

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

January 13, 2022

- I. **CALL TO ORDER** - The meeting was called to order at 1:31 p.m. in the 2nd Floor Council Chambers, Government Center, 200 E. Main Street, Lexington, Kentucky.

Planning Commission members present: Zach Davis; Larry Forester, Chair; Jan Meyer; Robin Michler; Bruce Nicol; Graham Pohl and Judy Worth. Absent were Ivy Barksdale, Headley Bell, Anthony de Movellan, and Frank Penn.

Planning staff members present: Jim Duncan; Traci Wade; Tom Martin; Hal Baillie; Cheryl Gallt; Daniel Crum; and Stephanie Cunningham. Other staff members present were: Stephen Parker, Division of Traffic Engineering; Greg Lengal, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Meyer, seconded by Mr. Pohl, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve the minutes of the November 11, 2021, and December 9, 2021, meetings.

III. **POSTPONEMENTS AND WITHDRAWALS**

- a. PLN-MJDP-21-00067: NEWTOWN SPRINGS, UNIT 1, LOT 2 (AMD) (01/30/22)* - located at 1449 NEWTOWN CENTER WAY, LEXINGTON, KY.
Council District 1
Project Contact: Banks Engineering

Note: The purpose of this amendment is to revise the development on Lot 2 to add an automobile service station. The Planning Commission postponed this item at their December 9, 2021, meeting.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding compliance with conditional zoning restriction 3C, the proposed site access, and compliance with the B-1 setback.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Denote Royal Springs Aquifer committee recommendation.
13. Denote revised layout in overall Newtown Springs development plan.
14. Discuss compliance with conditional zoning restriction 3C.
15. Discuss the quantity of proposed parking.
16. Discuss proposed access locations.
17. Discuss ice machine potential conflict with easement.
18. Discuss compliance with B-1 setback.

Applicant Representation: Greg Smorstad, Banks Engineering, requested a one-month postponement in order to continue to address issues with the property owner.

Action: A motion was made by Mr. Pohl, seconded by Ms. Worth, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to postpone **PLN-MJDP-21-00067: NEWTOWN SPRINGS, UNIT 1, LOT 2 (AMD)** to the February 10, 2022, Planning Commission meeting.

- b. PLN-MJDP-21-00039: LFUCG, MILLCREEK SUBDIVISION, UNIT 3 & JONESTOWN (01/13/22)* - located at 1100 ARMSTRONG MILL RD., LEXINGTON, KY.
Council District 8
Project Contact: EA Partners, PLC

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

Note: The purpose of this amendment is to depict development of 96 multi-family dwelling units in 4 buildings, a clubhouse and associated off-street parking. The Planning Commission postponed this application at their September 9, 2021, October 14, 2021, November 11, 2021, and December 9, 2021, meetings.

The Subdivision Committee Recommended: **Postponement.** There were questions regarding the timing and status of the CLOMR and compliance with Article 19 of the Zoning Ordinance.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote specific compliance with the Multi-Family Design Standards.
14. Discuss proposed improvements on adjacent parcel that is not a part of the development plan (1028 Armstrong Mill Road).
15. Discuss proposed dumpster location.
16. Discuss improvements to Armstrong Mill Road.
17. Discuss status and timing of CLOMR.
18. Discuss pedestrian access to the greenway from the apartments.
19. Discuss greenway trail location per certified Preliminary Development Plan.

Applicant Representation: Rory Kahly, EA Partners, requested a one-month postponement in order to allow the applicant to continue working to address the development plan conditions.

Action: A motion was made by Ms. Meyer, seconded by Mr. Pohl, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to postpone **PLN-MJDP-21-00039: LFUCG, MILLCREEK SUBDIVISION, UNIT 3 & JONESTOWN** to the February 10, 2022, Planning Commission meeting.

- c. **PLN-MJDP-21-00050: RAMSEY/SULLIVAN PROPERTY, LOT 4 (AMD) (01/13/22)*** - located at 2671 KEARNEY RIDGE BLVD., LEXINGTON, KY.
Council District 12
Project Contact: EA Partners, PLC

Note: The purpose of this amendment is to depict revised buildings and parking layout. The Planning Commission postponed this application at their October 14, 2021, November 11, 2021, and December 9, 2021, meetings.

The Subdivision Committee Recommended: **Postponement.** There were questions regarding the missing tree information per Article 26 of the Zoning Ordinance, lack of public street access to the proposed development, and fire safety requirements per the National Fire Code.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. United States Postal Service Office's approval of kiosk locations or easement.

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12. Addition of record plat designation M-824.
13. Addition of street cross-section with median.
14. Dimension sidewalks.
15. Correct reference location to Article 3-7 of the Zoning Ordinance.
16. Addition of any proposed or existing easements.
17. Clarify exact location of cemetery and document compliance with state requirements for disinterment and relocation prior to certification.
18. Denote property located in Royal Springs Aquifer Recharge Area.
19. Discuss tree protection plan and compliance with Article 26 of the Zoning Ordinance.
20. Discuss need for secondary entrance per the approved Preliminary Development Plan.
21. Discuss conditional zoning requirement for a two-acre park.
22. Discuss Note #11 from DP 2008-27 referencing the restriction on total number of dwelling units for Ramsey/Sullivan Property until a second access is complete.
23. Discuss lack of public street access to this development.
24. Discuss regional detention basin.
25. Discuss landscape buffer against railroad.

