

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

January 30, 2025

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

Planning Commission members present: Larry Forester, Robin Michler, Mike Owens, Bill Wilson, Frank Penn, Bruce Nicol, Ivy Barksdale, Johnathon Davis, Zach Davis, and Judy Worth.

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

- II. **APPROVAL OF MINUTES** – There were no new minutes at this time.

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

1. **PLN-MJDP-24-00095: NEWTOWN SPRINGS, LOT 4 (AMD) (2/23/25)*** – located at 1425 Newtown Center Way, LEXINGTON, KY

Applicant Comment – Mr. Rory Kahly, representative for the applicant, stated that they did not come to a resolution in two weeks and requested a postponement to the March 13th meeting.

Action – A motion was made by Ms. Barksdale and seconded by Ms. Worth and carried 9-0 (J. Davis absent).to postpone PLN-MJDP-24-00095: NEWTOWN SPRINGS, LOT 4 (AMD) until the March 13, 2025 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. Branden Gross, attorney for the applicant, stated that they wished for a 30 day postponement to the February 27, 2025 public hearing

Action – A motion was made by Mr. Owens and seconded by Mr. Penn and carried 9-0 (J. Davis absent).to postpone PLN-ZOTA-24-00006: REVISIONS TO ARTICLE 23A-10 FOR THE ECONOMIC DEVELOPMENT (ED) ZONE until the February 27, 2025 public hearing.

- Mr. Johnathon Davis arrived to the meeting at approximately 1:32.

3. **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. Mark McIntosh, engineer for the applicant, stated their desire for a 30 day postponement to the February 27, 2025 public hearing to continue to work with the neighbors and Staff on storm related issues.

Action – A motion was made by Mr. Penn and seconded by Ms. Worth and carried 10-0 to postpone PLN-MAR-24-00017: ROSE HOLDINGS-LEXINGTON, LLC until the February 27, 2025 public hearing.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, January 9, 2025 at 8:30 a.m. The meeting was attended by Commission members Bruce Nicol, Ivy Barksdale, and Mike Owens. 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

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

Schumacher; Embry Beaty, Division of Fire and Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

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

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

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

The procedure for these hearings is as follows:

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

V. ZONING ITEMS – The Zoning Committee scheduled for January 9, 2025 was cancelled.

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. REALTY UNLIMITED BLUEGRASS, LLC ZONING MAP AMENDMENT AND HIGBEE MILL COURT, LOT 11 DEVELOPMENT PLAN

- a. **PLN-MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC** (12/5/24)* – 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 (0.756 gross) acres for property located at 940 Higbee Mill Road.

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 petitioner proposes the rezoning of the subject properties to the Townhouse Residential (R-1T) zone to allow the infill of the subject property with single family residential. The applicant is now seeking to construct six (6) single family attached dwelling units at a density of 11.54 dwelling unit per net acre.

The Zoning Committee Recommended: Disapproval.

The Staff Recommends: Disapproval, for the following reasons:

1. The proposed zone change to the R-1T zone is not in agreement with the 2018 Comprehensive Plan or the 2045 Comprehensive Plan, for the following reasons:
 - a. The proposed development oriented towards the parking areas rather than the townhomes, and does not create a pedestrian friendly environment (A-DS5-3; D-C01-1).
 - b. The applicant has not demonstrated that they have made any attempt to engage the surrounding neighborhood regarding the updates to their proposal (D-PL7-1).
 - c. The request does not meet the requirements of the zoning ordinance, and the applicant has not provided any information or justification to support the variances that they are seeking.
 2. The site's existing R-1C zone remains appropriate.
 3. There has not been a significant physical, social, or economic change in the immediate area or to the subject property.
- b. **PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11** (1/30/2025) * - located at 940 Higbee Mill Road, LEXINGTON, KY.

Council District: 9

Project Contact: Matt Miniard/Palmer Engineering

Note: The purpose of this plan is to depict 6 townhomes, in support of the requested zone change from a Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone.

