

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

November 21, 2024

- I. **CALL TO ORDER** - The meeting will be 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, Robin Michler, Mike Owens, Bill Wilson, Frank Penn, Bruce Nicol, Graham Pohl, Ivy Barksdale, Johnathon Davis, Zach Davis, and Judy Worth.

Planning staff members present: Jim Duncan, Traci Wade, Daniel Crum, Cheryl Gallt, James Mills, Shaun Denney, and Bill Sheehy. Other staff members present were Tracy Jones and Brittany Smith, Department of Law. Captain Greg Lengal, Division of Fire and Emergency Services; and David Filiatreau, Division of Traffic Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Zach Davis, seconded by Mr. Owens for the approval of the minutes of the October 10, 2024, and October 24, 2024, public hearings, and carried 11-0.

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

1. **PLN-MAR-24-00017: ROSE HOLDINGS-LEXINGTON, LLC (1/5/25) *** – a petition for a zone map amendment from a Single Family Residential (R-1A) zone to a Planned Neighborhood Residential (R-3) zone, for 11.587 net (11.92 gross) acres for property located at 1899 Parkers Mill Road.

Applicant Comment – Mr. Bruce Simpson, attorney for the applicant, indicated that he wished to postpone to the December 12, 2024 meeting to meet with the neighborhood and address Staff's concerns in the postponement recommendation.

Action – A motion was made by Mr. J. Davis and seconded by Ms. Worth and carried 11-0 to postpone **PLN-MAR-24-00017: ROSE HOLDINGS-LEXINGTON, LLC** until the December 12, 2024 public hearing.

2. **PLN-ZOTA-24-00006: REVISIONS TO ARTICLE 23A-10 FOR THE ECONOMIC DEVELOPMENT (ED) ZONE** – a text amendment to modify the Economic Development (ED) zone.

Applicant Comment – Mr. Joe Brumley, representative for the applicant, stated they wished to postpone to the January 30, 2025 in order to work with the Staff.

Action – A motion was made by Ms. Worth and seconded by Mr. J. Davis and carried 11-0 to postpone **PLN-ZOTA-24-00006: REVISIONS TO ARTICLE 23A-10 FOR THE ECONOMIC DEVELOPMENT (ED) ZONE** until the January 30, 2025 public hearing.

3. **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. Daniel Crum indicated that the applicant was requesting a one month postponement to the December 12, 2024 public hearing.

Action – A motion was made by Mr. Wilson and seconded by Ms. Barksdale and carried 11-0 to postpone **PLN-MAR-22-00016: REALTY UNLIMITED BLUE GRASS, LLC** until the December 12, 2024 public hearing.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 7, 2024 at 8:30 a.m. The meeting was attended by Commission members Bruce Nicol, Judy Worth, and Frank Penn. Other Committee members present were Vaughan Adkins, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were Traci Wade, Daniel Crum, Chris Chaney, Cheryl Gallt, Paula Schumacher; Greg Lengal and Embry Beaty, Division of Fire and Emergency Services; and Tracy Jones and Brittany Smith, Department of Law. The Committee made recommendations on plans as noted.

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

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 November 7, 2024, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Johnathon Davis, Zach Davis, Graham Pohl, and William Wilson. Staff members present were Traci Wade, Daniel Crum, and James Mills; and Tracy Jones, Brittany Smith and Will Razor, 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.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN- ZOTA-24-00008: AMENDMENT TO ARTICLE 17 FOR DIGITAL BILLBOARDS** – a text amendment to Article 17 to define and regulate digital billboards in the B-3, B-4, I-1, I-2, and CN zones.

INITIATED BY: Urban County Council
PROPOSED TEXT: Copies are available from the staff.

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

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

1. The proposed text amendment allows for the expansion of the use of electronic billboards within the most intense zones, where standard billboards have already been found to be appropriate.
2. The proposal incorporates spacing and separation requirements to ensure that there is not an undue concentration of the uses within a particular area, and that the signs are an adequate distance from residential zones.
3. The proposal includes prohibitions on distracting features such as dynamic content, animations, flashing content, or rapidly changing messages, which create distractions and unsafe driving conditions.
4. The proposed text creates standards for the sign's construction that ensure the impact of the sign is directed towards the roadway, and not the adjoining parcels.

Staff Presentation – Mr. Daniel Crum presented the staff report and proposed text amendment. Mr. Crum highlighted the existing billboard regulations stating that they are permitted in the B-3, B-4, C-N, I-1, and I-2 and the various updates and changes that have taken place over the last two years, including the Digital Marquee text amendment and the Convention Center electric signage. Mr. Crum presented a map of Lexington and the locations of billboards along with what zones each were in and noted a significant concentration of billboards on New Circle Road.

