

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

June 27, 2024

- 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.

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

Planning staff members present: Jim Duncan, Traci Wade, Keith Horn, Chris Taylor, Autumn Goderwis, Daniel Crum, Tom Martin, Cheryl Gallt Boyd Sewe, Shaun Denney, SB Stroh, Rachael Lay, and Bill Sheehy. Other staff members present were Tracy Jones and Brittany Smith, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Mr. Johnathon Davis for the approval of the minutes of the May 9, 2024 public hearing, and carried 10-0-1 (Michler abstained)

A motion was made by Ms. Meyer, seconded by Ms. Worth for the approval of the minutes of the May 23, 2024 public hearing, and carried 10-0-1 (Owens abstained)

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

1. **PLN-MAR-24-00007: KURT R. VOLK EXEMPT FAMILY SHARE TRUST** – a petition for a zone map amendment from an Agricultural Rural (A-R) zone to Agricultural Buffer (A-B) zone, for 144.14 net (147.14 gross) acres for property located at 8200 Bates Creek Road.

Applicant Comment – Nick Nicholson, attorney for the applicant, asked for one month postponement to the July 25, 2024 public hearing. Mr. Nicholson stated that there was some confusion at the committee meeting and was willing to wait another month to have a discussion at the committees about how the Comprehensive Plan and Rural Land Management Plan interact on this development.

Commission Comment – Ms. Worth asked if it was possible for the Rural Land Management Board to speak to the Planning Commission about the history of the A-B zone at the next work session so that all Planning Commission members are hearing the same information.

Staff Comment – Mr. Jim Duncan and Ms. Tracy Jones stated that they would discuss this further with the Law Department and Staff would get back to the Planning Commission at a later date.

Action – A motion was made by Mr. Owens, seconded by Ms. Worth and carried 11-0 to postpone **PLN-MAR-24-00007: KURT R. VOLK EXEMPT FAMILY SHARE TRUST** to the July 25, 2024 public hearing.

2. **PLN-ZOTA-24-00003: REGULATION OF SOLAR ENERGY SYSTEMS** – a text amendment to create a new article in the Zoning Ordinance to facilitate the siting, development, construction, installation, and decommissioning of solar energy systems.

Staff Comment – Ms. Traci Wade stated that the applicant had requested a one month postponement to the July 25, 2024 public hearing.

Action – A motion was made by Mr. Michler, seconded by Ms. Barksdale and carried 11-0 to postpone **PLN-ZOTA-24-00003: REGULATION OF SOLAR ENERGY SYSTEMS** to the July 25, 2024 public hearing.

3. **PLN-ZOTA-24-00005: AMENDMENT TO ARTICLES 5, 18, AND 26: LANDSCAPING AND TREE PROTECTION** – a text amendment to amend Articles 5, 18, and 26 to update landscaping and tree protection standards.

Staff Comment – Ms. Traci Wade stated that Staff had met with various stakeholders and will be prepared to make a presentation next week to the Zoning Committee, and requested a one month postponement to the July 25, 2024 public hearing.

Action – A motion was made by Mr. Michler, seconded by Ms. Meyer and carried 11-0 to postpone PLN-ZOTA-24-00005: AMENDMENT TO ARTICLES 5, 18, AND 26: LANDSCAPING AND TREE PROTECTION to the July 25, 2024 public hearing.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, June 6, 2024 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Mike Owens, Bruce Nicol, and Judy Worth. Other Committee members present were Vaughan Adkins, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Autumn Goderwis, Tom Martin, Daniel Crum, Cheryl Galt, James Mills, Paula Schumacher, Eve Miller, Quinn Mullholland, 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:

- 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 June 6, 2024, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Larry Forester, Johnathon Davis, Robin Michler, Zach Davis, William Wilson, and Graham Pohl. Staff members present were Traci Wade, Autumn Goderwis, Daniel Crum, James Mills, Chris Taylor, Hal Baille, Boyd Sewe, Quinn Mulholland, Eve Miller, and SB Stroh; Keith Horn and Shaun Denney from the Commissioner of Planning and Preservation office.