Note: The applicant submitted a revised plan on December 17, 2024 to address side yard requirements and street improvements. Based on that submittal, staff can offer the following revised recommendation

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

1. Provided the Urban County Council approves the zone change to R-1T; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.

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

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 of environmentally sensitive areas.
7. Modify vehicular use area in front yards to comply with Article 16-5(a) and (b).
8. Modify dwelling unit setbacks to meet staggering requirements of Article 8-10 (o)(1).
9. Discuss Placebuilder criteria.

Staff Presentation – Mr. Daniel Crum presented the revised 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 Single Family Residential (R-1C) zone to a Townhouse Residential (R-1T) zone, for 0.520 net (0.756 gross) acres for property located at 940 Higbee Mill Road. Mr. Crum indicated that the applicant is proposing six attached townhouse units with the Enhanced Neighborhood Place Type and the Low Density Residential Development Type, and Mr. Crum indicated Staff was in agreement with those selections.

Mr. Crum stated that the surrounding area was primarily residential and that there were a number of easements that complicated the site, as well as a remnant piece of right of way that was intended to connect to Man O' War. That right of way became overgrown and Mr. Miniard was deeded a portion from the Urban County Government, and the adjoining property owners have the ability to claim their portions as well. Mr. Crum stated that many of the issues since this application was filed in 2022 were the appropriate termination of the roadway, and the initial dimensions of the applicant's proposed cul-de-sac was not an adequate way to address the issue and emergency vehicles would have difficulty accessing the site. Additionally, the number of units that the applicant was proposing needed variances in order to operate.

Mr. Crum indicated that the applicant had amended his development plan to include 6 townhome units and are able to meet all the appropriate setbacks, greenspace, and driveways to make the application meet the ordinance. Mr. Crum stated that the application was accommodating the need for housing, with different housing types, while maximizing the development of underutilized land.

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

Commission Questions – Mr. Mike Owens asked why there was a reduction of parking spaces from 13 to 6. Mr. Crum stated that the original plan had two driveways per unit to unit and with the reduction of the amount of units, and a reduction in paving lead to just one driveway per unit.

Development Plan Presentation – Ms. Traci Wade oriented the Planning Commission to the location and characteristics of the subject property. Ms. Wade stated that the six structures will front onto Higbee Mill Road and their rears would abut onto Man O War Boulevard. Ms. Wade reiterated that the reduced shared driveways helped the structures meet the ordinance and would only accommodate one vehicle. Additionally, Ms. Wade stated that the townhomes were 1300 square feet and had backyards.

Ms. Wade went over the conditions for approval and stated that the Planning Commission needed to discuss the modification of the vehicular use area in the front yards and modifying the dwelling unit setbacks. Ms. Wade indicated that there would need to be a pushing back of the middle two dwelling units to allow the driveways to be a long enough to meet the ordinance.

Ms. Wade concluded by stating that Staff is recommending approval with these conditions and could answer any questions from the Planning Commission.

Commission Questions – Ms. Worth asked if there will be any other places for people to park with this current configuration. Ms. Wade stated that the cul-de-sac allowed for some additional parking, but that Higbee Mill Road is a low density area and there should be plenty of spaces to park.

Mr. Michler asked what the zone to zone landscape buffer was between the adjoining residential zone and Mr. Crum indicated it was 8 feet.

Applicant Presentation – Matt Miniard, applicant, stated that this development was a “labor of love” and that this project was safe, eliminating a stub street and allowing emergency vehicles to turn around safely. Mr. Miniard stated that he was praying for the Planning Commissions support and could answer any questions.

Public Comment – Lexi Holland, attorney for Claire and Clovis Collins, 3541 Cephass Way. The Collins’ object to this application because of Mr. Miniard’s public engagement that allegedly included late night house calls to neighbors where the police was called and baseless Zoning Enforcement calls to antagonize them. Additionally, Mr. Miniard has filed a lawsuit against them and other neighbors alleging entitlement to portions of the right of way. Ms. Holland stated that she did not believe the application met the requirements to be granted a zone change.

