

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

July 27, 2023

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Phoenix Building, 3rd Floor, 101 East Vine Street, Lexington, Kentucky.

Planning Commission members present: Larry Forester, Ivy Barksdale, Headley Bell, Janice Meyer Zach Davis, Bruce Nicol, Graham Pohl, William Wilson, Mike Owens and Judy Worth. Absent: Robin Michler.

Planning staff members present: Traci Wade, Autumn Goderwis, Tom Martin, Daniel Crum, and Paula Schumacher. Other staff members present were: David Filiatreau, Division of Traffic Engineering; Vaughan Adkins, Division of Engineering; Captain Greg Lengal, Division of Fire and Emergency Services; and Tracy Jones and Brittany Smith, Department of Law.

- II. **APPROVAL OF MINUTES** – There were no new minutes to approve.

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

1. **PLN-MAR-23-00005: ANDERSON COMMUNITIES, INC** – a petition for a zone map amendment from a Highway Service Business (B-3) zone and Agricultural Rural (A-R) zone, to a Community Center (CC) zone, for 8.36 net (11.95 gross) acres, for property located at 4075 Old Richmond Road.

Objector Comment – Bruce Simpson, attorney for Old Richmond Road Neighborhood Association, stated that they did not get the proper time to review the staff report, nor did anyone in the audience, and requested a one month postponement to properly review the information. Additionally, Mr. Simpson asserted that community engagement was a key part of the Comprehensive Plan, and this did not allow the community to be engaged.

Commission Question – Mr. Nicol asked if Ms. Jones could explain the law regarding Mr. Simpson's request.

Staff Comment – Ms. Tracy Jones began by stating that the Planning Commission is bound by the statute that unless the applicant asks for a postponement, the Planning Commission needs to act in 90 days and for this application, they have exceeded that time frame. Ms. Jones continued, stating that the community engagement and due process was taking place in this meeting and that there is nothing in the statute that requires a staff report be made. The meeting allows for due process and for everyone to be heard and that the application information had been in Accela since April.

Applicant Comment – Dick Murphy, attorney for the applicant stated that he respectfully did not want to postpone and that they received the staff report at the same time as everyone else and gave a brief timeline of the two previous postponements. Additionally, Mr. Murphy indicated that Staff had not raised any new issues in their latest staff report and that the neighborhood had made it clear they were against this zone change. Mr. Murphy ended his comments by emphasizing that they planned on proceeding today.

Commission Comment – Mr. Owens indicated that given there have been significant changes to the site plan, he asked Mr. Murphy to meet Mr. Simpson's request halfway and postpone this application two weeks so that all parties can digest the changes.

Objector Comment – Mr. Simpson stated that he did not think that the statute applied given they had already applied for two postponements and that it was not supposed to be used by developers to manipulate the system. Mr. Simpson indicated that a two week postponement is something they would amicable to.

Commission Comment – Mr. Nicol stated he did not like the assertion that if the Planning Commission does not vote in the way that Mr. Simpson likes then it is unfair. Mr. Nicol asserted that Ms. Jones said what the Commission is doing now is appropriate due process.

Staff Comment – Ms. Jones read the 90 day limit in the statute that Mr. Simpson challenged and reaffirmed what she stated previously. The 90 day deadline has passed and unless the applicant asks for another postponement, the Planning Commission cannot vote for another postponement.

Applicant Comment – Mr. Murphy stated that they would respectfully like to proceed, but if the Planning Commission voted for a postponement, they would honor that request.

Commission Comment – Mr. Forester stated that the Planning Commission could not vote for a postponement unless it was asked for by the applicant.

Applicant Comment – Mr. Murphy stated they would agree to a two week postponement and that he hopes this will open a dialogue with the objectors regarding on this property.

Action – A motion was made by Mr. Owens, seconded by Mr. Wilson and carried 10-0 (Michler absent) to postpone PLN-MAR-23-00005: ANDERSON COMMUNITIES, INC until August 10, 2023.

2. **PLN-ZOTA-23-00002: AMENDMENT TO ARTICLE 17 FOR ADDITIONAL ELECTRONIC MESSAGE DISPLAY SIGNAGE INCLUDING VIDEO IN THE LEXINGTON CENTER BUSINESS (B-2B) ZONE** - a petition for a Zoning Ordinance text amendment to allow additional electronic message display signage including video displays (dynamic content) in association with a civic center in the Lexington Center Business (B-2B) zone.