Applicant Representation: Rory Kahly, EA Partners, requested a one-month postponement in order to allow the applicant to continue working to address the development plan conditions.

Action: A motion was made by Ms. Worth, seconded by Mr. Pohl, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to postpone **PLN-MJDP-21-00050: RAMSEY/SULLIVAN PROPERTY, LOT 4 (AMD)** to the February 10, 2022, Planning Commission meeting.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, January 6, 2022, at 8:30 a.m. The meeting was attended by Commission members Headley Bell, Janice Meyer, and Judy Worth. Committee member in attendance was: Vaughan Adkins, Division of Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Hal Baillie, Cheryl Gallt, Daniel Crum, and Stephanie Cunningham; Captain Greg Lengal, Division of Fire and Emergency Services; and Keith Horn, Department of Law. The Committee did not have a quorum present, so no recommendations were made. Subdivision Committee recommendations from previous meetings may be 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)

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- Commission discusses and/or votes on the plan.

1. **FINAL RECORD PLATS**

Note: This item was originally postponed, as the applicant was unable to arrive at the meeting on time due to an emergency. Upon the applicant's arrival, Ms. Wade asked the Planning Commission to reconsider this item. A motion was made by Mr. Nicol, seconded by Ms. Meyer, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to reconsider **PLN-FRP-21-00039: STEELE PROPERTY**.

- a. **PLN-FRP-21-00039: STEELE PROPERTY** (01/13/22)* - located at 3844 BRIAR HILL RD., LEXINGTON, KY.
Council District 12
Project Contact: AIM3D

Note: The purpose of this plat is to subdivide a 173-acre lot into three separate lots. The Planning Commission postponed this application at their November 11, 2021, and December 9, 2021, meetings.

Note: This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Postponement**. There were concerns about the applicant's need to submit a cemetery boundary study per Article 3-7(b) for the subject property.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Department of Environmental Quality's approval of environmentally sensitive areas.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote Health Department's approval of septic tanks at time of Building Permits.
7. Denote non-build areas.
8. Denote farm road from Lot 2 to Lot 1 as an access easement and add maintenance note.
9. Addition of private utility providers.
10. Addition of easement maintenance note per Article 5-4(g) of the Land Subdivision Regulations.
11. Correct zoning in site statistics.
12. Denote private family cemetery protection area and access per Article 3-7 of the Zoning Ordinance for Lot 2.

Staff Presentation: Mr. Martin directed the Commission's attention to the final record plat and briefly explained the proposed request. He noted that the postponement recommendation was based on the need for a cemetery study, which had been provided. Based on the provision of that study, Mr. Martin said that the staff was now recommending approval of this request.

Applicant Representation: Justin Drury, AIM3D, thanked the Planning Commission for their flexibility in reconsidering this plan. He stated that the applicant was in agreement with the 12 conditions as listed.

Commission Questions: Ms. Worth asked if there were any concerns about the access easement. Mr. Martin answered that the properties have adequate frontage along Briar Hill Road, so the access easement was not necessary and was removed from the plan.

Citizen Comments: There were no citizens present to comment on this request.

Action: A motion was made by Ms. Meyer, seconded by Ms. Worth, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve **PLN-FRP-21-00039: STEELE PROPERTY**, subject to the 12 conditions as listed on the agenda.

- b. **PLN-FRP-21-00047: BELLEDALE ADDITION** (02/27/22)* - located at 393 & 395 BASSETT AVE., LEXINGTON, KY.
Council District 5
Project Contact: CAM Surveying

Note: The purpose of this plat is to subdivide one lot into two lots.

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

The Technical Committee and Staff Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. United States Postal Service Office's approval of kiosk locations or easement.
9. Denote: These lots are restricted to single-family homes.
10. Revise 20' front yard setback to 30' per the R-2 zone.
11. Revise side street side yard setback per Article 15-2(b)(4) of the Zoning Ordinance.
12. Provided the Planning Commission makes a finding this subdivision complies with Article 4-5(a) of the Zoning Ordinance.
13. Denote non-conformity of structures relative to the required 30' building line.
14. Resolve discrepancy on potential driveway encroachment into right-of-way between this submittal and previous plat submittal (2013-39F).
15. Submit withdrawal letter for previously approved final record plat (2013-39F).

Staff Presentation: Mr. Martin directed the Commission's attention to the final record plat and briefly explained the proposed request.

Applicant Representation: Gary Roland, CAM Surveying, stated that the applicant was in agreement with the conditions, and he requested approval.

Citizen Comments: There were no citizens present to comment on this request.

Action: A motion was made by Mr. Pohl, seconded by Ms. Worth, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve **PLN-FRP-21-00047: BELLEDALE ADDITION**, including the Commission's finding that the plan complies with Article 4-5(a) of the Zoning Ordinance, and subject to the 15 conditions as listed.

- c. PLN-FRP-21-00049: MASTERSON STATION CENTER (CITATION VILLAGE) (CITATION FLATS) (AMD) (02/27/22)* - located at 129 FERNDAL PASS, LEXINGTON, KY.
Council District 2
Project Contact: EA Partners, PLC

Note: The purpose of this plat is to subdivide one lot into 24 townhouse lots.