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. 3743 FREEDOM, LLC ZONING MAP AMENDMENT AND MELODY VILLAGE UNIT 3-C BLK C LOT 12 (FREEDOM SENIOR APARTMENTS) DEVELOPMENT PLAN

- a. **PLN-MAR-24-00008: 3743 FREEDOM, LLC** – a petition for a zone map amendment to modify Conditional Zoning Restriction to increase allowable square footage from 60,000 to 80,000 square feet, for 5.124 net (5.510 gross) acres for property located at 3743 Red River Drive.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 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 modify the existing conditional zoning restrictions on the subject property to establish a four story senior affordable housing development. The applicant is proposing to retain the existing school building and community center structure.

The Zoning Committee Recommended: **Postponement.**

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

1. The applicant should provide information regarding neighborhood outreach regarding the proposed modification and development.
2. The applicant should provide greater information regarding more specific physical, economic, or social changes in this area since the 2017 rezoning that would justify the modification of the conditions.

- b. **PLN--MJDP-24-00033: MELODY VILLAGE, UNIT 3-C, BLOCK C, LOT 12 (FREEDOM SENIOR APARTMENTS) (AMD)** (8/3/24)* - located at 3743 RED RIVER DRIVE, LEXINGTON, KY.

Council District: 8
Project Contact: Qk4

* - 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 plan is to depict new building and parking layout in support of the requested amendment to the conditional zoning restrictions.

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

1. Provided the Urban County Council approves the requested amendment to the conditional zoning; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of 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. Department of Environmental Quality's approval if environmentally sensitive areas.
7. Addition of dimensions for all driveways, walkways, parking spaces, points of Ingress and egress, and buildings.
8. Addition of street cross-sections and location on plan face.
9. Clarification of information in site statistics box for the entire development to include zoning and totals for property.
10. Addition of zoning information on plan face for this property, showing both zones.
11. Addition of 20' building line across all of the property per Plat R-758.
12. Addition of existing and proposed easements per plat R-758.
13. Addition of tree protection plan information per Article 26 of the Zoning Ordinance, denoting the DBH (diameter at breast height) of trees on layout.
14. Clarify intent of tree preservation statement.
15. Correct labeling for adult daycare centers from 17 to 16.9.
16. Clarify use of area adjacent to dog park.
17. Remove note for owner regarding Certificate of Occupancy.
18. Delete detention basin square footage and depth information.

Staff Presentation – Mr. Daniel Crum presented the supplementary 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 to modify conditional zoning restriction to increase allowable square footage from 60,000 to 80,000 square feet, for 5.124 net (5.510 gross) acres for property located at 3743 Red River Drive. Mr. Crum indicated that the applicant is seeking to increase the square footage in order to develop a senior affordable housing development and that there would be no discussion regarding Placebuilder Criteria.

Mr. Crum highlighted the surrounding zoning, indicating that most of the area was single-family residences, and the conditional zoning restrictions that facilitated this request. According to Mr. Crum, the restrictions stem from a 2017 zone change that utilized an existing school building for an assisted living facility and some senior housing. Mr. Crum noted the size and shape of the structure and stated they are important to the current request so that the proposed four story development may go on the open portion of the property. Mr. Crum stated that the applicant would keep the existing structures, but needs to increase the allowable square footage to build the new proposed building.

Mr. Crum highlighted the current conditional zoning restrictions and noted that in order to change them, Staff looked at physical, economic, and social changes that were not anticipated at the time the original conditions were placed. Mr. Crum stated that the applicant argued there has been a physical change in the size of the structure, due to the previous engineer not counting the square footage of the basement. The current 60,000 square foot restriction would make it difficult for the applicant to build anything new. The applicant also opined that there has been a social change in that due to the demand in affordable senior housing in this area. Mr. Crum then presented census data that showed a significant increases in the population aged 60 and older within the property's census tract.

Mr. Crum concluded by stating Staff was recommending approval of the application for the reasons mentioned and could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Nicol commended the Staff for their willingness to work with the applicant and make this application work.

Mr. Michler asked where the 80,000 square foot number came from and the justification behind that. Mr. Crum indicated that 80,000 square feet came from the request of the applicant and what they wanted to do with the development and was what the applicant was most comfortable with asking for.