Staff Comment – Ms. Traci Wade stated that the applicant was agreeable to a postponement to the August 24th public hearing.

Action – A motion was made by Mr. Davis, seconded by Ms. Worth and carried 10-0 (Michler absent) to postpone PLN-ZOTA-23-00002: AMENDMENT TO ARTICLE 17 FOR ADDITIONAL ELECTRONIC MESSAGE DISPLAY SIGNAGE INCLUDING VIDEO IN THE LEXINGTON CENTER BUSINESS (B-2B) ZONE until August 24, 2023.

IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, July 6, 2023 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Judy Worth, Janice Meyer, and Headley Bell. Other Committee members present were Vaughan Adkins, Division of Engineering; and Steven Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Cheryl Gallt, Autumn Goderwis, Daniel Crum, Boyd Sewe, Paula Schumacher, Greg Lengal, Division of Fire and Emergency Services; Brittany Smith, Department of Law; Doug Burton, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. 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.

V. ZONING ITEMS - The Zoning Committee met on July 6, 2023, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Bruce Nicol, Larry Forester, Robin Michler, Graham Pohl, and Zach Davis. Staff members present were; Traci Wade, Tom Martin, Daniel Crum, Boyd Sewe, Bill Sheehy; as well as Brittany Smith, Department of Law.

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. SAYRE COLLEGE ZONING MAP AMENDMENT AND CANEBRAKE LOT 24 (SAYRE ATHLETIC COMPLEX) DEVELOPMENT PLAN

- a. PLN-MAR-23-00008: SAYRE COLLEGE** – a petition for a zone map amendment from an Agricultural Rural (A-R) zone to an Agricultural Buffer (A-B) zone, for 50.10 net (50.68 gross) acres, for property located at 300 Canebrake Drive. A conditional use permit is also requested to expand the existing recreational facilities.

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 Agricultural Buffer (A-B) zone to allow for the construction of a 7,200 square-foot training room addition to the Sayre Athletic Complex. Existing facilities at this site include tennis courts, and baseball, softball, soccer, lacrosse, and football fields. The athletic functions on-site are supplemented by an existing athletic pavilion and several maintenance structures.

The applicant is also seeking a conditional use permit to allow for the existing Sayre Athletic Complex use and proposed expansion in the proposed Agricultural Buffer zone.

The Zoning Committee Recommended: **Approval.**

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

1. The requested Agricultural Buffer (A-B) zone is in agreement with the 2018 Comprehensive Plan and the 2017 Rural Land Management Plan, for the following reasons:
 - a. The request will improve the community by providing accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors (Theme D, Goal #2).
 - b. The proposed project will uphold the Urban Services Area concept (Theme E, Goal #1), by ensuring that all types of development are environmentally, economically and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land (Theme E, Goal #1.b).
 - c. The plans recommend a Buffer Area land use for the subject property. The petitioner proposes Agricultural Buffer (A-B) zoning for the property, which is the zoning category intended to establish the recommended buffer. The recreational use is an appropriate buffer between agricultural and industrial land uses.
2. This recommendation is made subject to approval and certification of PLN-MJDP-23-00038 Sayre Athletic Complex (Canebrake, Lot 24) 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. **CONDITIONAL USE** – In association with the zone change request for the property, the applicant is seeking a Conditional Use Permit within the Agricultural Buffer (A-B) zone to expand the existing recreational facilities at this location.

The Zoning Committee Recommended: **Approval.**

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

1. The continued use of the Sayre Athletic Complex is suitable at its current location and does not have an adverse influence on existing or future development of the subject property or its surrounding area.
2. The proposed indoor training facility will not negatively impact the adjoining residential uses, as it is located over 800 feet from the nearest residential use, and is screened by existing vegetation on adjoining properties.
3. The allowance of loudspeaker systems will not negatively impact the adjoining uses as they are oriented away from adjoining properties.
4. All necessary public facilities and services are available and adequate for the proposed use.

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

1. Provided the Urban County Council approves the requested zone change to the A-B zone, otherwise the requested conditional use shall be null and void.
2. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
3. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
4. Action of the Planning Commission shall be noted on the Development Plan for the subject property.
5. All outdoor speakers shall be oriented away from surrounding properties.
6. Construction of the proposed parking areas shall be completed within 5 years of the approval date.
7. Sidewalk facilities shall be provided from the site's pedestrian network to Canebrake Dr.