The Technical Committee and Staff Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of greenways and greenspace.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
10. United States Postal Service Office's approval of kiosk locations or easement.
11. Addition of access easement maintenance note.
12. Denote adjoining property information (record name of subdivision or owner's name) per Article 5-4 of the Land Subdivision Regulations.
13. Document compliance with Article 4-5(b) of the Land Subdivision Regulations.
14. Provided the Planning Commission makes a finding for use of access easements for sole access to the lots.

Staff Presentation: Ms. Gallt directed the Commission's attention to the final record plat and briefly explained the proposed request.

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

Applicant Representation: Rory Kahly, EA Partners, stated that the applicant was in agreement with the conditions as listed, and he requested approval.

Citizen Comments: There were no citizens present to comment on this request.

Action: A motion was made by Ms. Worth, seconded by Ms. Meyer, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve **PLN-FRP-21-00049: MASTERSON STATION CENTER (CITATION VILLAGE) (CITATION FLATS) (AMD)**, including the Commission's finding for use of access easements for sole access to the lots, and subject to the 14 conditions as listed.

2. **DEVELOPMENT PLANS**

- a. **PLN-MJDP-21-00069: YELLMAN'S SUBDIVISION (POWERHOUSE CHURCH OF GOD) (BLACKBURN DEVELOPMENT) (02/27/22)*** - located at 325, 329, 333 & 345 BLACKBURN AVE., LEXINGTON, KY.
Council District 2
Project Contact: Carman

Note: A final development plan was approved by the Planning Commission on October 8, 2020, and subsequently reversed on appeal by the Circuit Court. The plan is unchanged from the plan previously approved by the Planning Commission.

The Technical Committee and Staff Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Provide proposed building elevations, tree inventory map and geotechnical analysis to document compliance with the Zoning Ordinance.

Staff Presentation: Mr. Martin directed the Commission's attention to the final development plan and briefly explained the proposed request. He explained that this plan was submitted following the circuit court's reversal of a decision on the previous development plan for this property, based on due process concerns expressed by the attorney for an adjoining resident, and the judge's assertion that the proposed parking agreement was inadequate. This plan is identical to the previous plan, with the exception of some small changes to the parking based on the intent to combine this plan with the previously approved plan for the adjoining apartment development on 345 Blackburn Avenue, which has already been constructed.

Mr. Martin stated that the staff was aware of some citizen concerns about the combined development plan, but he noted that was not unusual, and cited several examples in the community, such as Fayette Mall, where one development plan controlled multiple lots. He said that staff had also heard concerns about reciprocal parking and access on the property, as well as the need for an appropriate transition from the apartments to the existing nearby single-family residential homes. The staff and the Subdivision Committee recommended approval of the amended final development plan.

Commission Questions: Mr. Michler stated that he was not on the Planning Commission when this plan was first considered. He asked if this plan was completely new, and whether the staff had any additional graphics that might help him better understand the issues on the property. Mr. Martin answered that the staff did not prepare any additional graphics, but, using the rendered development plan, he noted that the adjoining apartment building has already been constructed, and pointed out the location of the shared parking.

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Mr. Michler asked if Mr. Martin could further summarize the buildings, parking, and dimensions of the site for those who were not present when this plan was considered in 2020.

Mr. Pohl stated that he was opposed to the original plan for this property, and he is opposed to this one as well, because he does not believe that it complies with aspects of the Zoning Ordinance that call for sensitivity to existing context. He said that he was disturbed that there had been no discussion about that issue today, particularly since it was the primary concern for the citizens at the first meeting. Mr. Pohl opined that the Commission's ability to evaluate the applicant's arguments was compromised by the video teleconference process, and that he agreed with the judge's ruling.

Mr. Martin stated that the staff was aware of Mr. Pohl's concerns, adding that, as part of the final development plan process, the Planning Commission has the ability to affect certain aspects of the plan, such as lighting. Using aerial photographs, he responded to Mr. Michler's request for additional information about the plan, providing details about parking, building massing, lighting, landscaping, and traffic calming.

Mr. Michler asked Mr. Martin to explain the proposed restrictions on lighting. Mr. Martin answered that the conditional zoning restrictions on the property are as follows:

- A. There shall be no external lighting along the southwest portion of the structure, which is adjacent to the property at 321 Blackburn Avenue.
- B. There shall be an 18-foot landscape buffer yard adjacent to the property located at 321 Blackburn Avenue for the length of any structure on the subject property.
- C. The maximum height of structures shall be limited to three stories.

Mr. Nicol stated that the Planning Commission considered the zone change for this property, and approved it, so the zoning and use of the property were not up for debate. He noted that the Commission had spent a good deal of time on the zone change, and many elements, such as scale and massing, were decided at that time, and now could not be altered. Mr. Martin responded that the R-5 zoning was in place, and the proposed use was allowable in that zone. He added that there was considerable discussion at the time of the zone change about scale, massing, building articulation, the Fourth Street Study, and other elements of the project. Those elements were fully vetted and discussed at that point, and certain actions were taken to address the neighborhood concerns.

Applicant Presentation: Richard Murphy, attorney, stated that the issue before the Planning Commission at this meeting was the development plan; the zone change was approved by the Planning Commission and the Urban County Council in 2020, and that decision was not appealed or overturned. The variance to reduce the number of parking spaces was also granted, and was not appealed. It was also determined prior to the filing of the zone change application that a Traffic Impact Study would not be required for this project.

