

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

August 25, 2022

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

ATTENDANCE – Members present were: Chair Larry Forester, Judy Worth, Robin Michler, Bruce Nicol, Graham Pohl, Ivy Barksdale, Headley Bell and Anthony de Movellan (Zach Davis, Jan Meyer, and Frank Penn absent). Planning staff members present were: Jim Duncan, Traci Wade, Tom Martin, Hal Baillie, Autumn Goderwis, Daniel Crum, Cheryl Gallt, Chris Taylor, Meghan Jennings, Hannah Crepps, Stephanie Cunningham, Stuart Kearns, and Bill Sheehy. Other staff members present were: Vaughn Adkins, Division of Engineering; Stephen Parker, Division of Traffic 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. Bell, seconded by Mr. Pohl for the approval of the minutes of the July 28, 2022 public hearing, and carried 6-0(Barksdale, Davis, Meyer, Nicol, and Penn absent).

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

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, August 4, 2022, at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Janice Meyer, Frank Penn, Judy Worth, and Anthony de Movellan. Committee member in attendance: Vaughn Adkins, Division of Engineering and Steve Parker, Division of Traffic Engineering. Staff members in attendance: Traci Wade, Autumn Goderwis, Tom Martin, Hal Baillie, Cheryl Gallt, Daniel Crum, Paula Schumacher, Embry Beatty, Division of Fire and Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission:

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

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

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

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

The procedure for these hearings is as follows:

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

1. DEVELOPMENT PLANS

- a. PLN-MJDP-22-00043: ETHINGTON AND ETHINGTON TRACT 1 (AMD) (10/3/22)* - located at 4235 HARRODSBURG ROAD, LEXINGTON, KY
Council District: 9

Project Contact: Vision Engineering

* - 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 revise building sizes and layouts, vehicular circulation for Lots 2A and 2B, and to reduce the number of gas pumps on Lot 3.

The Subdivision Committee Recommended Postponement. There are questions regarding the traffic impact of another drive-thru in the development. A traffic study was requested by the committee.

Should this plan be approved, the following conditions 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 landscaping 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 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. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
10. United States Postal Service Office's approval of kiosk locations or easement.
11. Dimension all buildings (new and old).
12. Denote location of drive-thru order points and/or menu board.
13. Discuss additional drive thru lanes for the undeveloped lots.

Staff Presentation – Ms. Cheryl Galt oriented the Commission to the development map and highlighted the types of developments within the immediate area. The applicant is seeking to add a fast-food type of restaurant to the area, in addition to what is already there. Ms. Galt indicated that this plan was initially recommended for approval by the Technical Committee, but when it was presented to the Subdivision Committee, they recommended postponement because they wanted to see an update to the traffic impact study for the future drive-thru associated with the restaurant.

Ms. Galt highlighted the conditions of the plan, indicating that the first ten were the standard conditions. The additional conditions for this site included to dimension all buildings, denote the drive-thru order points, and to discuss additional drive-thru lanes for the undeveloped lots.

Commission Questions – Ms. Worth asked Stuart Kearns, senior planner for Transportation/MPO, if he was satisfied with the quality of the Traffic Impact Study. Mr. Kearns indicated that he was and that the only trouble area was Madrone Way, which could be problematic at peak hours.

Mr. Michler asked where the connections to the property were. Ms. Galt showed Mr. Michler on the map that the connections were on Madrone Way, Syringa Drive, and circle around the townhomes behind the restaurant.

Staff Presentation – Mr. Martin started by elaborating on some questions asked by the Mr. Michler. Mr. Martin indicated that the diagram on the Traffic Impact Study shows the connections he was asking about. Mr. Martin noted that staff is concerned with traffic along this corridor and has been for some time now. Mr. Martin stated that this Traffic Impact Study says that even in the worst case scenario, the traffic would be at an acceptable level.

Mr. Martin discussed condition #13 and stated that the applicant has agreed to put a development plan note stating that there will be no more drive-thrus on this development. However, if that changes, and the applicant would want to add another drive-thru, the Planning Commission would have the power to ask for another traffic impact study.

Commission Questions – Mr. Pohl inquired as to the enforcement mechanism for ensuring that a requirement like the development plan note is followed. Mr. Martin stated that the Subdivision Committee would have the authority to ask for another update to the study.

Applicant Presentation – Mark McIntosh, representing the applicant, stated that he prepared the Traffic Impact Study and that they were agreeable to adding the note to the development plan that limits the number of drive-thrus and asked for the Planning Commission's approval.

Development Plan Action – A motion was made by Mr. de Movellan, seconded by Mr. Bell and carried 7-0-1 (Nicol abstaining) (Davis, Meyer, and Penn absent) to approve PLN-MJDP-22-00043: ETHINGTON AND ETHINGTON TRACT 1 (AMD) adding to condition #13 that there will be no additional drive-thrus at this development.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, August 4, 2022, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Graham Pohl Zach Davis, Larry Forrester, and Bruce Nicol. Staff members in attendance were: Traci Wade, Autumn Goderwis, Hal Baillie, Tom Martin, Daniel Crum, Samantha Castro, Bill Sheehy, Doug Burton, Division of Engineering and Tracy Jones, Department of Law. The Committee members reviewed applications and made recommendations as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

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

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

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

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

The procedure for these hearings is as follows:

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

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

1. **ATHENS PROPERTY, LLC ZONING MAP AMENDMENT & ATHENS PROPERTY, LLC ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-22-00011: ATHENS PROPERTY, LLC** – a petition for a zone map amendment from an Agriculture Rural (A-R) and Single-Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone, for 5.6879 net (5.8494 gross) acres, for property at 6270 Athens Walnut Hill Pike.

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 to the Neighborhood Business (B-1) zone to allow for the full use of the site for retail, restaurant, and event space activities. The applicant indicates that the current restrictions, set by the Board of Adjustment, limit the usability and economic viability of the property.