- c. PLN- PLN-MJDP-23-00038: SAYRE ATHLETIC COMPLEX (CANEBRAKE, LOT 24) (AMD) (10/3/2023)* - located at 300 CANEBRAKE DRIVE, LEXINGTON, KY

Council District: 12

Project Contact: EA Partners

Note: The purpose of this development plan is to depict an expansion of an outdoor recreational (athletic) facility, in support if the requested zone change from an Agricultural Rural (A-R) Zone to an Agricultural Buffer (A-B) Zone.

The Technical Committee Recommends: **Approval**, subject to the following conditions:

1. Provided the Urban County Council approves the zone change to A-B; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, sanitary sewers, and floodplain information
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Landscape Examiner's approval of landscaping and landscaping buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
9. Greenspace planner's approval of the treatment of greenways and greenspace.
10. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
11. Division of Waste Management's approval of refuse collection locations.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote floodplain and required setbacks.
14. Delete Note #12.
15. Delete "amended" from plan title.
16. Denote lot coverage and floor area ratio per Article 21.
17. Denote height of all buildings in feet in the site statistics.
18. Discuss Note #13 on off-site stormwater.
19. Discuss purpose of proposed field house.
20. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum 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 an Agricultural Rural (A-R) zone to an Agricultural Buffer (A-B) zone, for 50.10 net (50.68 gross) acres, for property located at 300 Canebrake Drive. Mr. Crum indicated that the application was to allow for the expansion of the existing Sayre Athletic Complex (SAC). Additionally, Mr. Crum indicated that the applicant is also seeking a conditional use to allow for the proposed expansion. Mr. Crum also noted an absence of a place-type and development-type because the subject property is in the Rural Service Area and subject to the Rural Land Management Plan.

Mr. Crum stated that the Rural Land Management Plan calls out this location as an area designated for buffer land uses to step down the intensity of zoning to create a buffer between the more industrial and urban zones from the agricultural areas.

Mr. Crum continued, stating that the applicant is seeking an expansion, because they reached the square footage maximum established for the A-R zone of 10,000 sq feet and need the A-B to allow for the expansion they desire. He showcased the development plan and noted the addition of a training facility and expanded parking.

Mr. Crum concluded his presentation stating that Staff was recommending approval of the application and could answer any questions from the Planning Commission.

Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin highlighted the expanded parking and overflow areas, as well as the proposed fieldhouse. Additionally, Mr. Martin indicated that with the expansion, a small amount of land on the property is in the floodplain. Mr. Martin noted a few clean up items, but indicated that the applicant had fulfilled them.

Mr. Martin concluded his presentation by stating that Staff is recommending approval and could answer any questions from the Planning Commission.

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

Commission Questions – Ms. Worth asked if conditions #18 and #20 should be removed and Mr. Martin indicated that conditions #18, 19, and 20 could be deleted.

Conditional Use Presentation – Mr. Crum indicated that because the applicant is applying for this new zone, a conditional use request is necessary to allow for the operations of this site. Mr. Crum stated that the facility will be utilized in the exact way that it has been but since the use is a conditional use in the A-B zone, the conditional use request is necessary. Additionally, Mr. Crum indicated that the applicant had been using loudspeakers in a zone where it was not allowable, but with this zone change, the speakers are an allowable use.

Mr. Crum concluded his conditional use presentation stating that Staff is recommending approval with seven Staff conditions, and two additional conditions since the agenda was published, and could answer any questions from the Planning Commission.

Applicant Presentation – Mr. Nick Nicholson, attorney for the applicant stated that they were in agreement with Staff recommendations and all conditions on the conditional use permit. Mr. Nicholson gave a brief overview of the dimensions of the proposed fieldhouse, as well as some renderings of the inside of the facility, and reiterated it is meant for training Sayre athletes only. Mr. Nicholson concluded his remarks by stating he could answer any questions from the Planning Commission.

Action – A motion was made by Mr. Davis, seconded by Ms. Barksdale and carried 10-0 (Michler absent) to approve PLN-MAR-23-00008: SAYRE COLLEGE for reasons provided by Staff.

Action – A motion was made by Mr. Davis, seconded by Ms. Barksdale and carried 10-0 (Michler absent) to approve the conditional use permit for reasons provided by Staff., with the seven conditions.