Mr. Murphy explained that the approval of the final development plan was appealed. He explained that zone changes are discretionary decisions, while development plans are ministerial; if the requirements of the Zoning Ordinance and Subdivision Regulations are met, a development plan must be approved. In this case, the previous development plan approval was appealed to Fayette Circuit Court, where it was overturned on two grounds: first, that the objectors were not allowed to have their faces displayed on the screen during the video teleconference; and the judge found that the proposed parking agreement had not been finalized, and it was revocable by one party. Mr. Murphy said that, despite the number of concerns on which the appeal was based, the development plan approval was overturned solely on those two issues.

With regard to the appeal, Mr. Murphy stated that, because this meeting was being held in person, there should be no concerns about due process from the objectors. In addition, the applicant has entered into a new parking agreement, which was reviewed by the Planning and Law Department staff and determined to be adequate to manage the parking on the subject property.

Mr. Murphy said that the objectors had submitted a new list of concerns a few hours prior to this meeting, but the applicant contends that none of those objections are valid.

Referring to the applicant's building elevations, Mr. Murphy stated that there was a request from the neighborhood that indented, on-street parking not be provided along Blackburn Avenue. The applicant believes that parking would be a safety enhancement, because of the narrow width of Blackburn Avenue and the need for on-street parking in the area. In order to reduce concerns about excess speed, the applicant offered to install and pay for speed tables along the street.

Mr. Murphy stated that the applicant had also agreed to conditional zoning restrictions to limit lighting on the subject property at the time of the zone change, but they believed that it was important to be able to provide some form of street-level lighting for safety purposes.

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Mr. Murphy said that the applicant was confident that this development plan met all of the necessary requirements of the Subdivision Regulations and the Zoning Ordinance, and noted that the most of the issues raised during the zone change hearing had already been decided, and were not up for debate during this meeting.

Commission Questions: Mr. Nicol asked how the removal of 17 on-street parking spaces could impact the parking agreement for the property. Mr. Murphy answered that this plan meets the parking requirement on the site, without the on-street parking. He added that the applicant contends that the on-street parking could provide a better way to deal with parking on Blackburn Avenue, but it is not necessary for the project.

Mr. Michler asked if the on-street parking was already in place in front of the existing apartment building, to which Mr. Murphy responded affirmatively. Mr. Michler asked how many spaces would be provided in the on-street parking area. Mr. Murphy answered that four spaces could be provided in front of the new building. Mr. Michler asked if those four spaces would be constructed as regular on-street spaces, rather than as protected spaces in a parking cutout. Mr. Michler asked if removing the parking cutout could increase the planting area between the street and the building. Mr. Murphy answered that it could, noting that the applicant has already included an additional landscape area.

Mr. Pohl stated that removing the offset parking in the right-of-way could also allow the sidewalk to be wider along most of the frontage of the building. Mr. Murphy responded that he was not aware of the exact sidewalk configuration but that might be the case.

Citizen Opposition: Jessica Winters, Winters Law Group, was present representing the adjacent property owner, Mark Klar. She explained that the neighbors did not appeal the zone change for this property, but they appealed the approval of the development plan, based on concerns about due process and the parking agreement. Ms. Winters said that the neighbors are now concerned about having a parking agreement that complies with the Zoning Ordinance, and the four "protected" on-street parking spaces.

Ms. Winters stated, with regard to the parking agreement, that the neighbors are concerned that it does not satisfy the Zoning Ordinance, because it does not expressly state that the agreement could be revoked by a sole party; they are requesting that a parking agreement be created that does satisfy that condition. The neighbors are also requesting the elimination of the four "protected" on-street parking spaces, which are proposed to be located in a cutout from the right-of-way.

Mark Klar, 321 Blackburn Avenue, opined that this plan was inherently confusing, because it is one development plan that covers two sites and has multiple owners. Because of that, he believes that a Traffic Impact Study should have been required at the time of the zone change on the property. Mr. Klar said that he was also concerned that parking for the nearby Powerhouse Church of God could exacerbate the congestion in the area, and questioned whether that should be addressed in the parking agreement.

Mr. Klar stated that he and his neighbors were not opposed to the zone change, or to the concept of a multi-family development on the site, but they did not support this plan, and they believed that the applicant did not take their concerns into consideration.

Mr. Klar asked that the applicant consider removing the four on-street parking spaces; he and his neighbors believe that widening the right-of-way could increase traffic speeds on the street, despite the applicant's intent to install speed tables.

Commission Questions: Mr. Michler asked for clarification on the neighbors' concerns about the proposed lighting for the development. Ms. Winters answered that the proposed apartment building would be located directly adjacent to Mr. Klar's home, which could create light pollution in his backyard. Because of those concerns, the neighbors are requesting that no lighting be installed along that property line. Mr. Michler asked if the neighbors would consent to pedestrian-scale lighting. Ms. Winters said that the parking lot could be sufficiently lit to ensure security, while reducing spillover to Mr. Klar's property.

Faith Harders, 539 West Third Street, stated that her home is located at the corner of Blackburn Avenue and West Third Street. She opined that, because the judge overturned the approval of the original development plan, all comments and opinions from the neighbors should be considered by the Planning Commission. Ms. Harders stated that the previously constructed apartment building is located across from an industrial use, rather than residential uses, so the proposed building should not be considered as appropriate and compatible with the neighborhood. She said that the neighbors are not necessarily opposed to increased density in the area, but they believe that four-plexes, duplexes, or single-family residences would be more appropriate at this location.

