

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

November 17, 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, Frank Penn, Judy Worth, Robin Michler, Bruce Nicol, Graham Pohl, Ivy Barksdale, Jan Meyer, Anthony de Movellan and Headley Bell (Zach Davis absent). Planning staff members present were: Jim Duncan, Traci Wade, Tom Martin, Hal Baillie, Autumn Goderwis, Daniel Crum, Meghan Jennings 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; Tracy Jones and Brittany Smith, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Meyer, seconded by Ms. Worth for the approval of the minutes of the October 27, 2022 public hearing, and carried 9-0 (Barksdale and Davis absent).

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

1. **PLN-MAR-22-00015: DUTCH BROS, LLC** – a petition for a zone map amendment from a Planned Neighborhood (R-3) zone to a Neighborhood Business (B-1) zone, for 0.2916 net (0.3516 gross) acres, for property located at 507 S Limestone.

Applicant Comment – Adam Bender, applicant, requested a one month postponement to the December 15th Planning Commission public meeting because the applicant is considering their next steps.

Action – A motion was made by Mr. Penn and seconded by Mr. de Movellan and carried 9-0 (Barksdale and Davis absent) to postpone **PLN-MAR-22-00015: DUTCH BROS, LLC** until the December 15, 2022 meeting.

2. **PLN-MAR-22-00016: REALTY UNLIMITED BLUE GRASS, LLC** – a petition for a zone map amendment from a Single-Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.836 gross) acres, for property located at 940 Higbee Mill Road.

Staff Comment – Mr. Hal Baillie indicated that the applicant was not present, but that staff had been working with the applicant, and that both the Zoning and Subdivision Committee's had recommended postponement. The applicant had also requested a two month postponement to further work on the application and development plan.

Action – A motion was made by Ms. Worth and seconded by Mr. de Movellan and carried 10-0 (Davis absent) to postpone **PLN-MAR-22-00016: REALTY UNLIMITED BLUE GRASS, LLC** until the January 26, 2023 meeting.

3. **PLN-MJDP-22-00058: CRESTWOOD MONTESSOURI SCHOOL (REDWOOD CO-OP SCHOOL EXPANSION) (AMD) (1/4/2023)***

Staff Comments – Ms. Traci Wade stated that the applicant requested postponement until the December 8th Planning Commission Subdivision meeting.

Action – A motion was made by Mr. Bell and seconded by Mr. de Movellan and carried 10-0 (Davis absent) to postpone **PLN-MJDP-22-00058: CRESTWOOD MONTESSOURI SCHOOL (REDWOOD CO-OP SCHOOL EXPANSION) (AMD)** until the December 8, 2022 meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 3, 2022, at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Judy Worth, Frank Penn, Headley Bell, and Janice Meyer. Committee members present were Vaughn Adkins, Division of Engineering; and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Hal Baillie, Cheryl Gallt, Autumn Goderwis, Daniel Crum, Paula Schumacher, and Greg Lengal, Division of Fire and Emergency Services. 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:

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

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.

Ms. Wade announced the items on the consent agenda.

- a. PLN-MJDP-22-00051: NEWTOWN SPRINGS, LOTS 8 (12/4/2022) – located at 1432 NEWTOWN PASS, LEXINGTON, KY
Council District: 1
Project Contact: EA Partners

Note: The purpose of this plan is to depict buildings and parking layouts on Lot 8.

The Subdivision Committee 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 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. Greenspace planner's approval of the treatment of greenways and greenspace.
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. United States Postal Service Office's approval of kiosk locations or easement.
11. Denote potential cross access locations with Lot 7.
12. Dimension pool and patio area.
13. Correct conditional zoning restrictions.
14. Document Board of Adjustment approval of extended-stay hotel on Lot 8, including parking lot lighting condition.
15. Document compliance with adopted regulations for parking, VUA screening, and VUA internal landscaping per Ordinance 113-2022.

- b. PLN-MJDP-22-00052: SAND LAKE AND ESTES PROPERTIES, LOT 5 (AMD) (12/4/2022)* - located at 121 SAND LAKE DRIVE, LEXINGTON, KY
Council District: 7
Project Contact: EA Partners

Note: The purpose of this plan is to depict building and parking layout for a vehicle rental establishment.

The Subdivision Committee 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 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. United States Postal Service Office's approval of kiosk locations or easement.

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

10. Denote record plat designation, N-419 and S-154.
11. Denote zone line information, and label Lot 5 with acreage.
12. Correct number of total lots in site statistics.