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

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

1. A restricted Neighborhood Business (B-1) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies, for the following reasons:
 - a. The proposed rezoning will encourage development that promotes and enhances tourism by providing an amenity located near the Boone Creek Scenic Byway (Theme C, Goal #1.d; Livability Policy #2).
 - b. The proposed development will provide an additional quality of life opportunity, which benefit both local residents and tourists, demonstrating the value of the Athens rural settlement (Theme C, Goal #2.d).

- c. The proposed development will allow for increased usage of the property that will not modify or change the character of the Athens rural settlement (Theme D, Goal #3.a) and will attract attention to the settlement, by preserving and restoring the Athens schoolhouse for continued use (Theme D, Goal #3.c; Theme E, Goal #2.a).
- d. The proposed rezoning will promote context-sensitive agritourism in the Rural Service Area (Protection Policy #6), while encouraging economic opportunities for a wide array of rural tourism and preserving the Bluegrass identity (Livability Policy #1).
2. The justification and corollary development plan are in agreement with the Objectives of the 2017 Rural Land Management Plan.
 - a. The proposed development will protect the rural landscape by proposing no expansion of existing buildings or new improvements, and preserving and protecting the cultural and historic heritage of the Athens rural settlement (Goal B, Objective #1).
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
 - a. The following uses shall be prohibited:
 - i. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
 - ii. Research development and testing laboratories or centers.
 - iii. Medical and dental offices, clinics and laboratories.
 - iv. Telephone exchanges, radio and television studios.
 - v. Computer and data processing centers.
 - vi. Brew-pubs.
 - vii. Self-service laundry or laundry pick-up stations, including clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed-system process.
 - viii. Automobile service stations, provided such use conforms to all requirements of Article 16.
 - ix. Parking structures; provided such use conforms to the conditions of Article 16, and provided that at least twenty-five percent (25%) of the first floor is occupied by another permitted use or uses in the B-1 zone.
 - x. Repair of household appliances.
 - xi. Miniature golf or putting courses.
 - xii. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
 - xiii. Indoor theaters, with more than one (1) screens or stages.
 - xiv. Rental of equipment whose retail sale would be permitted in the B-1 zone.
 - xv. Dwelling units.
 - xvi. Arcades, including pinball and electronic games.
 - xvii. Pawnshops.
 - xviii. Athletic club facilities.
 - xix. Animal grooming facilities.
 - xx. Mail service facilities.
 - xxi. Tattoo parlors.
 - xxii. Form-based neighborhood business project.
 - xxiii. Day shelters.
 - xxiv. Offices of veterinarians, animal hospitals or clinics.
 - xxv. Outdoor live entertainment and/or dancing, cocktail lounges or nightclubs.
 - xxvi. Extended-stay hotels.
 - xxvii. Parking lots.
 - xxviii. Drive through facilities.

These restrictions are appropriate and necessary to reduce the potential impact of the allowable uses on the Athens rural settlement, and working within the restraints of the established infrastructure.

4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00044: Athens Property, LLC, prior to forwarding a recommendation to the Urban County Council.
- b. Variance Request - The applicant is seeking two dimensional variances, requesting relief from the required property perimeter screening requirements for the portions of the property that abut the Single Family Residential (R-1D) zoning and the Agricultural Rural (A-R) zoning. The applicant is also seeking to reduce the minimum required property perimeter requirements as regulated in of Article 18-3(a)(1) of the LFUCG Zoning Ordinance.

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

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

1. The Landscape Review Committee has not yet had an opportunity to review the requested variance. The next scheduled meeting is on August 23, 2022; and if a quorum is present, a recommendation on the requested variance

will likely be made. Although the staff is concerned with the merits of the request, until that meeting occurs, it is best to defer a substantive recommendation.

- c. PLN-MJDP-22-00044: ATHENS PROPERTY LLC (10/3/2022)* - located at 6270 ATHENS WALNUT HILL PIKE, LEXINGTON, KY.

Project Contact: Endris Engineering

Note: The purpose of this plan is to expand the allowable use within the existing development, in support of the requested zone change from an Agricultural Rural (A-R) zone to a Neighborhood Business (B-1) zone.

The Staff Recommends: Postponement. There are questions regarding compliance with required parking.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. United States Postal Service Office's approval of kiosk locations or easement.
6. Addition of Article 16 Code of Ordinances note.
7. Addition of note stating compliance with stormwater manuals.
8. Provided the Planning Commission grants the requested variance for the property perimeter screening.
9. Discuss compliance with parking requirements.
10. Discuss tree protection area and long term maintenance.
11. Discuss Placebuilder criteria.

Staff Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and of the general area. He stated that the applicant was seeking a zone map amendment from an Agricultural Rural (A-R) zone and Single Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone, for 5.6879 net (5.8494 gross) acres. The applicant is seeking this zone change to allow for the full use of the site for retail, restaurant, and event space activities. According to the applicant, the current Board of Adjustment restrictions limit the usability and economic viability of the property. The current restrictions allow for the applicant to run an antique store, and a small restaurant during certain hours of the day.

Mr. Baillie highlighted the history of the property and the surrounding area, noting how the property has changed over time and how a zone change is possible due to the school being in the Athens Rural Settlement area due to the Rural Land Management Plan approved in 2017. Mr. Baillie indicated that staff and the applicant had discussions on what prohibited uses and restricted uses would be appropriate and staff came up with 20 prohibited uses and 5 restrictive uses. Mr. Baillie shared a revised list of proposed conditional zoning restrictions with the commission.

Mr. Baillie concluded stating that staff is recommending approval of the zone change.

Commission Questions – Mr. Nicol asked about the Rural Land Management Plan and what that led to this property being added to the amended boundary Athens Rural Settlement in the 2007 Comprehensive Plan. Mr. Baillie stated that once it is approved, it will not change unless there was another plan is adopted to take it out. There has not been such a plan since 2007.

Ms. Worth asked if there was a PDR farm adjacent to this property and if the property would be a landscape buffer because of the PDR farm. Mr. Baillie indicated that there is a PDR farm next to the property, and highlighted its location on a map. Additionally he stated that there were property perimeter screening requirements for all urbanized zones against agricultural zones and that in this case there was a 15 foot landscape buffer requirement, which includes hedges and trees. Mr. Baillie concluded saying that the applicant is trying to be good neighbors and preserve the tree canopy along the borders of the property.