Michelle Harr, President of the Higbee Mill Neighborhood Association, stated that the neighbors had nothing good to say about this project and these townhouses are being jammed down their throats.

Applicant Rebuttal – Mr. Miniard stated that when Higbee Mill was first created, the city of Lexington was required to build a court at this location that was never built and he is trying to fix the safety and soundness issue of a stub street. In response to questions about parking, Mr. Miniard stated that there was enough parking on Higbee Mill to accommodate guests and residents.

To the allegations from the neighborhood and the Collins family, Mr. Miniard stated that it was not true and he has been trying to buy the right of way from the Collins’ since 2016 and they would not do so. Mr. Miniard stated that he had spent thousands of dollars to resolve this issue for many years

Public Rebuttal – Ms. Holland, stated that her clients came to her after they had already bought their house and realized that parts of their backyard were abandoned right of way and they are entitled to that as the owners. Ms. Holland stated that this development does not alleviate any right of way issues.

Applicant Rebuttal – Mr. Miniard stated that there are a serious of mistakes here that are not his problem, and that the plan in front of the Planning Commission has taken years to get to this point and to be feasible. Mr. Miniard concluded by stating that he was trying to do the right thing and he would appreciate the Planning Commission’s support.

Commission Questions – Ms. Worth asked Mr. David Filiatreau if Higbee Mill Road could accommodate the parking. Mr. Filiatreau stated that it looks like there is parking in the area, but most people park in their driveways and not a lot of on-street parking.

Mr. Johnathon Davis asked if Mr. Filiatreau thought that the neighbors could park safely here. Mr. Filiatreau stated that safe can be a little difficult to define but the fire trucks and emergency vehicle usually look for 20 feet but that is not an across the board rule. Mr. Filiatreau stated that Higbee Mill is 24 feet wide and with cars parking there it would reduce it down to just under 20 feet.

Ms. Ivy Barksdale asked if cars parking in the cul-de-sac allowed for emergency vehicles to fit. Mr. Filiatreau stated that its typical to limit parking in the cul-de sac for that reason.

Mr. Wilson stated that this was the first application he could remember where police intervention was necessary during public engagement and he did not understand what the purpose of the lawsuit was and why the police was called.

Applicant Rebuttal – Mr. Miniard stated that he did not know anything about the police being called and had to file a lawsuit to resolve the right of way problem that Mr. Miniard says is an eyesore and environmental hazard. Mr. Miniard said he was trying to do the right thing again and asked for the Planning Commission to do the same.

Commission Comments – Mr. Wilson stated that the Planning Commission’s job here was to see if this application is in compliance with the Comprehensive Plan and the Staff has said that it does. He stated he understood where the neighbors were coming from but he would support the approval of the application.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 7-1-1 (Z. Davis absent) (Owens opposed) (Michler abstained) to approve PLN-MAR-22-00016: REALTY UNLIMITED BLUEGRASS, LLC for reasons provided by Staff.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 7-1-1 (Z. Davis absent) (Owens opposed) (Michler abstained) to approve PLN-MJDP-22-00059: HIGBEE MILL COURT, LOT 11 with the nine conditions recommended 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.

A. INITIATION OF A ZONING ORDINANCE TEXT AMENDMENT - The staff will request Commission initiation of a text amendment to the Zoning Ordinance to address House Bill 443, which created a new section of KRS Chapter 100 to require local laws dealing with subdivision plats and development plans be set out by objective standards and applied ministerially. The Commission will hold a public hearing in March 2025.

Staff Presentation – Ms. Traci Wade presented an initiation request for a new text amendment to address House Bill 443 which sets out to require objective standards for subdivision plans and development plans. Ms. Wade indicated that the text amendment would affect Articles 1, 6, 9, 11, 12, 15, 16, 21, 23, and 28. Ms. Wade stated that the biggest change would deal with Article 21 dealing with development plans and would update the plan review process to reflect a ministerial role for review of development plans.

Ms. Wade stated that she anticipated mailings would go out in February and the application would be in front of the Planning Commission in March. Ms. Wade concluded by stating she could answer any questions from the Planning Commission.