Action – A motion was made by Mr. de Movellan and seconded by Mr. Bell and carried 10-0 (Davis absent) to approve the consent agenda as presented by staff.

- 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-22-00055: COWGILL PARTNERS, LP PROPERTY (MEADOWCREST) (12/4/2022)*
 - located at 2550 WINCHESTER ROAD, LEXINGTON, KY
 Council District: 12
 Project Contact: Vision Engineering

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

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

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the compliance with Article 23A-10 of the Zoning Ordinance.

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, including improvements to Winchester Road.
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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval 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.
12. Provided the Planning Commission finds the plan complies with the Expansion Area Master Plan.
13. Denote right-in/right-out access to Lot 1 shall be for construction purposes only and shall be removed upon completion of construction on Lot 1. Configuration of temporary construction access shall be determined in conjunction with the Divisions of Engineering and Traffic Engineering.
14. Resolve Hume Road realignment, timing of construction, approval by KYTC/County Fiscal Court, and inclusion on the development plan.
15. Resolve traffic circle location at Commerce Avenue and Paramount Drive to ensure Winchester Road intersection functionality.
16. Correct site statistics for Floor Area Ratio, Open Space and Supportive Use percentage.
17. Correct square footage of building on Lot 2.

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

18. Remove Lot 17 from Open Space calculations.
19. Denote timing limitation of development of Supportive Uses on Lots 11-16 per Article 23A-10(j)(12)c.
20. Denote exactions to the approval of the Division of Planning.
21. Update note #11 to address coordination of future roadway and infrastructure plans for Lot 17 if no final development plan is required.
22. Denote: No building permits shall be issued for Lot 17 until a final development plan is approved or a Public Facility Review has been conducted by the Planning Commission.
23. Denote Development Standards, including lot size and setbacks per Article 23A-2(l).

Staff Presentation – Ms. Traci Wade oriented the Planning Commission to the location of the subject property, near the I-64 and I-75 intersection and Winchester Road. Ms. Wade noted the applicant is in negotiations on Lot 17 of the development plan to potentially build a healthcare facility, but mentioned the 16 other lots depicted on the development plan were speculative in nature.

Ms. Wade indicated that prior to today, Planning Staff had recommended postponement, but the applicant had resubmitted the development plan twice, and after the latest resubmittal, staff can now recommend. Ms. Wade stated that one of conditions for approval is that the Planning Commission agrees that this development complies with the Expansion Area Master Plan. Additionally, Ms. Wade noted concerns with access to Lot 1 on the development plan, access to Winchester Road, and an intersection improvement that was requested. A waiver was approved for the intersection with Winchester Road, as well as a note on the development plan to allow for the realignment of Hume Road.

Ms. Wade ended her presentation by stating that Staff is recommending approval of this development plan, 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, including improvements to Winchester Road.
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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval 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.
12. Provided the Planning Commission finds the plan complies with the Expansion Area Master Plan.
13. Denote right-in/right-out access to Lot 1 shall be for construction purposes only and shall be removed upon completion of construction on Lot 1. Configuration of temporary construction access shall be determined in conjunction with the Divisions of Engineering and Traffic Engineering.
14. Resolve Hume Road realignment, timing of construction, approval by KYTC/County Fiscal Court, and inclusion on the development plan.
15. Resolve traffic circle location at Commerce Avenue and Paramount Drive to ensure Winchester Road intersection functionality.
16. Correct site statistics for Floor Area Ratio, Open Space and Supportive Use percentage.
17. Correct square footage of building on Lot 2.
18. Remove Lot 17 from Open Space calculations.
19. Denote timing limitation of development of Supportive Uses on Lots 11-16 per Article 23A-10(j)(12)c.
20. Denote exactions to the approval of the Division of Planning.
21. Update note #11 to address coordination of future roadway and infrastructure plans for Lot 17 if no final development plan is required.
22. Denote: No building permits shall be issued for Lot 17 until a final development plan is approved or a Public Facility Review has been conducted by the Planning Commission.
23. Denote Development Standards, including lot size and setbacks per Article 23A-2(l).

Commission Questions – Mr. Michler asked why there was a necessity to make a five lane approach to a round-about at this site. Ms. Wade responded stating that his question was probably better directed at Traffic Engineering than Planning staff, but she thought that a round-about accommodating that many lanes of traffic from and to Winchester Road would be common. Mr. Michler also inquired about the habits of pedestrians, and if this was best for them.