Staff Development Plan Presentation – Mr. Tom Martin oriented the commission to the development plan and highlighted the adjoining uses. Mr. Martin noted that over the years there has been very little physical changes to the property, with the exception of some additional parking, and the parking that the applicant is adding.

Additionally, Mr. Martin highlighted the tree protection area around the property and added that the applicant has added a note to establish a tree protection area (TPA) and replace any dead trees. Mr. Martin stated that at the time of the final development plan, the Planning Commission can refine those types of protections and include restrictions to protect the historic nature of the school.

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

Mr. Martin concluded the presentation stating that staff was recommending approval of the development plan, and noted that the evaluation and approval from the Board of Health of the septic system for this site.

Staff Variance Presentation – Mr. Baillie started the presentation explaining that the applicant had eliminated 2 of their 3 variance requests and were instead focusing on the reduction of the property perimeter screening requirement between the R-1D zone and the proposed B-1 zone. Mr. Baillie indicated that the applicant was seeking to reduce the requirement from a double hedge to a single hedge between a neighborhood business zone and a single family residential zone.

Mr. Baillie highlighted the landscape buffer location on a map and gave the applicant's justification for the need for the variance. The applicant noted the significant tree line that borders the entire property, and indicated that the tree line is significantly denser than the typical buffer. Mr. Baillie made mention of Mr. Martin's potential development note that the applicant would have to replace any downed hedges or trees, as well as that the Landscape Review Committee recommended approval of this variance.

Mr. Baillie concluded by saying that staff is agreeable with the variance request because it would not adversely affect the welfare of the property or the historical character of the property and the current buffer exceeds the recommended buffer between a B-1 zone and an R-1 zone. The approval recommendation is based on staff's conditions.

Commission Questions – Ms. Worth inquired if this was the time to ensure the same protections for the border along the PDR property, would this be the time to do so, or at the time of the development plan discussion? Mr. Baillie responded saying that the way this is written, it covers all boundaries of the property including the buffer between the B-1 and the A-R zones.

Applicant Presentation – Nathan Billings, attorney for the applicant, started his presentation asking those in the audience who were for the zone change to stand up. Mr. Billings stated that generally when you have this many people in attendance for a zone change it is people who are against and not for the change to happen. This time it was the opposite, and in addition to those in attendance, Mr. Billings had 99 letters of support from the community.

Mr. Billings continued saying that they are by and large in agreement with staff, with the exception of one thing and continued giving the applicant's vision for the property. The structure as it operates today will largely remain as it exists today just with increased hours of operation and less restrictions from the Board of Adjustment, with the long term goal of preserving the property and structures of the school. Additionally, Mr. Billings mentioned that there is not a good zone for what they are looking to do, but the B-1 zone was the closest one, and called what they envision the property as "B-1 lite."

Mr. Billings continued, giving a detailed history of the schoolhouse, and what it has been since the Fayette County School Board sold it in 2007 and how the applicant did not rush to apply for a zone change. After various discussions with staff, the applicant came to the conclusion that their initial Board of Adjustment measures were not enough for what they wanted to do, and filed for the zone change. Additionally, Mr. Billings indicated that the property across the street from the schoolhouse will remain in the A-R zone because it is not in the Rural Settlement area.

Mr. Billings stated their application was in compliance with the Comprehensive Plan and that while there are 46 principal uses in the B-1 zone, they are cutting that list in half and only ask that staff reconsider the outdoor concert/live music prohibited use. Additionally in order to allow for live music here they would need a conditional use from the Board of Adjustment, as well as a dimensional variance. Due to this, Mr. Billings is asking the Planning Commission to strike the portion of section 19 that allows for cocktail lounges and nightclubs, but keep the live music and outdoor entertainment section.

Mr. Billings went into detail about the community engagement for this zone change. Although it is not required for this specific property, there was significant engagement with the community and Mr. Billings gave a breakdown of the meetings.

Commission Questions – Ms. Worth asked if the owners were considering selling the property and if they would be willing to speak to the Commission about it. Mr. Billings started his answer that legally, the owners did not have to disclose that, but that they have no intention of selling the property right now.

Mr. Nicol asked if they dark green areas on the outline of the property map were going to be the tree protection area. Mr. Billings indicated that it was and that they have agreed to the staff's revised notes on the development plan.

Mr. de Movellan asked if there were any restrictions on amplification for a conditional use for live music. Mr. Billings stated that the parameters of that conditional use would be determined during a Board of Adjustment process.

Mr. Michler had a question about the distance requirement for a conditional use for live music. Ms. Wade indicated that the conditional use has to be 100 feet from the zone line, so if your property was 100-200 feet deep, it would be possible to meet that requirement.

Public Comment – Dottie Bean, 1364 Deer Lake Circle, discussed her objection to proposed improvements to Athens Boonesboro Road by the Kentucky Transportation Cabinet.

George W Mankel III, 6377 Athens Boonesboro Rd, voiced his support for the zone change and his appreciation for the owners and asked the Commission to approve this zone change.

Dan Graves, 3500 N Cleveland Road, implored the Commission to look at this as an opportunity and not as a slippery slope, and voiced his support.

Mike Harrell, address not given, stated that his property wraps around the property and could not ask for better neighbors. He is in full support of the zone change.

Commission Questions – Mr. Michler commented that he knew Mr. Mankel who spoke, and his band One Lane Bridge and that his band should be allowed to play at the property.

Zoning Action – A motion was made by Mr. Michler, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-MAR-22-00011: ATHENS PROPERTY, LLC, with the four staff recommendations deleting the restriction or outdoor live entertainment of dancing.

Development Plan Action – A motion was made by Mr. Michler, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-MJDP-22-00044: ATHENS PROPERTY LLC with the seven conditions removing the “Discuss Placebuilder Criteria”

Variance Action – A motion was made by Mr. Michler, seconded by Ms. Worth and carried 8-0 (Davis, Meyer, and Penn absent) to approve the variance request to reduce the hedge requirement from two to one along the Single-Family Residential (R-1D) zone, subject to the four conditions recommended by the staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE** – petition for a Zoning Ordinance text amendment to create a new Planned Unit Development 3 (PUD-3) zone (Article 22) to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses.