Action – A motion was made by Mr. Davis, seconded by Ms. Barksdale and carried 10-0 (Michler absent) to approve PLN-MJDP-23-00038: SAYRE ATHLETIC COMPLEX (CANE BRAKE, LOT 24) and deleting conditions #18, 19, and 20.

2. FLORA INVESTMENTS, LLC ZONING MAP AMENDMENT AND HAMBURG PLACE FARM (SIR BARTON WAY OFFICE PARK, LOT M DEVELOPMENT PLAN

- a. **PLN-MAR-21-00018: FLORA INVESTMENTS, LLC (AMD)** – an amended petition for a zone map amendment from a Professional Office (P-1) zone to a Commercial Center (B-6P) Zone, for 1.04 net (1.04 gross) acres, for property located at 2717 Flora Fina Street (a portion of). A conditional use permit is also requested for a parking lot on the remaining P-1 zoned area of the property.

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 a portion of the subject property to the Commercial Center (B-6P) zone to allow for the construction of a two-story 22,550 square-foot commercial structure containing first floor restaurant space and second floor office space. The use will be accompanied by 57 on-site parking spaces, and the applicant is seeking a conditional use permit to establish a 59 space parking lot in the Professional Office (P-1) zoned areas around the perimeter of the property.

The Zoning Committee Recommended: **Approval.**

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

1. The proposed Commercial Center (B-6P) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies, for the following reasons:
 - a. The proposed development supports infill opportunities (Theme A, Goal #2) by developing a vacant tract within an existing development.

- b. The project will respect the context & design features of areas surrounding development projects by maintaining compatibility with height and density found in the adjoining office park (Theme A, Goal #2.b).
- c. By configuring the parking areas to the side and rear, and implementing outdoor dining and seating, the proposed development provides adequate greenspace and open space to serve the needs of the intended population (Theme A, Goal #2.c).
- d. The proposed development will create entertainment and other quality of life opportunities that attract young, and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal #2.d).
- e. The proposal creates more meaningful and direct pedestrian and multi-modal connections, which contributes to an effective and comprehensive transportation system in this area (Theme D, Goal #1.c).
- 2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan.
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location, as the proposal activates the Flora Fina Street frontage, connects to the existing pedestrian network, and locates parking to the side and rear of the development.
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the revised proposal simplifies the site's vehicular circulation, and provides for safer and more direct pedestrian connections both within the site and throughout the larger Hamburg development.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as the proposed design works with the existing landscape, and does not impact any environmentally sensitive areas.
- 3. This recommendation is made subject to approval and certification of PLN-MJDP-21-00060: HAMBURG PLACE FARM SIR BARTON WAY OFFICE PARK, LOT M)(AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

- b. **CONDITIONAL USE** – In association with the zone change request for the property, the applicant is seeking a conditional use permit within the Professional Office (P-1) zone to operate a parking lot.

The Zoning Committee Recommended: **Approval.**

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

- 1. Granting the requested conditional use permit should not adversely affect the subject property or surrounding properties as the parking lot will be of a sufficient size to accommodate the parking demand for the proposed uses without spilling over into adjacent properties
- 2. The parking lot use is consistent with the style and character of the surrounding professional office park.
- 3. Adequate public facilities will be available in the area to support the proposed parking area.

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

- a. Provided the Urban County Council approves the requested zone change to the B-6P zone, otherwise the requested conditional use 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 and approvals shall be obtained from the KY Transportation Cabinet, and 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-21-00060: HAMBURG PLACE FARM, SIR BARTON WAY OFFICE PARK, LOT M (AMD)
Council District: 6
Project Contact: Vision Engineering

Note: The purpose of this amendment is to depict revised development of the lot in support the requested zone change from a Professional Office (P-1) zone to a Commercial Center (B-6P) zone.

Note: The applicant requested and indefinite postponement on March 2, 2022, and submitted a revised plan on May 1, 2023, in support of their revised zone change application.

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

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

1. Provided the Urban County Council approves the zone change to B-6P; 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. Denote pedestrian access to proposed building.
8. Clarify location of 15' storm easement on Lot M.
9. Provided the Planning Commission approves a conditional use for a parking lots for the remaining P-1 zone area.
10. Denote compliance with open space requirements for the B-6P zone.
11. Correct parking space number total to 114.
12. Denote multi-modal accommodation improvement plan per Article 12-8(h) of the Zoning Ordinance will be submitted at the time of Final Development Plan.
13. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum 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 Professional Office (P-1) zone to a Commercial Center (B-6P) zone, for 1.04 net (1.04 gross) acres, for property located at 2717 Flora Fina Street. Mr. Crum indicated that this application was to allow construction of a two-story commercial structure with a hibachi restaurant on the first floor, and office space on the second floor. Additionally, Mr. Crum stated that the applicant was seeking a conditional use permit to operate a parking lot.