Applicant Comment – Darby Turner, attorney for the applicant, stated that these roadways are designed to accommodate a significant amount of traffic, which the applicant is expecting due to development of Lot 17. Mr. Turner also stated that they believe this is the right balance of needs of those in cars and pedestrians.

Commission Questions – Mr. Michler stated that he understood that this area of town is heavily commuted, but stated he thought it was important to have good pedestrian access so that all the patients and employees can access other businesses in the area. Mr. Turner reiterated that it is a balance and that they are doing all they can to make the pedestrian access safe.

Mr. Penn asked Ms. Wade if everything besides Lot 17 was a placeholder based on the needs of this site. Ms. Wade indicated that in terms of use and specific size, it was very preliminary, but the uses comply with the Zoning Ordinance and the EAMP. Mr. Penn said he understood that, but right now we are just talking about the roads and the traffic systems. Ms. Wade confirmed Mr. Penn's statement and said that the infrastructure was crucial to the applicant at the moment.

Applicant Comment – Darby Turner, attorney for the applicant, stated that they are in agreement with the staff recommendations and would be happy to answer any questions.

Action – A motion was made by Mr. Penn and seconded by Ms. Worth and carried 9-0-1 (Davis absent) (Michler abstaining) to approve PLN-MJDP-22-00055: COWGILL PARTNERS, LP PROPERTY (MEADOWCREST) with the 23 revised conditions presented by staff.

Action – A motion was made by Mr. Penn and seconded by Ms. Barksdale and carried 9-0-1 (Davis absent) (Michler abstaining) to accept the EAMP compliance report for PLN-MJDP-22-00055: COWGILL PARTNERS, LP PROPERTY (MEADOWCREST).

V. ZONING ITEMS - The Zoning Committee met on Thursday, November 3, 2022, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Larry Forester and Bruce Nicol. Due to a lack of a quorum, cases were reviewed, but no recommendations were made by the committee. Staff members in attendance were: Traci Wade, Autumn Goderwis, Hal Baillie, Daniel Crum, Bill Sheehy, 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. **ELMWOOD OZ FUND LLC ZONING MAP AMENDMENT & BARNES SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-22-00018: ELMWOOD OZ FUND LLC** – a petition for a zone map amendment from a High Density Apartment (R-4) zone, to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, for property located at 203 E Fourth Street. This request includes a variance request to reduce the required parking from 34 spaces to 20 spaces.

COMPREHENSIVE PLAN AND PROPOSED USE

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

The petitioner proposes the rezoning of the subject property to the Professional Office (P-1) zone to allow for the renovation of the existing 14,000 square-foot residence for a profession office use. To avoid modifications that would change the character of the property and prevent the loss of trees on site, the applicant is also requesting a variance to the required parking from 34 spaces to 20 spaces?

The Zoning Committee Recommended: No Recommendation.

The Staff Recommends: Approval, for the following reasons:

1. The requested Professional Office (P-1) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives and Policies, for the following reasons:
 - a. The proposed development encourages infill and redevelopment (Theme A, Goal #2), while providing for a well-designed neighborhoods (Theme A, Goal #3) that protects historic resources while incentivizing the renovation, restoration, development and maintenance of historic residential and commercial structures (Theme D, Goal #3).
 - b. The proposed project reduces the parking on site, which allowing the conservation of the significant trees on site, and promotes the use of the in-place multi-modal options for employees and clients, which can reduce Lexington-Fayette Urban County's carbon footprint (Theme B, Goal #2).
 - c. The proposed rezoning will allow the inclusion of the office use can support and showcase local assets to further the creation of a variety of jobs (Theme C, Goal #1), which will support the creation of jobs and prosperity (Theme C, Goal #2).
2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site creates a job producing space within the historic and built context that supports pedestrian mobility, deemphasizes the impact of parking, and provides activated and usable space.
 - b. The proposed rezoning is located in an area with established safe facilities for the potential users. By requesting the variance to the parking reductions, integrating the site with the established trail facilities, and promoting the established transit stops nearby the site, the applicant is addressing the Transportation and Pedestrian Connectivity development criteria of the 2018 Comprehensive Plan.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it will maintain the tree canopy coverage and reduce the impact of the built environment by not adding any addition impervious surfaces.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:**
 - a. Prohibited uses:
 - i. Drive-through facilities.
 - ii. Banks and other financial institutions.