Mr. Michler stated that he understood the logic behind it, but stated that this was size a limitation that he thought the Planning Commission was trying to get away from. Mr. Crum stated that the wording of conditions is dependent on the project and this just fit more in line with what this particular applicant requested.

Development Plan Presentation – Ms. Cheryl Gallt oriented the Planning Commission to the location and characteristics of the subject property. Ms. Gallt noted the proposed building, the access points, and the change from many buildings from the original development plan, to the new single structure. Ms. Gallt also mentioned the sidewalk easements, and noted the shape of the sidewalk and asked for the applicant's reasoning for having a zig-zag design in a development meant for seniors.

Ms. Gallt concluded by stating Staff was recommending approval of the application for the reasons mentioned and could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Michler asked if there was discussion between Staff and the applicant about reorienting the office and activity center from the back to the front, and Ms. Gallt stated that the location of the office is where the site is more flat, and there is a slope towards the street.

Applicant Presentation – Shannon Huffer, project manager for the applicant, stated that the applicant had been awarded 10 million dollars' worth of tax credits to do this 52 unit senior affordable housing development. Ms. Huffer noted the greenhouse, as well as their mission of health and long living. Additionally, Ms. Huffer stated that residents in the adjoining neighborhood could transition to this development if living in their current homes became untenable.

Ms. Huffer stated that they had talked with various members of the neighborhood about the changes; however, they were not able to schedule a more formal meeting. She noted that they would be willing to have a more formal meeting to alleviate any concerns.

Ms. Huffer concluded that they are attempting do something that will be an overall benefit to the area and are in agreement with Staff's recommendations.

Commission Questions and Comments – Mr. Michler asked Ms. Huffer to discuss the orientation of the entrance and office area and Ms. Huffer said that in discussions with the engineer, this was the orientation that worked best and made the most sense.

Mr. Michler also asked about the aesthetic of the side that faces the neighborhood and she said she could not speak to that, but said that the complex would look very modern looking and nice.

Action – A motion was made by Mr. Johnathon Davis, seconded by Mr. Pohl and carried 11-0 to approve PLN-MAR-24-00008: 3743 FREEDOM, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Johnathon Davis seconded by Mr. Pohl and carried 11-0 to approve PLN-MJDP-24-00033: MELODY VILLAGE, UNIT 3-C, BLOCK C, LOT 12 (FREEDOM SENIOR APARTMENTS) (AMD and changing condition #11 from "discuss" to "resolve"

2. NEW REPUBLIC ARCHITECTURE ZONING MAP AMENDMENT AND PARSONS GREEN DEVELOPMENT LLC PROPERTY DEVELOPMENT PLAN

- a. **PLN-MAR-24-00009: NEW REPUBLIC ARCHITECTURE** – a petition for a zone map amendment from a Neighborhood Business (B-1) zone to Medium Density Residential (R-4) zone, for 0.31 net (0.52 gross) acres for property located at 226, 228, and 232 W Maxwell Street. The applicant is also seeking variances to (1) reduce the front yard setback from 20 ft to 14 ft, (2) reduce the side street side yard setback from 20 ft to 6 ft, (3) reduce the side yard setback from 3 ft to 0 ft, (4) increase the maximum driveway width from 10 ft to 16 ft, (5) and increase the maximum structure height from 35 ft to 38 ft.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2045 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 and subdivide the property to create three single-family residential lots, each approximately 0.10 acres in size. The applicant is also seeking several variances in order to develop the lots, including a reduction in the required front yard on S. Mill Street, side street side yard on W. Maxwell Street, side yard, maximum driveway width, and an increase in the allowable height of the structures.