Commission Comments and Questions – Ms. Worth asked if there was a description of at what point applications are sent to the zoning subcommittee. Ms. Wade stated that the process of the zoning subcommittee should not be affected but she would double check in Article 6 if there would be any substantive changes.

Mr. Penn asked about the process that this text amendment will go through and if it will have public review. Ms. Wade indicated that it would have public review and at this point there was draft language that will go through the regular process of review and public input and would be sending notice to the neighborhood associations.

Mr. Nicol stated that he thought that we are facing a problem with our corridor business and proposed an amendment to the proposed text amendment that would investigate changes into the corridor business zone and the B-3 zone and remove minimum lot coverage requirements. Mr. Nicol argued that removing the requirement would increase economic vitality and more potential B-3 parcels would be used.

Mr. Penn stated that he did not think it was the time for new amendments because the Planning Commission had not had ample opportunity to look over this text yet. Mr. Nicol stated that the Planning Commission had until July 1st to look into this and thought it was worth looking into and have the community give input through the process.

Ms. Tracy Jones, Department of Law, clarified that the Planning Commission could take Mr. Nicol's recommendation into account, but the recommendation of approval or disapproval would come in March in order to get to the Council before July 1st.

Mr. Michler asked that since this text amendment is dealing with HB 443, which asks for more specificity, is the minimum lot coverage requirement already specific enough. Ms. Wade indicated that Mr. Michler was correct and that the current proposed Staff text does not change any of the specific measurable requirements of any of the zones.

Mr. Nicol clarified that he just wanted to take the opportunity while they were discussing this text amendment to fix problems that he sees in the Ordinance. Ms. Wade stated she understood, but this text amendment was for things that needed to be changed in order to be in compliance with HB 443.

Mr. Owens stated that he agreed with Ms. Wade and what Mr. Nicol is suggesting should come separately from this text amendment.

Action – A motion was made by Mr. Penn and seconded by Ms. Worth and carried 9-0 (Z. Davis absent) to initiate a text amendment to address House Bill 443, which created a new section of KRS Chapter 100 to require local laws dealing with subdivision plats and development plans be set out by objective standards and applied ministerially.

Action – A motion was made by Mr. Nicol and seconded by Ms. Barksdale to initiate a text amendment to amend Article 8, Section 8-20, to remove the minimum lot coverage in the B-3 zone.

Discussion – Mr. Owens stated that he wished to give the Staff a chance to look into the subject first before initiating a text amendment.

Mr. Michler stated he thought the Planning Commission had just gone through a large text amendment that dealt with increased utilization of land and wanted to give the process more time to evaluate until the Planning Commission moved on to this proposed text amendment.

Mr. Nicol stated that he was not asking for the Planning Commission to vote on this, he was asking to initiate a text amendment that they could then consider what he is proposing.

Ms. Worth asked if they moved forward with this, if they would an opportunity to think this through before it went to the public comment. Ms. Wade indicated that was the case and there was no time limit.

Action – The motion carried 5-4 (Michler, Wilson, Owens, and J. Davis opposed) (Z. Davis absent) to initiate a text amendment to amend Article 8, Section 8-20, to remove the minimum lot coverage in the B-3 zone.

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 January and February 2024

Subdivision Committee, Thursday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	February 6, 2025
Zoning Committee, Thursday, 1:30 p.m., in 3 rd Floor Conf Room, Phoenix Building	February 6, 2025
Subdivision Items Public Hearing , Thursday, 1:30 p.m. in Council Chambers, 2 nd Floor, Gov't Center.....	February 13, 2025
Work Session, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	February 20, 2025
Technical Committee, Wednesday, 8:30 a.m., in 3 rd Floor Conf Room, Phoenix Building	February 26, 2025
Zoning Items Public Hearing , Thursday, 1:30 p.m., in Council Chambers, 2 nd Floor, Gov't Center.....	February 27, 2025

Larry Forester, Chair

Robin Michler, Secretary

TW/DC/RS-1/24/25