These restrictions are appropriate and necessary to reduce the potential impact of vehicular flow on established pedestrian facilities and the Legacy trail.

4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00064: Barnes Subdivision (Elmwood Oz Fund, LLC), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. **Variance Request** - As part of their application, the petitioner is also requesting a reduction of the minimum required parking for an office within the Professional Office (P-1) zone from 34 parking spaces to 20 parking spaces (41% reduction), a requirement of Article 8-15(n) of the LFUCG Zoning Ordinance.

The Zoning Committee Recommended: **No Recommendation.**

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

1. Approval of the variance should not adversely affect the public health, safety, or welfare, nor should it create a hazard or nuisance to the public. This property has historically been utilized with a lesser amount of parking provided.
2. The variance allows for the retention of significant trees on site, which will continue to mitigate stormwater runoff, while not increasing impervious surfaces and the heat island effect.
3. Walk Score rating for the area is 85, which is considered very walkable and a Bike Score of 75, which is considered very bikeable.
4. Other parking is available in the area, including metered on-street parking and on-street parking for those with residential permits, which may be acquired through LexPark for residents of the street.
5. The property is located within close proximity to various amenities, including but not limited to Gratz Park, Duncan Park, Phoenix Park, and Charles Young Park, and the neighborhood businesses located along North Limestone and downtown.

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

- a. Provided the Planning Commission and Urban County Council approve the requested zone change to the P-1 zone, otherwise the requested variances shall be null and void.
 - b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
 - c. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
 - d. Action of the Planning Commission shall be noted on the Development Plan for the subject property.
- c. PLN-MJDP-22-00064: BARNES SUBDIVISION (ELMWOOD OZ FUND LLC) (1/1/2023)* - located at 203 East Fourth Street.
Council District: 1
Project Contact: Vision Engineering
Planning Contact: T. Martin

Note: The purpose of the plan is to depict development of the property, in support of the requested zone change from High Density Apartment (R-4) zone to Professional Office (P-1) zone.

The Staff Recommends Approval, subject to the following conditions:

1. Provided the Urban County Council approves the zone change to P-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace planner's approval of the treatment of greenways and greenspace.
6. United States Postal Service Office's approval of kiosk locations or easement.
7. Dimension existing building.
8. Dimension sidewalks and porches.
9. Denote height of building in site statistics.
10. Clarify location of trees relative to Kleiser Alley right-of-way.
11. Revise Tree Protection Plan to Tree Inventory Map per Article 26 of the Zoning Ordinance.
12. Addition of street cross-sections.
13. Discuss Placebuilder criteria.

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

Staff Presentation – Mr. Baillie presented the staff report and recommendations for the zone change application. He displayed photographs of the subject property and the general area. He stated that the applicant was seeking a zone map amendment from a High Density Apartment (R-4) zone to a Professional Office (P-1) zone, for 0.768 net (1.027 gross) acres, for property located at 203 E. Fourth Street. Mr. Baillie stated that the applicant is looking to keep the structure in place, make some renovations, as well as a variance request to allow for the current parking to remain with no increase.

Mr. Baillie presented the proposed development and place types, which include the 2nd Tier Urban Place Type and the Medium Density Non Residential Development Type. Mr. Baillie indicated that staff was in agreement with the Place-Type and Development Type, but that the applicant did not choose a recommended Place Type within the Comprehensive Plan. In this case, the applicant worked with the neighborhood to find an appropriate zone and after a review of the applicant's justification, the Staff is in agreement with the place type. Additionally, Mr. Baillie stated that the applicant is also meeting the development criteria for the 2nd Tier Urban Place-Type.

Mr. Baillie concluded that Staff is recommending approval of this zone change, and listed the two conditional zoning restrictions, which include prohibiting drive-through facilities and banks.

Commission Questions – Mr. Michler asked why the applicant did not apply for the B-1 zone when it was a recommended zone in the place type they selected. Mr. Baillie stated that there was a concern from the neighborhood about the increase in restaurant facilities in the area that might not fit their neighborhood character and its context.

Mr. Pohl asked if this application was in a historic overlay zone and Mr. Baillie indicated that it was not. Mr. Pohl also asked if there was any consideration to attempting to restrict demolition of the existing structure. Mr. Baillie said that request was difficult for Staff to make with this site and that the best way to keep these structures viable is to keep the use viable in this location.

Staff Development Plan Presentation – Mr. Tom Martin oriented the Commission to the development plan. Mr. Martin indicated that they are maintaining the building and the site and there are no changes on the development plan. Mr. Martin concluded that Staff is recommending approval for this development plan.