Mr. Crum stated that the Urban County Council initiated this text amendment and noted their proposed text. In it, they propose the creation of the "Digital Billboard" definition, would be subject to the same standards as regular billboards, including separation requirements, no flashing or animations, a minimum message duration, and luminance maximums. Mr. Crum continued and presented the Staff alternative text changes that include: prohibition on being incorporated into non-conforming signage, no digital billboards in the CN zone, clarification of spacing standard from all billboards, and requirement to utilize blocking or louver construction to reduce the signs viewing angle. When discussing the research that went into the Staff alternative text, Mr. Crum indicated that digital billboards have a much bigger impact on the surrounding area and a lot of thought and care should go into where these digital billboards are placed. Additionally, Mr. Crum noted the safety concerns that can stem from digital billboards and indicated that they can be distracting, noting that the proposed eight seconds per advertisement or image was in line with the national average and would help alleviate unwanted distractions.

Mr. Crum concluded by stating that Staff is recommending Approval of the Staff Alternative Text and could answer any questions from the Planning Commission.

Commission Question – Mr. Bill Wilson asked if the eight second duration was a minimum or could the duration be longer. Mr. Crum indicated that was correct and the duration could be longer.

Mr. Wilson asked about the safety issues that stem from digital billboards. Mr. Crum pointed Mr. Wilson to a document in Granicus and stated the takeaways included an increase in the attention to digital billboards and that there were cities that had taken those into account and made them work.

Mr. Pohl asked how the approval of digital billboards serves the objectives of the Comprehensive Plan. Mr. Crum stated that in the Comprehensive Plan there is a larger conversation on allowing people reasonable use of their land and increased economic development and balancing that with the safety and interests from the public. Mr. Crum indicated that the Comprehensive Plan speaks to those ideas and noted that there was not one particular part of the Comprehensive Plan that was cited and Staff was responding to the language and direction from the Urban County Council.

Mr. Pohl followed up by asking who would benefit from this activity. Mr. Crum stated that he thought that any property owner that could utilize the digital billboard or any business looking to advertise. Mr. Crum reiterated that Staff was looking at the safety issues they could address.

Mr. Pohl stated that he thought the benefit would clearly go to the landlords or business owners, but would not generally be a benefit to the public.

Mr. Frank Penn stated that this was not the first time the Planning Commission has dealt with digital billboards over the last 15 years and asked if the Planning Commission had a say on the content that could be displayed. Mr. Crum stated that the Planning Commission was limited to time, manner and place restrictions and the Commission could not regulate the content, such as an advertisement for Louisville Men's basketball.

Mr. Penn asked who makes the decision on what is displayed on the digital billboard and mentioned items such as political messages and hate speech. Mr. Crum stated that there are limits to free speech in general and adult content and hate speech could be regulated.

Ms. Tracy Jones, Department of Law stated that unless the content is some kind of hate speech, the Planning Commission cannot tell owners what they can and cannot put in the content of a sign.

Mr. Penn asked if adult entertainment stores could be advertised on digital billboards and Ms. Jones said that the business itself could advertise, but the type of activities that go on there could not be shown.

Mr. Jim Duncan stated that he understood what Mr. Penn was getting at but that everything that Mr. Penn had mentioned can already be put up on a static billboard.

Mr. Nicol stated that he was interested in allowing non-conforming signs the opportunity to upgrade to a single digital sign that would allow for more businesses to advertise on a single billboard and would benefit the community by cleaning up multiple signs. Mr. Nicol suggested using the Board of Adjustment as the avenue to apply for a non-conforming sign to be upgraded.

Mr. Crum indicated that there would need to be more discussions with the Department of Law over Mr. Nicol's proposal and if that would be within the Board of Adjustment's purview.

Ms. Jones chimed in and stated that Mr. Nicol's proposal could lead to some complications and that any change like that would lead to even more work for the already busy Board of Adjustment.

Ms. Judy Worth while referencing the map provided by Staff asked what zones were recommended on the Imagine Nicholasville Road and how that might relate to this text amendment. Ms. Wade stated that there was a proposal to add housing within corridor nodes, but if a property already had a billboard and it is rezoned to the CN or a residential zone, the billboard could remain, but becomes non-conforming.

Mr. Johnathon Davis stated his concern for digital billboards being hacked and asked if there was a mechanism that the Planning Commission could add to ensure that the digital billboards were not connected to the internet. Ms. Jones stated that she understood his concern, but there was not a lot that the Planning Commission could do to stop that.