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Applicant Rebuttal: Mr. Murphy stated that the lighting issue had been handled via a conditional zoning restriction, which was imposed by the Council at their hearing on the zone change for the property, which read: "There shall be no external lighting along the southwest portion of the structure, which is adjacent to the property at 321 Blackburn Avenue."

Mr. Murphy stated that development plan notes require that parking must be shared between the two lots, so the applicant does not believe that the concerns about the single-party revocation of the parking agreement are valid. He said that, to the extent that it is an issue, the applicant would agree to modify the parking agreement to remove the provision that the grantor can revoke the agreement at any time, to the satisfaction of the Planning staff and the Law Department.

With regard to the proposed offset parking in the right-of-way, Mr. Murphy stated that, at the time of the previous zone change, the neighbors suggested a protected parking area. The applicant believed that it would be a good idea to continue that offset parking along the frontage of the proposed development, with the belief that the addition of speed tables could eliminate concerns about excess speeding along Blackburn Avenue.

Commission Questions: Mr. Michler stated that there was another area of concern for lighting that was not specified in the conditional zoning restriction. He asked if the restriction could be re-worded to include that area. Mr. Murphy responded that the applicant believed that lighting in that location was necessary, but they would agree to direct it toward the parking area only.

Citizen Rebuttal: Ms. Winters said that Mr. Klar was concerned about the lighting that Mr. Michler mentioned. With regard to the parking agreement, she said that the easement on the original development plan was recorded, and the neighbors would request that the easement be recorded along with the parking agreement.

Mr. Klar stated, with regard to the lighting, that the existing parking lot has tall lights that "overwhelm the street." He added that the offset parking was granted for the previously constructed building due to concerns about turning radii for large trucks, so the two situations should not be considered comparable.

Staff Rebuttal: Mr. Martin stated, with regard to the lighting, that the Zoning Ordinance specifies no spillover into residential areas. Conditions could be added to specify the height of any poles, along with requirements for box fixtures that direct light downward.

Commission Questions: Mr. Michler asked what the staff's recommendations would be for lighting best practices. Mr. Martin responded that the staff often recommended limiting the height of lighting, noting that the staff has a general preference for pedestrian-scale lighting. Ms. Wade added that the staff had recommended 12-foot in height for residential properties. Mr. Michler asked if language specifying that light be directed away from residential properties with a height limit of 12 feet would be appropriate, to which Mr. Martin responded affirmatively.

Mr. Martin reiterated that the Zoning Ordinance does not require any type of parking agreement for the subject property, and the applicant was not required to provide one. He said that Traffic Engineering supported the offset parking, which they felt would work well with the proposed traffic calming measures.

Commission Discussion: Mr. Pohl stated that he agreed that all issues should be up for discussion, since the previous development plan was rendered null by the court's decision. With regard to the four offset parking spaces, he stated that the view from the south to the north on Blackburn Avenue was very important to the "feel" of the street. He believes that widening the street to create the protected spaces would completely change the look of the greenspace. Mr. Pohl noted that, during the redevelopment of the Euclid Avenue Kroger store, the Planning Commission determined that the parking area should be pushed back from the street in order to allow for greenspace similar to the other properties in the area. He opined that providing that greenspace made a huge difference in the look and feel of the Euclid Avenue corridor, adding that the role of that greenspace should not be understated in its importance for pedestrian activity.

Mr. Nicol asked if Traffic Engineering staff could provide information on the offset parking.

Ms. Worth asked the Law Department staff whether, when a judge makes a ruling, that then allows all of the issues to be reconsidered, or only the issues that were the subject of the ruling. Ms. Jones answered that there are two facets to this issue. She said that the zone change for the property was not appealed, so the judge considered only discussion related to the development plan. The judge received all of the information related to the case, and he was able to make his ruling based on whatever aspects of the case he deemed to be most valid. Specifically, the judge found that the video teleconference hearing process was deficient, and that, in order for the final development plan to be approved, the parking requirements of the Zoning Ordinance had to be met. The judge ruled that the ingress and egress easement on the property was adequate to meet the parking requirement, and that a parking agreement was not necessary. Ms.

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Jones said that, on those bases, the judge reversed the approval of the development plan. Subsequently, the staff met with the applicant to determine whether or not the previous development plan could be amended. The staff made the determination that the applicant could not amend the original development plan, so they filed a new plan. Ms. Jones explained that, because part of the ruling was based on the hearing process, which had nothing to do with the plan itself, the applicant filed essentially the same development plan. The new plan did address the parking more specifically, and included a new parking agreement.

Ms. Jones stated that, while the Planning Commission could discuss other aspects related to the filing of the new development plan, their discussion had to remain plan-related, rather than issues that were related to the zone change. She said that the Planning Commission could change parking or lighting, but they could not reverse or alter any of the restrictions that were added to the plan through the zone change process by the Council.

Stephen Parker, Traffic Engineering, stated that, during the zone change process, many of the residents that staff spoke to were of the opinion that Blackburn Avenue could not handle the additional traffic from the proposed apartment building. In working with the residents, Traffic Engineering staff offered the idea of offset parking with designated on-street handicap spaces. Mr. Parker said that, if the Planning Commission eliminates the four parking spots, it could create an unsafe sight distance situation from the current apartment development on Blackburn Avenue, as well as failing to address the residents' original concerns.