Variance Presentation – Mr. Baillie stated that the applicant is seeking to reduce the required parking by 41% from 34 spaces, to 20 spaces. Mr. Baillie indicated the context of the area was important for this variance, and since a lot of the businesses in this area are within walking or biking distance, this reduction is being recommended for approval.

Applicant Presentation – Scott Schuette, attorney for the applicant, highlighted the timeline of events that led the applicant to the meeting, including their explanation for their selection of the P-1 zone. Mr. Schuette stated that the applicant would be giving more information and that there is no intention of making this anything other than an office for an architecture firm. Mr. Schuette reiterated the applicant's intention to preserve a building that has been around since 1908. Mr. Schuette indicated that there was an agreement in place with the Living Arts and Science Center for additional parking and that the 20 spots would be enough. Mr. Schuette also highlighted the applicant's work with the neighborhood, and detailed how that work helped lead to the selection of the P-1 zone, as well as the conditional zoning request.

Mr. Schuette stated that for the conditional zoning restrictions, they were in agreement with Staff for banks and drive-through facilities, but not with the community centers and funeral homes. Mr. Schuette argued that there was a plethora of these types of facilities in the area and they do not think it will harm the property from future uses. Mr. Schuette concluded his presentation stating that this was a collaborative effort between the neighborhood and the applicant and urged the Planning Commission to approve the zone change.

Joe Costa, property owner, added that he actually lives in the neighborhood and reaffirmed everything that Mr. Schuette stated, including the work with the neighborhood and the preservation of this historic building.

Joe Rasnick, principal of Integrity Architecture, reiterated what Mr. Schuette and Mr. Costa stated that he could not think of a better home for his architecture firm then this location and that they are looking forward to being an active member of the neighborhood.

Public Comment – Lori Halligan, executive director of The Living Arts and Science Center, stated they are in support of the zone change and she thinks it will be a great contribution to the neighborhood.

Action – A motion was made by Mr. Pohl and seconded by Mr. Bell and carried 9-1 (Davis absent) (de Movellan opposed) to approve PLN-MAR-22-00018: ELMWOOD OZ FUND LLC with the applicant's recommendations for conditional zoning restrictions(adding Community Centers and Funeral Parlors).

Variance Action – A motion was made by Mr. Pohl and seconded by Mr. Bell and carried 10-0 (Davis absent) to approve the variance request for a reduction of the minimum required parking for an office within the Professional Office (P-1) zone from 34 parking spaces to 20 parking spaces(41% reduction), a requirement of Article 8-15(n) of the LFUCG Zoning Ordinance.

Development Plan Action – A motion was made by Mr. Pohl and seconded by Mr. Bell and carried 10-0 (Davis absent) to approve PLN-MJDP-22-00064: BARNES SUBDIVISION (ELMWOOD OZ FUND LLC) with staff recommendations, with a revision to #7 to denote the location of the mail kiosk be on the plan.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA-22-00016: AMENDMENT TO ARTICLE 8-16 RE-CATEGORIZING COMMUNITY CENTER DAY SHELTER, AND ADULT DAY CARE USES FROM A PRINCIPAL USE TO A CONDITIONAL USE** – a petition for a Zoning Ordinance text amendment to re-categorizing Community Center Day Shelter, and Adult Day Care uses from a Principal Use to a Conditional Use.

INITIATED BY: Keith Clark

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **No Recommendation.**

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

1. Community centers, day shelters, and adult day care facilities provide services which are substantially similar to principal uses within the Neighborhood Business (B-1) zone, thus should remain principal uses.
2. The applicant provides no details or information as to how community centers, day shelters, and adult day care facilities necessitate greater review by the Board of Adjustment (BOA) within a commercial zone.
3. The proposed text amendment is contrary to the findings of the Planning Commission and the Urban County Council in the establishment of community centers, day shelters, and adult day care centers in the B-1 zone.
4. The addition of barriers to community serving facilities proposed by the applicant is not in agreement with the 2018 Comprehensive Plan as it reduces the ability to provide community facilities that are integrated within neighborhoods (Theme A, Equity Policy #7) and can limit social service community facilities that address homelessness, substance abuse, mental health, and other significant issues (Theme D, Support Policy #5).
5. The proposed text diminishes the ability to achieve the goals laid out in the Five-Year Strategic Plan to Enhance Affordable Housing and Reduce and Effectively End Homelessness in Fayette County.
6. The proposed text amendment adds barriers to community servicing facilities, which disproportionately impacts people of color and individuals with a disability.
7. The proposed text is substantially similar to the 2012 text amendment, which resulted in a complaint by the United States Department of Justice and the Department of Housing and Urban Development. The proposed text could result in legal challenges and loss of funding for programs that support individuals who are economically insecure or experiencing homelessness.