INITIATED BY: Turner Property 4, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Postponement**.

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

1. The proposed text amendment does not yet fully meet the intent and requirements established by Article 22 of the Zoning Ordinance regarding the creation of a Planned Unit Development (PUD). The site criteria, design standards, and proposed uses necessitate greater review.
2. The proposed text amendment does not provide a planning process that is conforming with Article 21 of the Zoning Ordinance.

Staff Presentation – Mr. Baillie presented and summarized the staff report and recommendations for the text amendment. Mr. Baillie began by presenting the regulations associated with the establishment of a PUD and stated that he would be going over all the steps prior to stating staff's findings. Mr. Baillie presented a list of proposed uses in the PUD-3 zone by the applicant including restaurants, dwelling units, and parks. In addition to the proposed uses, Mr. Baillie presented accessory, conditional, and prohibited uses.

Mr. Baillie transitioned to the applicant's site criteria noting that it started with the applicant's proposed development off Leestown Road, but as they worked with staff and the neighborhood, they transitioned to something that could be utilized all around the Urban Service Area. The parcel would need to be directly adjacent to a major arterial or corridor roadway, be at least 10 acres, and be currently zone as a business or industrial use. Additionally, Mr. Baillie discussed the applicant's connections to the 2018 Comprehensive Plan, including identifying areas of infill, enabling existing neighborhoods to flourish, and developing a variety of new jobs.

To conclude, Mr. Baillie stated that staff is recommending approval. Mr. Baillie said that staff saw this as a collaboration between the applicant, the neighborhood, and staff to create a zone that could be transferrable across the Urban Service Area and in agreement with the goals and objectives of the Comprehensive Plan.

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

Commission Questions – Mr. de Movellan asked if after the initial 10 acre lot size requirement, would any expanded or added parcel have to meet that 10 acre requirement as well. Mr. Baillie indicated that an expanded development would not have to meet the lot size requirement again, but it would have to be business or industrial in nature.

Mr. de Movellan additionally asked that with residential being one of the permitted uses, why is outdoor entertainment/rodeos a permitted use. Mr. Baillie responded stating that with an applicant like this could blend the residential uses with other uses in their overall plan and that developments like this PUD and the mixing of uses is in line with the Comprehensive Plan.

Mr. Michler asked about the tree canopy goals for the city and what percentage that they look for. Mr. Baillie stated that the overall goal was 30% in the urbanized area.

After Mr. Baillie's response, Mr. Michler asked why this PUD-3 is only asking for 15%. Mr. Baillie responded saying that each zone's canopy requirement is different. This specific requirement is more in line with an I-1 zone, which asks for 10% tree canopy coverage.

Mr. Nicol asked that if this text amendment passes, could it be used throughout the Urban Service Area and if it is fair to summarize that this plan will allow dwelling units in quasi industrial space. Mr. Baillie indicated that it can be used throughout the Urban Service Area if approved and that this approach is similar to the adaptive reuse projects and encourages a redevelopment of industrial space.

Applicant Presentation – Mr. Nathan Billings, attorney for the applicant, began his presentation by answering questions asked by Mr. Nicol and Mr. Michler about the mixing of different uses and the tree canopy requirements. Mr. Billings stated in the affirmative that they were trying to mix seemingly conflicting uses because they have a property that drove this ZOTA request, but they were not asking for a zone change at this time. There are other properties around Lexington, where this potential ZOTA could be applicable, which gives the Planning Commission the ability to control what types of uses go into the PUD-3 zone.

Mr. Billings indicated that this was not something that they came up with in a month, they have had months of discussion with staff and the neighborhood throughout the process. Mr. Billings gave the reasons for asking for a PUD stating that the applicant owns a unique I-1 zoned property and wants to revitalize historically used tobacco warehouses, but the I-1 zone regulations are prohibitive. Additionally the other mixed-use zones would have had limitations that would restrict what the applicant wants to do with the property.

After discussion with the Planning staff, Mr Billings indicated that the applicant wanted to create their own zone to allow for the continued I-1 uses, with the flexibility of the other mixed-uses. Mr. Billings presented pictures of the subject property off Leestown Road and discussed a few areas of concern that the Meadowthorpe Neighborhood had and what types of uses they were concerned about. Due to these concerns from the neighborhood, the applicant has agreed to not have adult day cares, rehab centers, community centers, or a child-care center on the subject property.

Mr. Billings concluded, once again highlighting the months of work and communication with Planning staff and the neighborhood and offered to answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked about the buffer requirement for railroad tracks, being that there are tracks along the edge of the property, and if the tracks were owned by the applicant. Mr. Billings consulted Ms. Wade, and Ms. Wade indicated that the buffer was 15 feet with a fence. Additionally Mr. Billings stated that the railroad tracks were not owned by the applicant.

Mr. Michler asked why there was so little tree canopy for this property, especially if you can plant trees in parking lots. Mr. Billings stated that he thought they were increasing the canopy from the current 10% to 15%.

Mr. Michler also asked if there could be a variance to reduce the tree canopy. Ms. Wade responded saying that applicants can ask for a waiver to the tree canopy standards, but there are some guidelines for that occurring. Ms. Wade also stated that she did not think that we were going to reach the 30% via industrial land, it will most likely come from residential. Additionally, Ms. Wade stated that if a residential development was proposed as part of a PUD-3, the Planning Commission could require 30% tree canopy coverage on the land.

Citizen Comment – Rock Daniels, 1519 Old Leestown Road, president of the Meadowthorpe Neighborhood Association, stated that the applicant and staff had all been very helpful during these discussions. He stated he was hopeful the development would be an asset to Lexington and the neighborhood.

Blake Hall, 36 Richmond Ave, stated he was in support because it allows a transitional zone for varied developments, but did want to see drive-thrus moved from an accessory use to a conditional use.