Mr. Parker added that Powerhouse Church of God was a major user of on-street parking, which also caused concern among the residents.

Mr. Michler asked if on-street parking in the public right-of-way would be regulated by Traffic Engineering, and if the staff would be responsible for determining the best way to provide on-street parking without the cutout spaces, which Mr. Parker answered affirmatively. Mr. Parker added that many of the residents in the area do not have driveways, so they are required to use solely on-street parking.

Mr. Davis stated that he agreed with Mr. Pohl's sentiment, but he was concerned about safety on Blackburn Avenue, particularly with regard to response time for large emergency vehicles. He asked if the Planning Commission could create a situation that is a danger to the public safety by eliminating the four proposed parking spaces. Mr. Parker answered that he believed that the trucks could get there, but Blackburn Avenue has only 14' for through movement, and the roadway is very congested during service times at the church.

Captain Lengal stated that the Fire Code requires 20' of unobstructed width to safely operate emergency vehicles. He said that, following the approval of an amendment to the Subdivision Regulations some years ago, 30' of right-of-way was required in order to allow parking on both sides of the street. Captain Lengal opined that removing the spaces could be detrimental to public safety.

Mr. Pohl said, with regard to Captain Lengal's comments, that the Subdivision Regulations amendment applied to new development, not existing conditions. He opined that, just because there was an opportunity to widen the street, that was not the best option for walkability and a pedestrian-friendly environment. Captain Lengal stated that he understood Mr. Pohl's viewpoint, but the Division of Fire and Emergency Services had a responsibility to follow the adopted Fire Code and protect the public health and safety.

Mr. Michler stated that he was not on the Planning Commission during the zone change, so this was his first time reviewing this plan. He said that this plan represented the meeting of a multi-story, multi-unit apartment building and an existing single-family residential area, along a narrow, historic street. Mr. Michler opined that Mr. Klar's concerns could be easy to accommodate, and maintaining the uniformity and consistent greenspace could help to protect the viewshed and greenspace. He said that the presence of four parking spaces along an entire street should not have that much impact on accessibility for emergency vehicles. Mr. Michler stated that he would support limiting lighting to 12 feet in height and eliminating the offset parking.

Mr. Pohl stated that he agreed with Mr. Michler's comments, opining that it would not be a huge loss to the proposed development if one parking space needed to be removed to maintain the required sight distance.

Ms. Worth said that she was normally supportive of greenspace, but she was concerned about emergency vehicles navigating Blackburn Avenue. She said she was not convinced that his plan was the best solution for the property. Ms. Worth added that the tall trees shown in the applicant's rendering would require a larger planting area than was currently being proposed. Mr. Martin answered that the utility strip depicted on the cross-section was approximately 2.5' in width, which would not meet the current standards.

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Motion: A motion was made by Mr. Nicol and seconded by Mr. Davis to approve **PLN-MJDP-21-00069: YELLMAN'S SUBDIVISION (POWERHOUSE CHURCH OF GOD) (BLACKBURN DEVELOPMENT)**, subject to the 13 conditions as listed, adding a 14th condition to limit the height of the parking lot lighting to 12 feet.

Discussion of Motion: Mr. Pohl stated that he would be more comfortable with the motion if it eliminated the offset parking and specified that the parking agreement could not be revoked by a single party. Mr. Nicol stated that he would like the motion to remain as stated, adding that the staff and the Law Department believed that the parking agreement was adequate. Mr. Pohl noted that the objectors were concerned about the offset parking, and the applicant had offered to make the changes to the parking agreement, so adding those items to the motion should not be an issue.

Mr. Davis stated that part of the Planning Commission's responsibility was to consider public health and safety in all of their decisions. He explained that he was initially in favor of eliminating the offset spaces, until he heard the opinions of the Divisions of Fire and Emergency Services and Traffic Engineering. Mr. Davis added that he agreed with Ms. Worth's comments as well.

Ms. Jones stated that it was the Law Department's position that a parking agreement was not required in this case, even though the applicant has agreed to provide one. She said that it could be outside the Planning Commission's purview with regard to the Zoning Ordinance if they attempted to require a parking agreement or some method of recording it. Ms. Jones added that the parking agreement is referenced on the development plan.

Ms. Meyer asked if Ms. Jones believed that the new parking agreement was sufficient to address the judge's ruling on the original development plan. Ms. Jones answered affirmatively, noting that the applicant had filed a new parking agreement, stated for the record that they would provide it, and added a note to this plan indicating that it would be filed. She added that including another condition to govern the parking agreement could be outside the Planning Commission's authority.

Mr. Pohl stated that numerous voices had spoken in opposition to this project from the beginning, because of concerns about destructive changes to the community. He said that the Planning Commission should do everything they could to "knit together the old condition with the new in an elegant way."

Action: Mr. Nicol's motion carried, 4-3 (Meyer, Michler, and Pohl opposed).

Note: Chair Forester declared a brief recess at 4:11 p.m. The meeting resumed at 4:23 p.m., with the same members in attendance.

- b. **PLN-MJDP-21-00070: NEWTOWN SPRINGS, LOT 3 (AMD) (02/27/22)*** - located at 1453 NEWTOWN CENTER WAY, LEXINGTON, KY.
Council District 1
Project Contact: EA Partners, PLC

Note: The purpose of this plan is to depict development on Lot 3.