Staff Text Amendment Presentation – Mr. Hal Baillie presented and summarized the staff report and recommendations for this text amendment. Mr. Baillie indicated that the applicant is seeking to re-categorize day shelters, community centers, and adult day care centers from a principal use to a conditional use in the Neighborhood Business (B-1) zone. Mr. Baillie highlighted the arguments from the applicant's justification letter, which included a lack of transparency, discontent with the definitions of the land uses, and the planning process as a whole.

Mr. Baillie went on to review the points that the applicant did not address including no explanation of the negative impact of the three types of uses, how the uses are different, nor any information as to the appropriate locations for them. Mr. Baillie went on to provide the definitions of the three uses, as well as the differences in a conditional and principal use, explaining that there are added barriers to getting the use if it is a conditional one. Additionally, Mr. Baillie presented the zones where the three uses are currently allowed as principal and conditional uses, as well as the basics of the Board of Adjustment, and PLN-BOA-22-00018, a Board of Adjustment case that the applicant cites in the justification. Mr. Baillie then showcased how land uses are similar, noting the example of a soup kitchen and a restaurant, the difference is at one place you are paying for your food, at another, you are not. Therefore there is no differentiation from a land use perspective, merely a difference in who is accessing those services.

Mr. Baillie stated that this text amendment would affect other zones within the Zoning Ordinance, eliminating these uses in the B-2 and B-2A zones, and creating a discontinuity in the B-2 and P-1 zones. Mr. Baillie also cited a 2013 text amendment that was similar to this text amendment that was eventually revoked, due to a Department of Justice complaint, where it was determined that the text amendment negatively impacted a protected class. Additionally, Mr. Baillie highlighted the ethical concerns this text amendment presents, as well as the history of planning as a tool for segregationist and classist policies.

Mr. Baillie concluded his presentation stating that this text amendment would put up barriers to those who would need the services of adult day cares, community centers, and day-shelters the most and stated that staff is recommending disapproval.

Applicant Comment – Keith Clark, applicant, stated that he was overwhelmed by the staff response, but said he had no intention of stopping anyone from occupying a property. Mr. Clark said that this text amendment was to open a clear and transparent discussion about an applicant wanting to open an adult daycare, community center, or day shelter in a B-1 zone. Mr. Clark went further saying that people in the neighborhood do not get a say and how he does not understand how a discussion is a barrier.

Commission Questions – Mr. Penn asked Mr. Clark if he wanted the Board of Adjustment to decide if having one of these uses is fair and equitable. Mr. Clark responded that he would like the Board of Adjustment to review what the effect of a social service center is going to have on a community.

Staff Comment – Ms. Traci Wade stated that she attended a neighborhood meeting about a property in the neighborhood that was going to become a social services facility and that it was ugly.

Applicant Comment – Keith Clark, applicant, stated that Ms. Wade was correct, and that the neighborhood was upset because the social service facility was set up “under the radar” and it changed the dynamic of the neighborhood, without anyone knowing.

Public Comment – Walt Gaffield, 2001 Bamboo Drive, agreed with Mr. Clark, that there is not an opportunity for the neighbors to have a say in what goes in their neighborhood and urged the Planning Commission to fix that issue.

John Hackworth, 220 Market Street, stated that he was previously the director of admissions at Sayre School. During his tenure at Sayre School, a social service center was established in close proximity to two schools, without any kind of input from the neighborhood.

Kim Livesay, Lexington Rescue Mission, stated that they are currently experiencing the number of people they serve exploding. She stated that the organization wants to locate its services where the need is within the community, and she is here to speak for those who could not.

Staff Rebuttal – Mr. Baillie stated that the applicant only applied for discussion of these three uses and broke down everything an applicant would have to do just to apply for a conditional use for these three land uses. Mr. Baillie discussed that the applicant is specifically targeting these three uses and that the local government cannot make a distinction between those who have and those who have not. Additionally, Mr. Baillie reiterated there is no difference from a land use perspective between a restaurant that serves food at a given price, and a soup kitchen which serves at no cost.