The Zoning Committee Recommended: **Postponement.**

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

1. The requested rezoning to the Medium Density Residential (R-4) zone is not in agreement with the 2045 Comprehensive Plan for the following reasons:
 - a. The requested rezoning is not in agreement with the Goals, Objectives, and Policies of the 2045 Comprehensive Plan.
 1. The proposed single-family residential development does not seek to construct at a density or intensity that might be reflective of a major downtown corridor in Lexington (Theme A, Goal #2.b; Theme A, Density Policies #1 and #2).
 2. By orienting the structures towards S Mill Street, the proposed development does compliment the character for development along this portion of the W. Maxwell Street corridor (Theme A Goal #2.b; Theme E, Goal# 2.e).
 3. Single-family residential development along a major downtown corridor is not sensitive to the surrounding context (Theme A Design Policy #4).
 4. By not activating the Maxwell Street frontage, the request does not create an inviting streetscape or a pedestrian friendly street pattern (Theme A , Design Policy #5).
 - b. The proposed Low Density Residential Development Type is not recommended for the applicant's chosen Place-Type, and is not appropriate along a major downtown corridor (Placebuilder, Page #268).
 - c. The requested rezoning is not in agreement with the Development Criteria of the 2045 Comprehensive Plan. The following Development Criteria are not being met with the proposed rezoning.
 1. *A-DN2-1: Infill Residential should aim to increase density*
 2. *C-LI7-1: Developments should create mixed use neighborhoods with safe access to community facilities, greenspace, employment, shopping, and entertainment.*
 3. *E-ST8-2: Development should provide community oriented places and services.*
 4. *A-DS5-2: Developments should incorporate vertical elements such as street trees and buildings to create a walkable streetscape.*
 5. *A-DS5-4 : Development should provide pedestrian oriented and activated streetscapes;*
 6. *C-LI8-1: Development should enhance a well-connected and activated public realm*
 7. *A-DS5-3: Building orientation should maximize connections with the street and create a pedestrian-friendly atmosphere.*
 8. *A-DN202: Development should minimize significant contrasts in scale, massing, and design, particularly along the edges of historic areas and neighborhoods;*
 9. *AEQ5-1: Development should create context sensitive transitions between intense corridor development and existing neighborhoods.*
2. There have been no major unanticipated changes of an economic, social or physical nature in the area

of the subject property since the adoption of the 2045 Comprehensive Plan.

3. The applicant has not provided sufficient evidence as to why the current zoning is inappropriate addressing the historical establishment of the zone, and why the proposed zoning is appropriate for this location.

b. PLN-MJSUB-24-00006: STEPHENS & WINSLOW SUBDIVISION (PARSONS GREEN DEVELOPMENT, LLC PROPERTY) (8/3/24)* – located at 226-232 W. MAXWELL STREET, LEXINGTON, KY

Council District: 3

Project Contact: New Republic Architecture

Note: The purpose of this plan is to depict subdivision of the property into 3 lots, in support of the requested zone change from a Neighborhood Business (B-1) zone to a Medium Density Residential (R-4) zone.

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

1. Provided the Urban County Council approves the zone change to R-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Landscape Examiner's approval of landscaping.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection area(s) and required street tree information.
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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Delete Notes 6 & 10.
11. Provided the Planning Commission grants the requested variances.
12. Denote structures will comply with Infill and Redevelopment Area requirements of Article 15 of the Zoning Ordinance.
13. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the supplementary staff report and updated 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 Neighborhood Business (B-1) zone to Medium Density Residential (R-4) zone, for 0.31 net (0.52 gross) acres for property located at 226, 228, and 232 W Maxwell Street. Mr. Crum continued, stating that the applicant was seeking variances to (1) reduce the front yard setback from 20 ft to 14 ft, (2) reduce the side street side yard setback from 20 ft to 6 ft, and (3) reduce the side yard setback from 3 ft to 0 ft. Additionally, Mr. Crum stated that the applicant is seeking a Second-Tier Urban Place-Type, and a Low Density Residential Development Type to establish three single-family residential homes.

Mr. Crum stated that the initial staff report presented a recommendation of disapproval due to concerns with the density proposed and the orientation of the site, and the proposed Place-Type and Development-Type not typically fitting in the downtown area. Mr. Crum indicated that changes to the density of the site through the incorporation of proposed ADU's, is how Staff reached an updated recommendation of approval.