Walt Gaffield, 2001 Bamboo Road, stated that if the Meadowthorpe Neighborhood Association was for the development, so was he.

Gabe Hensley, 301 Pelican Lane, stated that he was not against the development, but had some concerns about the principal primary and accessory uses being located so close to the neighborhood.

Staff Rebuttal – Mr. Baillie wanted to clarify that this meeting was not the appropriate time to designate certain conditional zoning restrictions that would be placed on a property.

Commission Questions – Mr. Pohl asked Mr. Baillie to address the concern about the drive-thru's being an accessory use that Mr. Hall brought up. Mr. Baillie stated that drive-thru facilities were requested as an accessory use because this development is seen as a more intense land use. Additionally, Mr. Baillie mentioned that with a B-1 zone it is a conditional use, or shown on the development plan and the Planning Commission has the ability to decide if a drive-thru is or is not appropriate for a location.

Applicant Rebuttal – Mr. Billings stated that he spoke with the applicant, and they are willing to move drive-thrus to a conditional use.

Staff Comment – Tracy Jones, Department of Law, told the Planning Commission that if drive-thrus are a conditional use in the text amendment, the Commission would not see it on the development plan. It would have to go to the Board of Adjustment instead.

Commission Questions and Comments – Mr. Nicol commented that over and over again things get approved by the Board of Adjustment, then by the Urban Council, and eventually come back to the Planning Commission.

Mr. Pohl stated that he really likes this text amendment and thinks it's a good move for the city and the location.

Ms. Worth commented that she knows that Meadowthorpe has a long history of working with developers, and looks forward to what they do with this project.

Mr. de Movellan asked for staff's recommendations on the drive-thru use. Mr. Baillie responded saying that the Planning Commission has many options on this, but staff has recommended approval as an accessory use.

Action – A motion was made by Mr. Pohl, seconded by Ms. Barksdale and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE for reasons provided by staff

2. **PLN-ZOTA-22-00011: AMENDMENT TO ARTICLE 8-1(d) TO ADD SMALL FARM MICRO-DISTILLERIES AS A CONDITIONAL USE IN THE AGRICULTURAL RURAL (A-R) ZONE** – a petition for a Zoning Ordinance text amendment to create a new conditional use, in the Agricultural Rural (A-R) zone. The proposed conditional use will allow for the distillation of 1,000 gallons in association with an established agricultural use.

INITIATED BY: SILVER SPRINGS FARM EQWINE AND VINEYARD, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval of the Staff Alternative text.

The Staff Recommends: Approval of the Staff Alternative text for the following reasons.

1. Micro-distilleries distilleries have extensive historical connections to agricultural uses within Lexington, as well as the Commonwealth of Kentucky as a whole.
2. Providing for small farm micro-distilleries in the Agricultural Rural (A-R) zone will permit additional opportunities to utilize existing agricultural resources for value-added products and tourism in support of the local economy.
3. The conditional use process and distillate production limits will ensure that the use operates at a scale that is compatible with the associated active farm or agricultural operation.
4. The inclusion of small farm micro-distillery to the possible conditional uses within the A-R zone is in agreement with the 2018 Comprehensive Plan for the following reasons:
 - a. The additional revenue stream for the agricultural uses that is derived from distillery operations will help strengthen the agricultural economy (Theme C, Goal #1.b).
 - b. The tasting and touring activities associated with small farm micro-distilleries will help promote agricultural tourism (Theme C, Goal #1, Policy D).
 - c. By limiting the scale of production to no more than 1,000 gallons of distilled spirit, the use would promote context-sensitive agritourism in the Rural Service Area (Theme B, Protection Policy 6). The potential to utilize locally grown materials and agricultural byproducts in the operation of the use promotes environmental sustainability (Theme E, Goal #1, Policy D).

Staff Presentation – Mr. Crum presented and summarized the staff report and recommendations for the text amendment. To begin, Mr. Crum discussed the current zoning used by the Commonwealth of Kentucky for different distilleries. A distillery with a Class A license has greater than 50,000 gallons produced annually in the I-2 and ED zones, and a distillery with a Class B license produces less than 50,000 gallons annually.

Mr. Crum went on to discuss the applicant, who owns a small farm winery who wishes to use the by-products from his operation to distill in the Agricultural Rural zone. Currently you cannot have a micro-distillery in the A-R zone, so Mr. Carter is here asking to make that a permissible use. Mr. Crum explained the proposed language, stating that a Small Farm Micro Distillery, would be defined as a distillery associated with an established agricultural use and produces less than 1,000 gallons of distilled spirit annually. In their letter of justification, the applicant makes the case that the value added process of making their own spirits, is appropriate in the agricultural zones because of the ties between distilleries and agriculture historically. Staff agreed with this assertion and found examples dating back to the 1700s a small distillery operation could be found on small farms.

Mr. Crum highlighted the conditional use process if the text amendment were to be passed today, including that the Board could ask such questions as how the distillery will be operating, how many hours a day would it be operating, where the buildings will be, etc. Planning staff would have to review the information given on an annual basis, and if they are not up to the standards, the conditional use can be revoked.

Mr. Crum indicated that the staff was supportive of the proposed language on the whole, but made some tweaks in the staff alternative language to be more in line with other ordinance requirements. Mr. Crum also indicated that this text amendment does touch on many of the goals of the Comprehensive Plan including supporting existing agricultural uses, providing additional opportunities to financially thrive, increasing value-added products, and promoting sustainability and agri-tourism.

Mr. Crum mentioned some concern from the Zoning Committee about the 1,000 gallon limit. They requested additional information about the proposed limit. In staff's research, they ran into issues finding one uniform definition for small farm micro distilleries and found that each state's definition was different. Instead staff focused on some permitted small farm distilleries in Kentucky and presented them to the Commission. After reviewing the research, the staff still contends that the 1,000 gallon limit is appropriate. Mr. Crum stated that the greater amount of distilled spirit, the greater impact there is on the land. According to Mr. Crum, for every barrel of distilled spirit you can expect 800-1000 pounds of produce involved in its production, along with 600 gallons of water.