The Technical Committee and Staff Recommended: **Postponement**. There are questions regarding compliance with Articles 21, 18 and 26.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote review by the Royal Springs Aquifer Protection Area Committee.

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14. Denote Floor Area Ratio per Article 21 of the Zoning Ordinance.
15. Addition of all previously approved information from PLN-MJDP-16-00013.
16. Denote height of building in feet.
17. Denote proposed use of building.
18. Dimension sidewalks and patio.
19. Dimension proposed building.
20. Denote Final Record Plat information and existing easements.
21. Discuss parking generator for proposed use.
22. Discuss pedestrian connections to adjoining lots.
23. Discuss amount of excess parking.
24. Discuss compliance with Articles 18 and 26.

Staff Presentation: Mr. Martin directed the Commission's attention to the final development plan and briefly explained the proposed request. He explained that the applicant had submitted a revised plan; based on that submittal, the staff was now recommending Approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote review by the Royal Springs Aquifer Protection Area Committee.
14. Complete and correct Tree Preservation Plan information.
15. Denote proposed use of building within the site statistics.
16. Dimension patio.
17. Denote on the plan a cross-section and/or detail demonstrating ability to comply with the Newtown Pike Ordinance 85-2008.
18. Denote Final Record Plat information and existing easements.
19. Denote amendment to preliminary development plan for Lot 4.

Ms. Worth stated that, at the Subdivision Committee meeting, Mr. Penn had asked if the Royal Springs Aquifer Committee had reviewed this plan, since the property is located in the protection area. Mr. Martin answered that the committee had not yet met to review this plan, since they meet only as needed, but it is mentioned as a note on the plan and must be satisfied prior to certification.

Mr. Michler stated that it appeared that the plan included an access to the Legacy Trail, and asked whether the staff had recommended bicycle parking, considering the close proximity to the trail. Mr. Martin answered that staff had not discussed bicycle parking with the applicant.

Applicant Presentation: Rory Kahly, EA Partners, stated that the applicant was in agreement with the revised conditions. He said, with regard to condition #19, that Lot 4 was proposed to have access from an easement, rather than from Newtown Pike.

Ms. Meyer asked, with regard to Mr. Michler's question, whether the applicant had considered the addition of bicycle parking. Mr. Kahly answered that the applicant might have considered it, but bicycle parking was typically only shown on a development plan if it was not needed for a parking reduction.

Mr. Michler asked if this was a preliminary development plan. Mr. Kahly answered that this portion was a final development plan. Mr. Michler opined that the applicant should consider the greenspace creatively, and use it to its best to protect the Legacy Trail corridor. Mr. Kahly responded that the amount of greenspace was due to the property being split-zoned.

Citizen Comments: No citizens were present to comment on this item.

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Action: A motion was made by Mr. Pohl, seconded by Ms. Meyer, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve **PLN-MJDP-21-00070: NEWTOWN SPRINGS, LOT 3 (AMD)**, subject to the 19 conditions as listed in the revised staff recommendation, adding a 20th condition to require that bicycle parking be depicted on the development plan should the applicant choose to access the Legacy Trail.

- f. **PLN-MJDP-21-00072: SHARKEY PROPERTY, UNIT 1, LOT 16 (AMD) (02/27/22)*** - located at 1735 SHARKEY WAY, LEXINGTON, KY.
Council District 2
Project Contact: Michael E. Niekirk, PE

Note: The purpose of this amendment is to modify the proposed use of the building for a sit-down restaurant, add building square footage, and revise parking layout and circulation on the site.

The Technical Committee and Staff Recommended: **Postponement**. There are questions regarding missing required information to meet Article 21 of the Zoning Ordinance, and compliance with the parking requirements.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. United States Postal Service Office's approval of kiosk locations or easement.
10. Delete Notes #11, 15, and 18 and delete "contractor note."
11. Addition of all easements on plan face per plat R-880.
12. Addition of location of street cross-section on plan face.
13. Addition of all dimensions from previous certified plan.
14. Correct plan title to include Lot 17.
15. Correct plan type to be "amended."
16. Remove gray shading.
17. Clarify location of property on vicinity map.
18. Addition of topography information per Article 21 of the Zoning Ordinance.
19. Dimension driveway access, drive aisle and parking spaces.
20. Depict access for construction vehicles and correct Note #3.
21. Dimension sidewalks.
22. Dimension vehicle use area screening and remove proposed landscaping.
23. Addition of parking information for Lot 1 in site statistics.
24. Correct Planning Commission certification for major plan.
25. Remove legend information.
26. Denote location of dumpster.
27. Remove copyright note.
28. Document compliance with Article 21-7(b)(3) of the Zoning Ordinance.
29. Clarify the number of seats for proposed sit-down restaurant.
30. Discuss parking required and provided.

Staff Presentation: Ms. Gallt directed the Commission's attention to the final development plan and briefly explained the proposed request. She explained that the applicant had submitted a revised plan; based on that submittal, the staff was now recommending Approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.

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8. Division of Waste Management's approval of refuse collection locations.
9. United States Postal Service Office's approval of kiosk locations or easement.

Ms. Gallt noted that the applicant had also provided a parking agreement, indicating that they could meet their parking requirements with off-site spaces.

Applicant Presentation: Tiffany Lehman, Niekirk Engineering, stated that the applicant was in agreement with the staff's recommendations, including the revised conditions.