Mr. Crum highlighted the zoning map and noted the mixing of uses between neighborhood businesses and various residential uses in this area, all within an H-1 Overlay zone. Mr. Crum stated that because of the H-1 Overlay zone, this application would require input from the Board of Architectural Review. To that point, Mr. Crum indicated that preliminary discussions with Historic Preservation, as well as the neighborhood, indicate support of this application.

Mr. Crum stated that the current property has been a parking lot that has faced West Maxwell Street for a number of years and that before that, it was an accessory structure to what is now Dudley Square that was oriented towards South Mill Street. Mr. Crum displayed the preliminary subdivision plan and noted that there was not a lot of detail, but the applicant has shown what the proposed residences would look like and how they would be oriented. Additionally, Mr. Crum indicated that the applicant had given more information,

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

including Sanborn maps from as far back as 1890, which justified the applicant's orientation argument, and indicated that Staff was in agreement with their point.

Mr. Crum showcased some additional elevations of what the proposed development would look like, including the addition of an ADU, and stated that the applicant had taken the criticisms from Staff and had applied them to their development.

Mr. Crum concluded by stating Staff was recommending approval of the application, with a minimum density condition to ensure 19 dwelling units per net acre. Mr. Crum stated that he could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Michler took issue with Mr. Crum's assertion that the initial Staff recommendation stated that the lots were not in keeping with the neighborhood and asked what the normal lot size was. Mr. Crum stated that Staff was focusing on the densities and not the size of the parcels. Mr. Michler pressed Mr. Crum for the average lot size of a single family house in this historic neighborhood. Mr. Crum stated that Staff did not have that answer, but reiterated that Staff was focusing on the densities and orientation and not the specific lot sizes.

Mr. Michler stated that he was upset with the assertion he thought Mr. Crum was making, and the conditional zoning restriction, because he lives in this neighborhood, and it seems like it is mandating apartments. Mr. Crum stated that Staff was trying to balance the goals and objectives for building along a corridor and dealing with the concerns of a historic overlay zone. Mr. Crum stated that Staff found the ADU's were an elegant solution to the density issue and mentioned that the neighborhood stated they were ok with the residence and the ADU.

Mr. Michler asked for a Staff opinion about the current lots that are a tenth of an acre in the 2nd Tier Urban Place-Type are no longer recommended. Mr. Crum stated that the historic houses in these 2nd Tier Urban Place-Types go back hundreds of years, and with the current standards, we are looking at encouraging density redevelopment with a redevelopment and that we cannot continue to only build single family houses. Mr. Crum clarified that Placeholder does not have a prohibition on single family houses, but that the property's location on a corridor resulted in an increased focus on density.

Mr. Michler stated that we have huge developments going on Maxwell and that when he hears the Comprehensive Plan call for not only single-family residences, you could also interpret that as including them. Mr. Michler stated we should know when to not ask for more.

Subdivision Plan Presentation – Mr. Tom Martin oriented the Planning Commission to the location and characteristics of the subject property. Mr. Martin indicated that it was possible to do a subdivision plan like this when it is single-family housing and noted that if this is approved, the Planning Commission would not see any more of this development. Mr. Martin stated that if approved the applicant would file a final record plat to create the three lots, and then begin to pull permits and start building as seen in the subdivision plan. Mr. Martin repeated Mr. Crum's statements on the orientation of the lots, and indicated that the infrastructure that would normally need to be in place already exists.

Mr. Martin indicated that a number of the variances were no longer necessary, and the ones that were are related to setbacks. Mr. Martin concluded by stating that Staff is recommending approval and that he could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Wilson asked Mr. Martin if the "Discuss Placebuilder criteria" condition could be deleted and Mr. Martin indicated that it could.

Variance Presentation – Mr. Crum highlighted the three variance requests, and noted that the height and driveway variances initially asked for by the applicant were no longer necessary. Mr. Crum indicated the variances requested were to (1) reduce the front yard setback from 20 ft to 14 ft, (2) reduce the side street side yard setback from 20 ft to 6 ft, and (3) reduce the side yard setback from 3 ft to 0 ft. Mr. Crum displayed a graphic from the applicant that showed the properties with the requested variances and stated that homes in this area had these particular setbacks, and while there is a zero lot line proposed, there is five feet between each structure to allow light and air circulation. Furthermore, Mr. Crum presented photos to show the proximity of houses in this neighborhood.