Mr. Crum concluded saying that staff is recommending approval of staff alternative language.

Commission Questions – Mr. Nicol asked if there is any way that what we are discussing here can be considered urban development. Mr. Crum responded that he thought that what is being proposed is within the intent of the A-R zone.

Mr. de Movellan asked if there is any requirement that the natural resources discussed in the staff report, have to come from the property itself and what constitutes an "active farm." Mr. Crum stated that it did not have to at this time and that "active farm" is a term that the Zoning Ordinance uses evaluating agri-tourism and that determination would be made by the Board of Adjustment.

Mr. Michler asked if Planning staff was able to find examples of businesses that have been successful under that 1,000 gallon limit. Mr. Crum indicated that there just are not a lot of micro-distilleries in the United States and only about a dozen total and based on his research the micro-distillery on a small farm was not a principal use, it was an additional added value. Based on Mr. Michler's question, Mr. Crum indicated that he could not find a successful example because there are so few, and the Bourbon County ordinance was so new.

Mr. Nicol asked why staff did not use the language that Bourbon County used in Mr. Crum's previous slide about natural resources. Mr. Crum said that it was something that staff looked at, but thought it was too specific and too burdensome.

Applicant Presentation – Allen Carter, applicant and owner of Silver Springs Farm Eqwine & Vineyard, LLC, gave a small presentation on his business and why he is pursuing the text amendment. Mr. Carter stated that he thinks that he has checked all the boxes for a small farm micro-distillery and highlighted different management practices on his farm and his wine operation, as well as what he plans to do if this text amendment passes.

He ended his presentation thanking the Planning Commission for their consideration and asking for approval.

Commission Questions – Mr. Pohl asked how big a barrel house would be and if Mr. Carter would build one. Mr. Carter indicated that his plan is to build a barrel house at some point, but not immediately. Mr. Carter explained the research he had done in Europe and that he was going to be using a container to hold the barrels to start.

Mr. Pohl also asked if Mr. Carter would have a problem with a requirement that a certain amount of agricultural product used in the distillate had to come from his farm. Mr. Carter indicated that he was already making the distillate at his farm to make wine, and he wants that to make brandy so he would not have an issue.

Citizen Comment – Brittany Roethemeier, executive director of Fayette Alliance, said that she was supportive of revisiting agri-tourism uses in the A-R zone, but it should be done comprehensively, with stakeholder input, and any new permitted uses should require an agricultural-nexus requirement between the use and the land it operates on.

Staff Rebuttal – Mr. Crum addressed Mr. Pohl's suggestion about percentages of agricultural coming directly from the farm. Mr. Crum stated that this suggestion is different than how we deal with small farm wineries, because they do not require that with wineries. Additionally, Mr. Crum indicated that those percentages are difficult to enforce and that a lot of the concerns presented by Ms. Roethemeier would be addressed in the conditional use process and would be regulated through permits and agencies at the state and federal level.

Commission Questions – In relation to waste water that Ms. Roethemeier mentioned in her comments, Mr. Nicol asked Mr. Crum if he knew the average drinking water per cow a year. Mr. Crum did not, and Mr. Nicol indicated that according to Michigan State University, it is 30 gallons a day per cow.

Mr. Michler asked when the Bourbon County ordinance with the limit of 1,000 gallons went into effect. Mr. Baillie stated that it was last amended in 2016, but its initial establishment was in 2013.

Ms. Worth commented that she wished that the applicant was doing this through a waiver, because she would have no issue with it then. Ms. Worth said that she is worried about what looks to her like planning in the A-R zone via ZOTAs and mentioned the other ZOTA's relating to the A-R zone. She concluded saying that she would like us to take a thoughtful comprehensive look at what we do in the A-R zone.

Mr. Bell concurred with Ms. Worth's thoughts.

Mr. Michler said he understood the fear from Ms. Worth and Mr. Bell, but that the applicant does not have a choice in this process and that it was a logical step to allow the wineries that we already allow, to make the spirits they want to. He concluded his statement saying what Mr. Carter is asking for is a perfectly reasonable request and he supports this application.

Mr. Pohl concurred with Mr. Michler.

Action – A motion was made by Mr. Michler, seconded by Ms. Barksdale and carried 6-2 (Worth and Bell opposed) (Davis, Meyer, and Penn absent) to approve PLN-ZOTA-22-0000011: AMENDMENT TO ARTICLE 8-1(d) TO ADD SMALL FARM MICRO-DISTILLERIES AS A CONDITIONAL USE IN THE AGRICULTURAL RURAL (A-R) ZONE for the reasons provided by the staff.

3. **PLN-ZOTA-22-00014: AMENDMENT TO ARTICLES 1, 3, 8, 9, 10, 11, 16, 18, 23 AND 28 TO UPDATE PARKING AND VEHICULAR USE AREA LANDSCAPE BUFFERING** – a petition for a Zoning Ordinance text amendment to consolidate all parking regulations to one location (Article 16), incorporate parking design standards, eliminate minimum parking requirements, as well as to increase tree canopy and vehicular use area screening requirements for parking lots.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Copies are available from the staff.

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

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

1. The proposed text amendment supports and implements the 2018 Comprehensive Plan, in the following ways:
 - a. The amendment expands housing choices (Theme A, Goal #1) by allowing more types of residential development to be constructed where they are currently precluded due to inflexible parking requirements (Theme A, Goal #1, Objectives a through d).
 - b. The amendment supports infill and redevelopment throughout the Urban Service Area (Theme A, Goal #2) by providing more flexible parking regulations to facilitate the construction on smaller and more constrained parcels often found in infill and redevelopment locations.
 - c. The amendment promotes the development of green building, sustainable development, and transit-oriented development (Theme B, Goal #2.c) by allowing more pedestrian and transit focused development to occur and by raising the landscaping and tree canopy requirements for vehicular use areas.
 - d. The amendment reduces Lexington-Fayette County's carbon footprint (Theme B, Goal #2) by reducing the requirements for additional unnecessary vehicular use areas that contribute to dangerous heat islands.