Mr. Michler stated he thought there were more reasons in the Comprehensive Plan to disapprove this than to approve it and it appeared to him that Staff was calling for a concentration of digital billboards near residential development around the corridors. Additionally, Mr. Michler mentioned the digital signs at the University of Kentucky, and the traditional billboards over the Chevy Chase shops. Mr. Michler asked what the rationale was for the 150 foot tall sign on S. Upper Street. Mr. Crum stated that the University of Kentucky is exempt from local zoning regulations and as such there is nothing the Planning Commission could do to restrict UK's

signage. Mr. Crum stated that the corridor area already has existing billboards present and does not change the arterial corridor in a negative way.

Mr. Michler also asked the rationale for the 150-foot distance requirement from residential zones. Mr. Crum stated that the distance requirement is relative to the existing separation with standard billboards. He added that the Planning Commission could consider modifying that distance for digital billboards.

Mr. Michler stated that while it was not his area of expertise, he did some research on billboards and they have either very long ground leases or easements and asked if Staff had done research on that. Mr. Crum stated that was an interesting point, but Staff had not looked into that and it would most likely be difficult to regulate since those are private agreements.

Chairman Forester asked if Staff had been in contact with any person from Lamar, the sign company, and Mr. Crum indicated that they had not because it was initiated by the Urban County Council. Mr. Forester concluded by saying that he had a contact if Staff needed it.

Mr. Penn stated his concern with the luminance of digital billboards and mentioned there could be very bright lights in a very concentrated area, like the Distillery District, and anything the Planning Commission could do to prevent that would be helpful.

Public Comment – Amy Clark, stated her opposition to digital billboards. Her concerns included: the intensity of the use of digital billboards, enforcement issues, upgrading current static billboards, and how digital billboards might disproportionately affect impoverished portions of Lexington.

Walt Gaffield, stated his concerns with digital billboards related to distracted driving, the locations of potential digital billboards, and the conflict with building housing on corridors where the ordinance would allow digital billboards.

Mike Brower, Southern Heights Neighborhood Association, stated their opposition because of safety concerns and the possibility of hacking the billboard.

Commission Question – Mr. Davis asked if there were protections for the A-R zone in this text amendment. Mr. Crum stated that there was not any additional considerations for agricultural zones and that the focus of this text amendment was protecting the residential zones.

Mr. Owens asked if the conforming billboards could be changed to digital. Mr. Crum indicated that they could as long as it was not within 500 feet of another static billboard, not within 2500 feet of a digital billboard, and met all the lumen and other requirements, then it would be allowable.

Mr. Owens asked if any of the billboards downtown could be made digital and Mr. Crum indicated that those billboards are non-conforming based on the zone.

Mr. Owens asked if there could only be a single advertisement on a digital billboard or could there be more than one, for example, segmented into four parts. Mr. Crum stated that the ordinance only regulates the size of the billboard at 400 square feet, so it could have multiple messages, but can only change every eight seconds.

Mr. Owens concluded by asking that all of these regulations are related to billboards and not wall mounted signs or digital marquees and Mr. Crum indicated that was the case.

Mr. Wilson asked for clarification on Mr. Owens' question about dividing the sign and asked how many messages the sign could be divided into. Mr. Crum indicated as many as they want as long as it stays within the 400 square foot maximum.

Public Rebuttal – Amy Clark, restated her opposition and insisted that the dynamic images will be a hindrance that is detrimental to public safety, and stated her desire for a height limit.

Walt Gaffield, stated that the Planning Commission should not be influenced because the Urban County Council sent this text to them.

Action – A motion was made by Mr. Nicol, seconded by Mr. Owens and failed 1-8-2 (Penn, Pohl, Worth, Z. Davis, Michler, J. Davis, Wilson, and Owens opposed) (Barksdale and Forester abstained) to approve PLN- ZOTA-24-00008: AMENDMENT TO ARTICLE 17 FOR DIGITAL BILLBOARDS with the alternative text recommended by Staff, adding language to allow non-conforming signs to be approved at the Board of Adjustment.

Action – A motion was made by Mr. Wilson, seconded by Mr. Owens and failed 3-8 (Penn, Pohl, Worth, Z. Davis, Michler, J. Davis, and Owens opposed) to approve PLN- ZOTA-24-00008: AMENDMENT TO ARTICLE 17 FOR DIGITAL BILLBOARDS with the alternative text recommended by Staff.