Mr. Crum concluded by stating that Staff is recommending approval and that he could answer any questions from the Planning Commission.

Applicant Presentation – Matt Mattone, project architect, stated that they received thorough review of the proposal based on comments from the Planning Commission's, and praised Staff for being thorough but fair and have been a pleasure to work with. Mr. Mattone said from the beginning, the applicant envisioned the possibly of having an ADU on this property, and are happy that they were able to use them to get the desired density. Mr. Mattone stated that they had tried to address the Staff's concerns through the process and he is happy with the recommendation of approval.

Public Comment – David Kesheimer, 355 S. Broadway, representative of the South Hill Neighborhood Association, stated that he appreciated their discussions with the applicant and that he did not think they needed to mandate the density. Additionally, he stated his concern for a potential apartment complex on Upper Street but was in favor of this zone change.

Commission Comments – Mr. Owens stated that he appreciated the back and forth between Mr. Crum and Mr. Michler and found himself siding more with Mr. Michler. Stated that we needed more density but said that the Comprehensive Plan calls for a mix of housing. Mr. Owens also questioned the mandate for density and said he did not think it was mandated anywhere else in the City of Lexington. He concluded his comments by stating he is for the development, but not the conditional zoning mandate.

Mr. Pohl stated that he did not agree with the removal of the conditional zoning restrictions and thought that the applicant's move to make a relationship with Maxwell Street with a gate and entrance is important.

Mr. Nicol agreed with Staff's recommendations and he appreciated the applicant's efforts and questioned if the removal of the conditional zoning restriction gave the applicant more flexibility.

Action – A motion was made by Mr. Michler, seconded by Ms. Barksdale and carried 10-1(Pohl opposed) to approve PLN- MAR-24-00009: NEW REPUBLIC ARCHITECTURE for the reasons provided by Staff in the Supplemental Staff report, but removing the conditional zoning restriction mandating density.

Action – A motion was made by Mr. Michler seconded by Ms. Worth and carried 11-0 to approve PLN-MJSUB-24-00006: STEPHENS & WINSLOW SUBDIVISION (PARSONS GREEN DEVELOPMENT, LLC PROPERTY) with and deleting condition #13.

Action – A motion was made by Mr. Michler seconded by Mr. Wilson and carried 11-0 to approve the three yard variances for reasons provided by Staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS

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

A. Nominating Committee Report – the nominating committee will provide a report about a slate of officers for the 2024 election to be held on July 11, 2024.

Commission Comment – Ms. Worth gave a brief description of a telephonic meeting between her and members of the nominating committee and stated that while they thought term limits were a good thing, that stability was important going into this next term. Ms. Worth stated that the officers would remain the same with Mr. Forester, Mr. Davis, Ms. Meyer, and Ms. Worth in their respective positions.

Mr. Nicol stated that he thought it was important to keep the "award winning" leadership in their positions for what looks to be a busy year.

Mr. Michler stated he agreed with what had been said.

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

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

- A. PLN-MJDP-23-00076: SHRINERS HOSPITAL/MASONIC TEMPLE ASSOCIATION OF LEXINGTON, INC(AMD)**
(8/18/24)* - located at 4085 Harrodsburg Road, LEXINGTON, KY
Council District: 9
Project Contact: Vision Engineering

The Staff will report at the meeting. There is a conflict between the existing conditions on the site and the tree protection area identified on the amended final development plan. Mitigation for the removal of trees that were identified to be protected by the certified final development plan will be discussed. The proposed amendment was approved on March 14, 2024 carrying forward the same tree protection area (TPA) that must now be amended. The Planning Commission continued the discussion regarding tree mitigation at the June 13, 2024 public meeting in order to review detailed landscape plans.

Staff Presentation – Ms. Traci Wade gave a brief reminder on what brought this item to the Planning Commission. Ms. Wade stated that Staff sent this development plan back to the Planning Commission for further inspection to modify the approved Tree Protection Plan due to the removal of four significant Red Oak trees. Ms. Wade showcased photographs of the property and the four trees that had been removed and noted the proposals from both Vision Engineering and the Division of Environmental Services for tree mitigation. Vision Engineering proposed 40 large trees to be planted and the Division of Environmental Services requested 83. Additionally, Ms. Wade indicated that 8,300 square feet of tree canopy had been removed.