Commission Questions – Mr. Pohl asked if there is data that suggests that these uses should be treated any differently than other uses and if the people going there are any different. Mr. Baillie indicated that from a land use perspective, you cannot talk about the people that are going there, and that the data on land use cannot give the minute details on the people.

Ms. Worth asked if the senior center on Richmond Road and the Community Action Center would fall into this category of land uses. Mr. Baillie responded saying that the senior center is not because it is a government use.

Mr. Michler asked if the land use is the same, why restaurants and soup kitchens are defined at all. Ms. Wade stated that there was no definition of soup kitchen or social service in the ordinance.

Commission Comment – Mr. Penn stated that this was an interesting case because it sets the public’s right to know against what is best for the community. Mr. Baillie responded that we do not get to choose our neighbors. Mr. Penn agreed, he just wanted to voice that opinion.

Ms. Meyer stated that she had heard cases like this while serving on the Board of Adjustment, and that it was unfortunate there is not an avenue for the neighborhoods, but she agreed with Mr. Baillie, we do not get to choose our neighbors.

Mr. Michler asked Ms. Meyer if her experience with these cases at the Board of Adjustment were up or down votes and if it was ever constructive. Ms. Meyer responded that she could remember one case like this, and the Board did vote to disapprove the conditional use request, but reminded the Commission of the duty of the Board was to protect the health, safety, and welfare of the community for all people.

Mr. de Movellan indicated that he agreed with the communication aspect from Mr. Clark's concerns but is currently against this text amendment.

Zoning Action – A motion was made by Ms. Meyer, seconded by Ms. Barksdale and carried 10-0 (Davis absent) PLN-ZOTA-22-00016: AMENDMENT TO ARTICLE 8-16 RE-CATEGORIZING COMMUNITY CENTER DAY SHELTER, AND ADULT DAY CARE USES FROM A PRINCIPAL USE TO A CONDITIONAL USE to disapprove for the reasons provided by the staff.

2. **PLN-ZOTA-22-00017: AMENDMENTS TO ARTICLES 1, 8, 9, 10, 11, 12, 20, 21, 23 & 28 UPDATING AND CONSOLIDATING OPEN SPACE REGULATIONS INTO ARTICLE 20** – a petition for a Zoning Ordinance text amendment to amend Articles 1, 8, 9, 10, 11, 12, 20, 21, 23 & 28 to consolidate open space regulations into Article 20.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **No Recommendation.**

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 supports infill and redevelopment throughout the Urban Service Area by incorporating adequate greenspace and open space into all development projects, which serve the needs of the intended population (Theme A, Goal #2.c).
 - b. The amendment provides well-designed neighborhoods and communities by ensuring all new development includes walkable, accessible open space and greenspaces which lead to positive and safe social interactions (Theme A, Goal #3.b).
 - c. The amendment promotes improvements for quality of life by putting standards in place that ensure open space is walkable, accessible, and usable, which attracts new businesses and residents (Theme C, Livability Policy 8).
 - d. The amendment incentivizes green building and sustainable development (Theme B, Goal #3.c), and promotes, maintains, and expands the urban forest (Theme A, Goal #3.d) through reductions in vegetated area in exchange for green infrastructure, green roofs, tree stands, and other innovative designs.
 - e. The amendment upholds the Urban Service Area concept (Theme E, Goal #1) by accommodating additional development, in exchange for more intentionally designed open space, and maximizing the developable area of property near other existing or planned open spaces.

Staff Text Amendment Presentation – Ms. Valerie Friedmann presented and summarized the staff report and recommendations for this text amendment. Ms. Friedmann began by stating the goal of this text amendment, to incorporate intentionally designed and equitably distributed open space into all development projects. Additionally, Ms. Friedmann emphasized that this text amendment is about having quality open and greenspace, and not the quantity of the spaces. Ms. Friedmann continued, giving a timeline of events that led to this text amendment and stated that Planning Staff had been working on the text for over two years. In that time, staff conducted a tremendous amount of research, reviewed other similar cities from all across the county, and used that information to inform the text amendment. Ms. Friedmann also highlighted over 20 meetings with different organizations and the public to further update the text.

Ms. Friedmann noted that having adequate greenspace and open space was an integral part of the 2018 Comprehensive Plan and its policies. Ms. Friedmann continued stated that the current open space regulations are out-of-date, they are unfocused, there are no requirements for open space to be visible, and the standards do not apply in some areas where they should.