Mr. Crum highlighted the development plan and noted the changes from the initial development plan including the position of the building, which went from the center of the development, to where it is now in the corner. Mr. Crum continued, stating that the applicant had chosen the Regional Center Place-Type, and the Medium Density Non-Residential/ Mixed Use Development Type. Mr. Crum indicated that Staff was in agreement with those selections on the subject property.

Mr. Crum reviewed of how the applicant is meeting the Goals and Objectives of the Comprehensive Plan including identifying areas for infill, respecting the context of the area, and incorporating adequate green and open space. Additionally, Mr. Crum cited the development criteria that the property met, which consists of maximization of connections for a pedestrian-friendly development, parking oriented to the rear of the property, expansion of safe, and connected multi-modal transportation, and shared parking arrangements.

Mr. Crum concluded his presentation by indicating that Staff is recommending approval for this application, and stated he could answer any questions from the Planning Commission.

Development Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin emphasized that this was a preliminary development plan and that the commission will see a final development plan in the future. Mr. Martin showcased the access easement that goes across the property, the setbacks, and the 117 parking spaces. Mr. Martin stated that at the time of the final development plan, the applicant would have to have the activation at the front of the property to encourage a good pedestrian experience.

Mr. Martin concluded his presentation stating that Staff was recommending approval and could answer any questions from the Planning Commission.

Commission Questions – Mr. Owens asked a vehicle could go through the access lane and if that lane was just for the restaurant or for the office park as well. Mr. Martin indicated that a vehicle could go through the access lane, but whether the applicant intended to share it would have to be answered by the applicant by the time of the final development plan.

Mr. Nicol stated that he understood Staff wants the applicant to activate Flora Fina, but asked if that was something that the letter of complaints they received was about. Mr. Martin indicated that he had not reviewed the letters thoroughly enough to answer.

Conditional Use Presentation – Mr. Crum indicated that the applicant was requesting a conditional use permit to operate a parking lot in the P-1 portion of the lot. Due to the layout of the property, a portion of the parking lot is in the P-1 zone due.

Mr. Crum detailed how the change in the lot configuration impacted the conditional use request.

Mr. Crum concluded his presentation stating that Staff had reviewed the application and was recommending approval for the conditional use permit.

Applicant Presentation – Matt Carter, engineer for the project, thanked the Planning Commission and indicated that it had been a long road to get to this point. Mr. Carter stated that they had taken Staff's ideas and concerns seriously and reworked the application to get to where they are today. Mr. Carter stated that they are in full agreement with the Staff's recommendations and conditions and would not be presenting a full presentation, but would be happy to answer any questions from the Planning Commission.

Commission Questions – Mr. Owens asked how Mr. Carter foresaw the entrance to the 2nd floor of the building. Mr. Carter stated that because this is a preliminary development plan, he does not have all the exact details ironed yet.

Public Comment – Elizabeth Weiner, 3340 Peachtree Road, representative of Hamburg Place Mall, stated that she was not against the development, but had concerns about the connectivity with this property to the other surrounding properties.

Kristina Keith, attorney for Longship Logistics, stated that she was concerned with the change in the character of the office park and the increased use that comes from having a restaurant. Additionally, she stated concerns about the community outreach from the applicant and mentioned they had sent two objection letters for consideration by the Commission.

Commission Questions – Mr. Davis asked about the location of the two objection letters that Ms. Keith discussed and Mr. Crum stated that the letter in front of them was the only official submission Staff had received.

Mr. Nicol asked if Staff's recommendation of approval was contingent on a reciprocal parking agreement with the neighboring businesses. Mr. Crum indicated that the applicant had sufficient parking on site and that the recommendation was not contingent on a reciprocal parking agreement.

Ms. Worth asked if legal staff had looked over the letter of complaint and their assertion that the size of the plot did not fit the criteria of the zone change. Mr. Crum responded, saying that because they are in the Regional Center Place-Type, they are able to fit the criteria necessary.