Staff Presentation – Mr. Chris Taylor presented and summarized the staff report and recommendations for the text amendment. Mr. Taylor began stating that this text amendment would put Lexington at the forefront of innovative planning by eliminating parking minimums and Lexington would be the 3rd largest city in the east/Midwest to do so.

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

Mr. Taylor explained that the purpose of this text amendment is to provide greater flexibility for development to provide the parking they need while also allowing more walkable development to naturally occur over time. Additionally Mr. Taylor explained another critical goal of this text amendment is to mitigate the negative impacts of parking lots, including improving vehicular use area landscape buffers against adjacent uses, improve the tree canopy and standards that ensure their survival, and improving the function of parking lots to allow pedestrian safety.

Mr. Taylor discussed the history of parking requirements, mentioning they started in Columbus, Ohio and eventually finding their way to Lexington in 1953. The negative effects were not felt immediately, but over the years the negative effects have compounded into a serious problem. Lexington has the unique problem of being constrained in its growth, while totally dependent on vehicles based on our development patterns over the years.

Mr. Taylor displayed graphs and numbers about how calculating parking minimums over the years has been done, indicating that when you look at the numbers, there is no statistical correlation between square footage and demand for parking. The graph presented by Mr. Taylor showed data points all over the chart where the average did not hit a single data point at all.

Mr. Taylor indicated that these parking requirements helped create huge parking lots that in turn create dangerous heat islands that negatively impact our community. Mr. Taylor stated that the goal of this text amendment overall was to improve conditions for motorists, cyclists, and transit users.

Mr. Taylor also indicated that this text amendment is the culmination of over a year of work, highlighting the various drafts, focus groups, and discussions since last year. Mr. Taylor went in depth with what regulations are changing, where they are proposing the elimination of parking requirements, the consolidation of parking standards, and vehicular use area improvements. Additionally, Mr. Taylor highlighted that these new regulations will have a focus on the environment and will provide greener parking lots that will improve our urban forest, reduce heat islands, and mitigate stormwater.

Mr. Taylor concluded stating that he can answer any questions that the Planning Commission might have.

Commission Questions – Ms. Worth asked if there were any protections in the way that the ordinance is written to deal with people that may use this as an excuse to pave their front yards so they have a place to park. Mr. Taylor answered that places that do not have adequate parking are places that were developed before Lexington at parking requirements and that those are more desirable places to live because they are more walkable. Mr. Taylor continued saying that for new developments, the Planning Commission is able to review the parking provided on every plan and that is the Planning Commission's right to do so.

Public Comment – Nacny Barnett, 1105 Richmond Road, stated that she thinks this a wonderful idea and supports it.

Deborah Gerth, 461 Silver Maple Way, stated she supports the text amendment for all the reasons provided by the planners and thanked them for their work.

Walt Gaffield, 2001 Bamboo Road, stated that he would like some language that would allow the Planning Commission to take a look at parking plan, and he proceeded to give examples of where parking has been difficult around Lexington.

Blake Hall, 36 Richmond Ave, stated that he was in support of the text amendment for the environmental reasons listed by staff.

Clay Turner, 3321 Lyon Drive, said he cared deeply about the tree canopy and water quality in Lexington, and thought that this text amendment would improve both.

Michael Potapov, 1105 Richmond Road, said that he sent a letter of support and that he was most concerned about tree survivability and this will help with that.

Dick Murphy, stated that he is generally supportive of this text amendment, but did mention he thought about objecting to it because it might take some business away from his legal practice.

Amy Clark, 628 Kastle Road, stated that she wanted to thank staff for bring forth this the text amendment. Ms. Clarke presented various ideas to help improve it further.

Nick Nicholson, 300 W. Vine Street, echoed Mr. Murphy's comments and thinks this text amendment is a much needed change and he urged the Commission to adopt it.

Staff Rebuttal – Mr. Taylor addressed Ms. Clark's concerns about the study in Buffalo, New York. Mr. Taylor reiterated that they have looked at the data and various studies, and have tried to structure these new regulations to prevent or mitigate the negative effects.

Public Comment – Amy Clark, 628 Kastle Road, asked to restore article 21-7(a)(5) that was deleted in 2014.

Commission Questions and Comments – Mr. Pohl asked staff to address Ms. Clark's comment. Mr. Taylor said that he thinks there is an opportunity for every minor amendment to be referred back to the Planning Commission through a referral process, but he does not think that staff sees the need for every parking revision to come to the Planning Commission through a major amendment to a development plan.

Additionally, Mr. Pohl inquired if the comments from Ms. Clark were similar to those of Mr. Gaffield's. Mr. Baillie responded saying that would be a staff level decision and that the Planning Commission members would probably prefer that, but if it was something of greater concern staff would bring it to the Planning Commission's purview.

Mr. Michler stated that he was very impressed with how staff has navigated the concerns of so many different stakeholders in the process and have crafted something Lexington really needs. He is comfortable and excited to support the text amendment.

Ms. Worth stated that her problem was with oversight, not minimums and that she thought the staff had done great work.

Action – A motion was made by Mr. Pohl, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve **PLN-ZOTA-22-00014: AMENDMENT TO ARTICLES 1, 3, 8, 9, 10, 11, 16, 18, 23 AND 28 TO UPDATE PARKING AND VEHICULAR USE AREA LANDSCAPE BUFFERING** for reasons provided by staff.

*There was a round of applause for Mr. Chris Taylor, and staff.

4. **PLN-ZOTA-22-00015: AMENDMENT TO ARTICLES 8, 10, 11, 22, AND 23 TO THE ZONE INTENT STATEMENTS** – a petition for a Zoning Ordinance text amendment to update the "intent" statement for numerous zoning categories to more clearly align with the adopted Comprehensive Plan. Intent statements are included for each zoning category and are meant to explain the location, criteria and/or purpose of the zone.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Copies are available from the staff.