Action: A motion was made by Mr. Pohl, seconded by Mr. Davis, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve **PLN-MJDP-21-00072: SHARKEY PROPERTY, UNIT 1, LOT 16 (AMD)**, subject to the nine conditions as listed in the revised staff recommendation.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Ms. Worth, seconded by Mr. Pohl, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated January 13, 2022, from Matt Hughes, Division of Engineering.

- V. **ZONING ITEMS** - The Zoning Committee did not meet on Thursday, January 6, 2022, due to inclement weather.

A. **ZONING ORDINANCE TEXT AMENDMENTS (ZOTAS)**

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.

- a. **PLN-ZOTA-21-00006: AMENDMENT TO ARTICLE 1: BARBER SHOPS AND BEAUTY SALONS** – petition for a Zoning Ordinance text amendment to Article 1-11 of the Zoning Ordinance to allow barber shops and beauty parlors to operate as a Home-Based Business.

INITIATED BY: Urban County Council

PROPOSED TEXT:

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- a) Customers or clients coming to the residence; and/or
- b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include ~~barber shops; beauty parlors;~~ offices for escort services; massage parlors, automobile and small engine repair; medical or dental offices; palm reading or fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

The Staff Recommended: **Approval** of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, as it was developed in response to the implementation item calling for an increase in flexibility on types of home occupations allowed (Theme C, Policy #6).
2. The proposed changes can stimulate startup businesses allowing for economic growth and upward mobility of Fayette County residents.

Staff Presentation: Mr. Baillie presented and summarized the staff report and recommendations for this text amendment, noting that the Urban County Council initiated this Zoning Ordinance text amendment in order to allow barber shops and beauty parlors to operate as a Home-Based Business.

Mr. Baillie explained that, in the 1950s, Lexington made the choice to prohibit barber shops and beauty parlors as Home-Based Businesses. The staff considered some of the health, safety, and welfare concerns that were raised at the time of that decision, and determined that they were based mainly on questions of government oversight to maintain cleanliness and licensing. Since that time, the State has regulated barber shops and beauty parlors extensively, including training programs and licensing requirements that focus on maintaining the health and safety of customers.

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Mr. Baillie said, with regard to the proposed text, that in order for a barber shop or beauty parlor to operate as a Home-Based Business, it must be restricted to less than 300 square feet in size; operated by individuals who live at the residence; maintained with a residential character; prohibited from any outdoor signage; and operated within the primary residence, rather than an accessory building. The state regulations also require a secondary entrance into the residence to access the use. In addition, these Home-Based Businesses must not generate excessive traffic, or adversely affect the surrounding community. These Home-Based Businesses would be regulated as conditional uses, and would require the approval of the Board of Adjustment. Mr. Baillie stated that the staff was recommending approval of this text amendment, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Mr. Pohl asked why barber shops and beauty parlors were proposed to be restricted to the main structure. Mr. Baillie responded that these uses were intended to be accessory to the main residential use, and that allowing them to occupy accessory structures could result in activity that was too commercial for a residential area.

Ms. Meyer asked if the intent of this text amendment was to limit the business to one chair. Mr. Baillie answered that a barber shop or beauty parlor could have more than one chair, as long as all of the operators lived in the residence and did not travel there from another location.

Mr. Michler asked if the Council initiated this text amendment at the request of a particular business. Mr. Baillie responded that this issue was brought to the Council by a member of the community. Mr. Michler opined that this text amendment was very narrow, and it could be broadened. Mr. Baillie answered that the Council initiation of this text amendment was very narrowly focused, but the staff would be bringing some changes forward in the future that could affect Home-Based Businesses more broadly. Mr. Baillie added that one of the reasons for this proposed text amendment was the need for barbers and cosmetologists to operate from their homes due to the ongoing COVID-19 pandemic, as that would allow them to remain in business.

Citizen Comments: There were no citizens present to comment on this request.

Action: A motion was made by Mr. Davis, seconded by Ms. Worth, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to approve **PLN-ZOTA-21-00006: AMENDMENT TO ARTICLE 1: BARBER SHOPS AND BEAUTY SALONS**, for the reasons provided by staff.

VI. COMMISSION ITEMS

- A. APPOINT MEMBER TO FLOODPLAIN APPEALS COMMITTEE – Mr. Forester asked that the Commission consider appointing Ms. Barksdale to the Floodplain Appeals Committee.

Action: A motion was made by Mr. Davis, seconded by Mr. Pohl, and carried 7-0 (Barksdale, Bell, de Movellan, and Penn absent) to appoint Ms. Ivy Barksdale to the Floodplain Appeals Committee.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. MEETING DATES FOR FEBRUARY 2022

Work Session, Thursday, 1:30 p.m., 3 rd floor Conference Room, Phoenix Building	January 20, 2021
Technical Committee, Wednesday, 8:30 a.m., 3 rd floor Conference Room, Phoenix Building	January 26, 2021
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers, Government Center	January 27, 2021
Subdivision Committee, Thursday, 8:30 a.m., 3 rd floor Conference Room, Phoenix Building	February 3, 2021
Zoning Committee, Thursday, 1:30 p.m., 3 rd floor Conference Room, Phoenix Building	February 3, 2021
Subdivision Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers	February 10, 2021

X. ADJOURNMENT – There being no further business, Chair Forester declared the meeting adjourned at 4:23 p.m.

TLW/TM/CG/sc

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