Ms. Wade stated that in the last two weeks, it has come to light that the landscape plan associated with the site includes trees that address canopy coverage, but trees that also address requirements with Article 18 which deal with zone to zone buffering. Ms. Wade said that Staff was asking the Planning Commission to take a look at this plan, and determine what would be appropriate at this site.

Ms. Wade stated that Staff recommended reapproval subject to two new conditions to address the changes to the Tree Protection Plan, and acceptance of that Tree Protection Plan by the Planning Commission. Ms. Wade concluded her presentation by stating that Staff, and Eric Sutherland, the Urban Forester could answer any questions from the Planning Commission.

Urban Forester Presentation – Mr. Eric Sutherland, Urban Forester, gave a quick run-down of what had occurred since the last meeting. Mr. Sutherland stated that a proposal was submitted to him on June 20th and indicated there were issues with that proposal. These issues included mathematical errors, there was not 116 trees which was previously agreed on, and the trees were not drawn to scale on the plan. Mr. Sutherland indicated that he conveyed to Mr. Hallany that if the trees could not fit on the site, he would have to look at the design of the overall project and see where they could fit.

Mr. Sutherland stated that a second proposal sent by Mr. Hallany had redundant information and did not match with what had been presented elsewhere. Mr. Sutherland asked Mr. Hallany to revise the plan and include a change in color to the trees in the mitigation plan.

Mr. Sutherland stated that the plan presented today was even more confusing. Mr. Sutherland stated that there are tables with different tree total numbers on this proposed plan and they do not seem to add up.

Mr. Sutherland concluded that those were just a few reasons as to why they have not signed off on the proposed plan and could answer any questions from the Planning Commission.

Commission Questions – Ms. Meyer asked how many trees you can plant on this site and have them be viable and if there needed to be an amendment to the development plan. Mr. Sutherland stated that it is the opinion of the Department of Environmental Services that they would prefer the trees to be on site in a space that would be conducive to their long term survival and if that means moving existing proposed buildings and parking lots to accommodate that, so be it.

Ms. Meyer also asked if there is an avenue for follow-up to see if trees reach maturity and Mr. Sutherland indicated that he supported that idea, but there wasn't a person or department looking into that.

Mr. Nicol asked if it was possible to add 43 more trees as the site is, and Mr. Sutherland indicated that it did not appear that there was much more room for trees, but that ultimately, it is up to the developer to figure out how to make it work.

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Mr. Nicol also inquired if there were any laws saying that mitigation trees could not go in the residential zones. Mr. Sutherland stated that there were none that he was aware of. Mr. Nicol stated he did not think that totally reconfiguring the site was a viable option, and that they should plant the mitigation trees on the residential properties. Mr. Sutherland stated that there were some trees that could potentially go into the retention basin, but stated that the question of where the trees are going on the property should be answered by Mr. Hallany; Mr. Nicol agreed.

Mr. Owens stated he appreciated his work and willingness to discuss this with the Planning Commission. Mr. Owens continued, saying that he also did not want to reconfigure the site, but he hoped the applicant and Environmental Services could come to an agreement.

Mr. Johnathon Davis echoed the thoughts of Mr. Nicol and Mr. Owens that it is up to the applicant to make this right, but he did not want to see proposed buildings moved.

Additionally, Mr. Sutherland stated that this process has been time consuming and they have a lot on their plates already and he would like to see this figured out swiftly so they can move on.

Applicant Presentation – Mr. Jihad Hallany, engineer for the project, showcased the final development plan, and highlighted Article 26-4(d) that according to Mr. Hallany says to protect the greatest number of trees as is reasonable and practical. Additionally, Mr. Hallany stated that in order to protect the necessary trees they would need a retaining wall along the townhomes that kids could possibly climb and hurt themselves, therefore it is a safety concern.