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

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

1. The proposed text changes will provide greater consistency between Lexington's adopted documents and remove references to defunct future land use categories from past Comprehensive Plan methodologies.
2. The proposed text will also modernize the language of the Zoning Ordinance to reflect current and anticipated land use practices and to strengthen the vital link between the Comprehensive Plan and Zoning Regulations.
3. The proposed text changes will provide greater transparency to the community as to the purpose of zones and can provide a foundation to any future text amendments to zones.
4. The proposed text amendment is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies, for the following reasons:
 - a. An accurate and modern Ordinance is imperative to the implementation of the 2018 Comprehensive Plan (Goal 2).
 - b. The proposed language will update the Zoning Ordinance to reflect the direction of the 2018 Comprehensive Plan, proactively planning for the next 20 years of growth (Theme E, Accountability Policy #2).
 - c. The proposed language will allow for the implementation of the Comprehensive Plan and the Placebuilder, which includes criteria for zone change applications, based upon the goals and objectives, to ensure development compliance with the Comprehensive Plan (Theme E, Accountability Policy #3).

Staff Presentation – Mr. Baillie presented and summarized the staff report and recommendations for the text amendment. Mr. Baillie began by giving the three main reasons to update the intent statements which are for technical/legal reasons, practical reasons, and for transparency.

Mr. Baillie indicated that the technical and legal reason is to try and connect the Comprehensive Plan to the Zoning Ordinance, calling for the appropriate locations for zones and making the connection to our land use policy decisions. Mr. Baillie made the point that many of our zoning categories have not changed since the 1983 zoning ordinance and is associated with the older Comprehensive Plan style. The way we zone has changed and this intent statement will help reflect that.

Practically speaking, there are certain elements within the intents that are no longer there and does not make sense. Mr. Baillie continued saying that the current intent statement is not making connections to specific density counts and staff would like to change the perspective to reflect the adopted Comprehensive Plan and the policies this body has made since the 2013 Comprehensive Plan. Mr. Baillie also stated that transparency is paramount when dealing with text amendments and mentioned how we had discussions today on what the intent of the A-R zone, and that is how we should be looking at each of our text amendments and how we are applying them to our different zones.

Mr. Baillie transitioned into the timeline and history of the text amendment, stating that work began in December of 2020 and work has continued until today. Mr. Baillie highlighted various staff research, outreach, work sessions and the development of the language throughout that time. Mr. Baillie stated that this text amendment is looking to modernize the Zoning Ordinance and will provide greater context and connections to the Comprehensive Plan.

Mr. Baillie presented the Planning Commission an example what these changes would look like and what the language would look like with the Single Family Residential Zones. Additionally, this text amendment would modernize some zone titles to be more in line with what would make the most sense now.

To end the presentation, Mr. Baillie went over some concerns voiced by opponents of this text amendment including reasons such as the length of the intent is too long and the redundancy of the inclusion of text that referenced the Placebuilder criteria. Mr. Baillie concluded and stated that staff is recommending approval of this text amendment.

Public Comments – Dick Murphy, stated that his concern with intents was how they are used and that he does not think they are needed.

Walt Gaffield, 2001 Bamboo Road, thinks the intents language should be simplified but on the whole he supports it.

Nick Nicholson, 300 W Vine Street, stated that the ‘flowery’ language in the Comprehensive Plan should not be placed in the Zoning Ordinance itself and that the language could get the Planning Commission in legal trouble.

Blake Hall, 36 Richmond Ave, supports these changes and thinks that it is understandable to update the intents section and renaming some zones makes sense.

Amy Clark, 628 Kastle Road, asked for postponement and that there had not been enough time for public study and discussion and there was no public outreach.

Staff Rebuttal – Mr. Baillie started his rebuttal saying that the intents statement is not for the future, it is for now. On the assertion that there was no discussion or public outreach, Mr. Baillie entered into the record documentation that was sent out on January 24, 2022 that is reflective of the language we are talking about right now which was sent to Ms. Clark. Mr. Baillie did indicate that since this the Planning Commission’s text amendment, they can postpone it even though it is older than 6 months old. He did however recommend a continuance if they do decide that it needs more work.

Commission Questions & Comments – Ms. Worth said that when a lawyer tells her this language could get us in legal trouble, she starts to get a little worried. She asked for a continuance to look over these points. Additionally, Tracy Jones, Department of Law stated that the Planning Commission is well within its rights to do so and would provide any type of counsel she could.

Mr. Pohl said that he agreed with Ms. Worth, and there could be more outreach to the public on this for him to be comfortable with the text amendment. He ended saying that a continuance made sense to him.

Mr. Bell echoed the sentiment from Ms. Worth and Mr. Pohl, he has a great deal of respect for staff and all those who spoke and wishes to take a look at it more.

Staff Comment – Mr. Duncan recommended not to continue this in September because there is already a full agenda next month and instead recommended the Planning Commission meeting on October 27. On the record, Mr Duncan also strongly advised that the Planning Commission take its legal counsel from Ms. Jones.

Action – A motion was made by Mr. Bell, seconded by Ms. Barksdale and carried 8-0 (Davis, Meyer, and Penn absent) to continue discussions on PLN-ZOTA-22-00015: AMENDMENT TO ARTICLES 8, 10, 11, 22, AND 23 TO THE ZONE INTENT STATEMENTS to the Planning Commission Public Hearing on October 27th.

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

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

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission’s formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

IX. MEETING DATES FOR SEPTEMBER 2022

Subdivision Committee, Thursday, 8:30 a.m., in 3rd Floor Conf Room, Phoenix Building September 1, 2022
Zoning Committee, Thursday, 1:30 p.m., in 3rd Floor Conf Room, Phoenix Building September 1, 2022
Subdivision Items Public Hearing, Thursday, 1:30 p.m. in Council Chambers, 2nd Floor, Gov’t Center..... **September 8, 2022**

Work Session, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	September 15, 2022
Technical Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	September 28, 2022
Zoning Items Public Hearing , Thursday, 1:30 p.m, in Council Chambers, 2 nd Floor, Gov't Center	September 22, 2022
Work Session, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	September 29, 2022

X. **ADJOURNMENT**

Larry Forester, Chair

Janice Meyer, Secretary

TLW/HB//RS