENDMENT TO ARTICLE 6-1 AND ARTICLE 21-4: TRAFFIC IMPACT STUDIES, for the reasons provided by the staff.

VI. COMMISSION ITEMS

- A. BOAR 2021-2: JESSICA AND GARY HOUCK – An appeal to the Planning Commission of the Board of Architectural Review (BOAR) decision to disapprove the Certificate of Appropriateness with respect to replacing the windows on the front and one rear of a house using aluminum with glass between the grids of the property located at 255 Delmar Avenue, in the Bell Court Historic District.

The staff will report at the meeting.

Mr. Baillie announced that the appellant is not present at today's Planning Commission hearing.

Action: A motion was made by Mr. Penn, seconded by Mr. Pohl, and carried 11-0 to postpone BOAR 2021-2: JESSICA AND GARY HOUCK to the July 8, 2021, meeting.

- VII. STAFF ITEMS – Mr. Duncan reminded the Planning Commission that the Committee meetings will be held next Thursday, July 1st, 2021, via Zoom video teleconference. He also thanked Mr. Wilson and Ms. Plumlee for their service and leadership.

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VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **MEETING DATES FOR JULY 2021**

Subdivision Committee, Thursday, 8:30 a.m., via teleconference	July 1, 2021
Zoning Committee, Thursday, 1:30 p.m., via teleconference	July 1, 2021
Subdivision Items Public Meeting , Thursday, 1:30 p.m., via teleconference	July 8, 2021
Work Session, Thursday, 1:30 p.m., 3 rd Floor Conference Room, Phoenix Building	July 15, 2021
Zoning Items Public Hearing , Thursday, 1:30 p.m., via teleconference	July 22, 2021
Technical Committee, Wednesday, 8:30 a.m., via teleconference	July 28, 2021
Work Session, Thursday, 1:30 p.m., 3 rd Floor Conference Room, Phoenix Building	July 29, 2021

X. **ADJOURNMENT** - There being no further business, Chairman Forester declared the meeting adjourned at 2:58 p.m.

Larry Forester, Chair

Carolyn Plumlee, Secretary

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