Action – A motion was made by Mr. Michler, seconded by Mr. Pohl and carried 8-3 (Nicol, Barksdale, and Wilson opposed) to disapprove PLN- ZOTA-24-00008: AMENDMENT TO ARTICLE 17 FOR DIGITAL BILLBOARDS for the following reasons:

1. Allowing digital billboards within Fayette County should not be permitted because, despite proposed mitigation, such use is inappropriate due to the aesthetic and nuisance impact of increased lighting on adjacent property owners, especially residential land uses.
2. The proposed text amendment is not in agreement with the 2045 Comprehensive Plan, Theme B, Protection Policy #10, which recommends reducing light pollution to protect dark skies. The illumination of a digital billboard will increase light pollution and nuisance to the general travelling public.
3. The request introduces additional roadway conflicts, reducing the efficiency and effectiveness of our roadway systems (Theme D, Goal #1), and creating less safe conditions (Theme D, Goal #1.d).
4. The proposed text amendment does not address numerous concerns, including the possibility of hacking or security of messages on a digital billboard, nor reduction of signage clutter by instituting swapping or removal provisions.
5. The proposed text recommends allowing digital billboards along federal and state highways in Corridor Business, Warehouse and Wholesale Business, Light Industrial, or Heavy Industrial zone. These zones are most common along corridors including New Circle Road, Nicholasville Road, Winchester Road and Richmond Road, which are the most heavily traveled corridors within Fayette County. Thus, higher levels of distraction caused by digital billboards could lead to additional injury and non-injury accidents along the most heavily traveled corridors.

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

A. PFR 2024-4: DIVISION OF WATER QUALITY HEADQUARTERS – A Public Facilities Review regarding the construction of the Division of Water Quality Headquarters and Operations Facility located at 130 West New Circle Rd

Staff Presentation – Mr. Crum presented the staff report and proposed Public Facility Review stating that the Division of Water Quality is looking to utilize an existing shopping center for a new headquarters, as well as an equipment storage area. Mr. Crum noted that they would be updating the internals of the building, but the existing structures will remain the same but will add fencing near the front for the storage of equipment, and the barbed wire on top would be replaced. Mr. Crum showcased photos of the subject property as it looks today, noting the existing parking lot and the Goodwill Center next door.

Mr. Crum reminded the Planning Commission that in a PFR, Staff's goal was not to recommend approval or disapproval, but to give recommendations to the applicant to ensure the project is more in line with the Comprehensive Plan. With that in mind, Mr. Crum stated that the relocation will provide adequate space for the employees and vehicles to serve the community and is not in opposition with the Comprehensive Plan. Additionally, Mr. Crum indicated that Staff had recommended incorporating additional vehicular use area landscaping and adding pedestrian facilities like sidewalks and crosswalks.

Mr. Crum concluded by stating that the Planning Commission could add any additional recommendations and indicated he could answer any questions from the Planning Commission.

Commission Questions and Comments – Mr. Michler asked if Staff had done the calculations to determine how far off the applicant was from meeting the tree canopy guidelines. Mr. Crum indicated that Staff had not, but stated that Staff was encouraging the applicant to add more landscaping where it made sense.

Staff Comment – Greg Lubeck, Deputy Director of the Division of Water Quality, stated that the consultant and the Division of Water Quality acknowledged the need for some stormwater mitigation, and they would discuss with Planning Staff the correct tree canopy percentage.

Commission Questions and Comments – Mr. Owens stated that in these reviews the Planning Commission is always limited to what they can and cannot do, but it was nice to ask the applicant for what the Planning Commission would like and hope that the applicant will lead by example and follow the guidelines that every private citizen has to follow.

Action – A motion was made by Ms. Worth, seconded by Mr. Davis and carried 11-0 that PFR 2024-4: DIVISION OF WATER QUALITY HEADQUARTERS is in compliance with the Comprehensive Plan but requests the applicant increases tree canopy coverage to 30% required of other developers and it incorporates a stormwater filtration system.

VII. STAFF ITEMS

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 and December 2024

Technical Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	November 27, 2024
Subdivision Committee, Thursday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	December 5, 2024
Zoning Committee, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	December 5, 2024
Subdivision Items Public Hearing , Thursday, 1:30 p.m. in Council Chambers, 2 nd Floor, Gov't Center.....	December 12, 2024
Zoning Items Public Hearing , Thursday, 1:30 p.m., in Council Chambers, 2 nd Floor, Gov't Center.....	December 12, 2024
Technical Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	December 18, 2024

Larry Forester, Chair

Robin Michler, Secretary

TW/DC/RS-2/13/25