Ms. Friedmann explained the new updates to the text, which include a new definition for green infrastructure, three subsets of the definition of open space, and a new definition for walkable route. Additionally, Ms. Friedman

noted the consolidation of Articles 8, 9, 10, 11, 12, 21, and 28 into one place, Article 20. Ms. Friedmann displayed an exhibit depicting various zones, and what effect the regulation changes would have on them, emphasizing density, and less in exchange for better open space.

Ms. Friedmann concluded her presentation by stating that this text amendment, and the recently passed parking text amendment will work in tandem to make more room for development in exchange for purposeful open space and greenspace.

Commission Questions – Ms. Meyer asked if there is any maintenance plan in the text amendment. Ms. Friedmann indicated that is something that needs to be addressed, through the Landscape Examiner position in the Division of Environmental Services.

Ms. Meyer asked if there is encouragement in the text for naturalized areas. Ms. Friedmann indicated that was the case, especially for smaller sites. Additionally, Ms. Friedmann thought that the text amendment would allow for more creativity with these naturalized sites.

Ms. Worth commented that she thought that Staff had done great work on this, and loved that Staff is encouraging open space and greenspace.

Public Comment – Walt Gaffield, 2001 Bamboo Drive, thanked the Staff for communicating this text amendment well and stated that the Staff was obtained the best result. Additionally, he asked the Planning Commission to take a look back at this text amendment and see how it is working in a year.

Zoning Action – A motion was made by Mr. Michler, seconded by Ms. Worth and carried 9-0 (Davis and Nicol absent) PLN-ZOTA-22-00017: AMENDMENTS TO ARTICLES 1, 8, 9, 10, 11, 12, 20, 21, 23 & 28 UPDATING AND CONSOLIDATING OPEN SPACE REGULATIONS INTO ARTICLE 20 to approve for reasons provided by Staff.

3. **PLN-ZOTA-22-0018: AMENDMENTS TO ARTICLES 5 & 7 REGARDING ZONING ENFORCEMENT** – a petition for a Zoning Ordinance text amendment to amend Articles 5 and 7 regarding Zoning Enforcement.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **No Recommendation.**

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

1. These amendments to the Zoning Ordinance are necessary to implement the adopted organizational changes within the Divisions of Building Inspection and Planning in order to better manage interpretation and enforcement of the Ordinance, as well as the permitting process.

Staff Text Amendment Presentation – Ms. Autumn Goderwis presented and summarized the staff report and recommendations for this text amendment. Ms. Goderwis indicated that this text amendment returns certain tasks that were the responsibility of the Division of Planning to the Division of Building Inspection. The Division of Planning retains Zoning Compliance Permitting and sign-offs for building permits, but the Division of Building Inspection is responsible for Zoning Enforcement. Additionally, Ms. Goderwis stated that the Division of Building Inspection would conduct annual zoning inspections for conditional uses.

Ms. Goderwis concluded her presentation by stating that staff was recommending approval of the text amendment and could answer any questions the Planning Commission may have.

Zoning Action – A motion was made by Mr. Penn, seconded by Ms. Barksdale and carried 9-0 (Davis and Nicol absent) PLN-ZOTA-22-00018: AMENDMENTS TO ARTICLES 5 & 7 REGARDING ZONING ENFORCEMENT to approve for reasons provided by staff.

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

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

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

Staff Presentation – Mr. Jim Duncan asked is the Planning Commission would like to hear a presentation in December or January about the Goal 4 Work Group.

Commission Comment – Mr. Penn stated that he would encourage the Planning Commission to hear the presentation due to the amount of disinformation that is spreading about the project. Mr. Bell seconded that statement.

Mr. Bell also stated that he was constantly proud of being on the Planning Commission, and constantly impressed with the Staff, applauding Mr. Hal Baillie's passion in his presentation for PLN-ZOTA-22-00016.

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 NOVEMBER 2022

Subdivision Committee, Thursday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	December 1, 2022
Zoning Committee, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	December 1, 2022
Subdivision Items Public Hearing, Thursday, 1:30 p.m. in Council Chambers, 2nd Floor, Gov't Center.....	December 8, 2022
Zoning Items Public Hearing, Thursday, 1:30 p.m. in Council Chambers, 2nd Floor, Gov't Center	December 15, 2022
Technical Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	December 21, 2022

X. ADJOURNMENT

Larry Forester, Chair

Janice Meyer, Secretary

TW/HB/RS