Mr. Hallany continued stating that Article 26-5 (e) defined “large tree” as being 750 square feet and argued that they are required to put 160 trees total, and they are proposing 285 where 40 of those proposed trees are for tree mitigation. Mr. Hallany argued that they are providing three times the trees they are supposed to place.

Mr. Hallany concluded by stating that he could answer any questions from the Planning Commission.

Commission Questions – Mr. Nicol asked if there was a way for Mr. Hallany to work with Environmental Services and include what they are requiring without a major development plan adjustment. Mr. Hallany did not answer that question, but did say that they are following Article 26-5 and opined that they do not need to mitigate the loss of the four trees. Mr. Hallany went further and stated that they are in compliance with the Zoning Ordinance. Mr. Hallany stated the removal of the trees was a mistake, but they are already in compliance with the Zoning Ordinance. Additionally, Mr. Hallany stated that he did not think it was practical to have a retaining wall that is 13-16 feet tall. Mr. Hallany repeated that he was in compliance with the Ordinance, alleged that they are providing three times the amount of trees they need to, and he would like to move on.

Mr. Pohl stated that Mr. Hallany's decisions regarding the placement of buildings that forced the retaining wall were his call and he could have done a better job of making sure that retaining wall was not necessary. Mr. Pohl stated that Mr. Hallany's argument was ridiculous and making the Planning Commission relitigate this when he is clearly in the wrong is extremely annoying and a waste of the Planning Commission's time. Mr. Pohl stated that Mr. Hallany needed to listen to Environmental Services and do whatever it takes to get it done. Mr. Hallany once again, stated that they are following the Ordinance. Mr. Pohl stated that Mr. Hallany needed to accept his responsibility in this and fix it.

Mr. Michler stated that Mr. Hallany was totally ignoring the first half of Article 26-5 which clearly states that the Urban Forester may permit removal of up to 5% of the canopy coverage. Additionally, Mr. Michler mentioned that Mr. Hallany had a tenant that required more parking, he came to the Planning Commission to remove greenspace, and to change parking spots from full size to compact size. Off of that point, Mr. Michler asked how many parking spots could they remove or compact to make room for these trees. Mr. Hallany stated he did not know the number off the top of his head, but that tree preservation does not fall into this development plan and technically this should not be in front of the Planning Commission.

Mr. Michler stated that Mr. Hallany was missing the point, and was pressing him to be more creative to make this development plan work.

Mr. Nicol stated that it did look like the applicant could add more trees in the detention basin and other places throughout the site. Mr. Hallany stated that they could get a few trees there but it would not meet the 83 requirement and that he did not plan on putting 43 more trees onto this site.

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Ms. Meyer stated that she was ready to make a motion to continue this application and asked Mr. Sutherland how much time would work for him and Mr. Hallany.

Mr. Sutherland stated he thought what Mr. Hallany stated about Article 26 was misrepresented and that he would like more than two weeks to take a look at this more. Additionally, Mr. Sutherland mentioned that Mr. Hallany initially agreed to 116 trees, so the 83 is not that much to ask.

Mr. Hallany stated that he did not misrepresent Article 26, and that no matter what the plan would not change.

Action – A motion was made by Ms. Meyer, seconded by Mr. Nicol and carried 10-0 (Forester absent) to continue PLN-MJDP-23-00076: SHRINERS HOSPITAL/MASONIC TEMPLE ASSOCIATION OF LEXINGTON, INC(AMD) to the July 25, 2024 public hearing.

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 July 2024**
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| Subdivision Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building | July 3, 2024 |
| Zoning Committee, Wednesday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building | July 3, 2024 |
| Subdivision Items Public Hearing , Thursday, 1:30 p.m. in Council Chambers, 2 nd Floor, Gov’t Center..... | July 11, 2024 |
| Work Session, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building | July 18, 2024 |
| Technical Committee, Wednesday, 8:30 a.m., in Council Chambers | July 24, 2024 |
| Zoning Items Public Hearing , Thursday, 1:30 p.m., in Council Chambers, 2 nd Floor, Gov’t Center..... | July 25, 2024 |

Larry Forester, Chair

Robin Michler, Secretary

TW/DC/RS-8/16/24

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