Applicant Rebuttal – Mr. Carter indicated that the restaurant would only need about 62 parking spots to accommodate how much space they have. Additionally, Mr. Carter indicated that the applicant wanted to make the upstairs office their regional business hub for their restaurants. Mr. Carter asserted that the impact of traffic really should not be an issue.

Mr. Carter responded to the lack of community outreach criticism from Ms. Keith saying that when they originally applied for this zone change 2 years ago, one person came to the meeting and the notification area is small to begin with. Mr. Carter emphasized that they did make an effort to get ahold of everyone and only two people got back with them. Additionally, Mr. Carter indicated that they will have a relationship with the surrounding buildings about sharing parking.

Commission Questions – Mr. Owens asked Mr. Carter to clarify where the entrance of the restaurant would be, as well as where Ms. Keith's business was in relation to the building. Mr. Carter he pointed to the entrance on the development plan as well as Ms. Keith's business, Longship Logistics.

Mr. Bell asked if the concerns brought up by the Division of Traffic Engineering during the subdivision committee meeting had been addressed, and if Staff was satisfied with their solution. Ms. Wade indicated that they were.

Citizen Rebuttal – Ms. Keith reiterated that the applicant had not reached out to them specifically about a reciprocal parking agreement.

Commission Questions – Mr. Pohl asked Ms. Keith to describe the vehicle circulation issues on the map. Ms. Keith differed to her colleague David Allan, who stated that they were concerned that the parking lot of the restaurant would “dump” parking onto their property.

Mr. Davis asked if the applicant would be willing to make a condition to agree to a reciprocal parking agreement with Ms. Keith. Mr. Carter stated they were not opposed to an agreement, they just would like to review the agreement.

Ms. Worth stated she was unclear if a reciprocal parking agreement would solve all of Ms. Keith's problems, and Mr. Allan stated he was not sure either.

Mr. Pohl asked if a barrier along the shared property line would change Mr. Carter's client's intentions and Mr. Carter indicated that he did not think so.

Applicant Comment – Jihad Hallany, engineer for the applicant, highlighted the access easement to Ms. Keith's business and stated that he did not think a barrier would allow for a 20 foot driving lane.

Commission Questions – Ms. Worth asked if Ms. Weiner could point to the spot on the development plan where she is most concerned about. Ms. Weiner said that the plan cuts off where her major concerns were. She did go back to a picture of the intersection, and point out the area she was most concerned with. Additionally stating that she was concerned with truck access for the loading stations for the businesses.

Mr. Nicol asked Ms. Keith what type of business she represented and she indicated that Longship is a trucking logistics company.

Mr. Bell asked Mr. Martin if Staff can add a condition for the applicant to discuss this with Longship and the other business and Mr. Martin indicated that they could with the correct type of language.

Mr. Wilson asked for clarification on the conditional use condition and if the Planning Commission needed to change to “resolved” and Staff indicated it did.

Action – A motion was made by Mr. Wilson, seconded by Ms. Worth and carried 10-0 (Michler absent) to approve PLN-MAR-21-00018: FLORA INVESTMENTS, LLC (AMD) for reasons provided by Staff.

Action – A motion was made by Mr. Wilson, seconded by Mr. Bell and carried 10-0 (Michler absent) to approve PLN-MJDP-21-00060: HAMBURG PLACE FARM, SIR BARTON WAY OFFICE PARK, LOT M (AMD) and adding a condition that parking issues be addressed at the time of the final development plan.

Action – A motion was made by Mr. Wilson, seconded by Mr. Bell and carried 10-0 (Michler absent) to approve the conditional use permit for reasons provided by Staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

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 August 2023

Subdivision Committee, Thursday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	August 3, 2023
Zoning Committee, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	August 3, 2023
Subdivision Items Public Hearing, Thursday, 1:30 p.m. in Council Chambers, 2nd Floor, Gov't Center.....	August 10, 2023
Work Session, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	August 17, 2023
Zoning Items Public Hearing, Thursday, 1:30 p.m. in Council Chambers, 2 nd Floor, Gov't Center	August 24, 2023

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

Technical Committee, Wednesday, 8:30 a.m., in 3rd Floor Conf Room, Phoenix Building..... August 30, 2023
Work Session, Thursday, 1:30 p.m., in 3rd Floor Conf Room, Phoenix Building..... August 31, 2023

X. ADJOURNMENT

Larry Forester, Chair

Janice Meyer, Secretary

AG/DC/RS-8/21/23