

ORDINANCE NO. 036 - 2025

AN ORDINANCE AMENDING THE LEXINGTON-FAYETTE COUNTY ZONING ORDINANCE AS FOLLOWS: AMENDING ARTICLES 1-11; 6-1; 6-5; 6-7; 9-3; 9-5; 9-6; 9-7; 9-8; 11-6; 11-7; 11-8; 12-7; 12-8; 12-9; 12-10; 15-2; 16-6; 16-7; 16-12; 18-2; 18-3; 21-4; 21-6; 21-7; 23B-4; 23B-5; 28-3; 28-4; 28-5; AND 28-6; CREATING ARTICLES 16-15, 16-16, AND 21-9; AND DELETING ARTICLE 28-7, ALL IN ORDER TO ADOPT ORDINANCES CLARIFYING OBJECTIVE STANDARDS TO BE MINISTERIALLY APPLIED TO THE DEVELOPMENT PLAN REVIEW, AS AMENDED. (URBAN COUNTY PLANNING COMMISSION).

WHEREAS, KRS 100.275, enacted by the Kentucky General Assembly as House Bill 443 during the 2024 regular session, requires that the ordinances, rules, and regulations adopted pursuant to KRS Chapter 100 to govern subdivision plats and development plans shall be in the form of objective standards that shall be applied ministerially; and

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered at meetings on March 27 and April 10, 2025 text amendments to Articles 1-11; 6-1; 6-5; 6-7; 9-3; 9-5; 9-6; 9-7; 9-8; 11-6; 11-7; 11-8; 12-7; 12-8; 12-9; 12-10; 15-2; 16-6; 16-7; 16-12; 16-15; 16-16; 18-2; 18-3; 21-4; 21-6; 21-7; 21-9; 23B-4; 23B-5; 28-3; 28-4; 28-5; 28-6; and 28-7 of the Zoning Ordinance to delete sections, create sections and amend sections in order to clarify objective standards for development plan review and to provide for an objective ministerial plan review process. The Planning Commission did recommend approval of the modified text amendment by a vote of 8-2; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission, with additional amendments as set forth herein; and

WHEREAS, the recommendation of the Planning Commission is attached hereto and incorporated by reference herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 1, Section 1-11 of the Lexington-Fayette Urban County Government Zoning Ordinance (“Definitions”) be and hereby is amended to delete the definitions of “elderly housing” and “primary entrance” and amend other definitions, in pertinent part, to read as follows:

Sec. 1-11. - Definitions.

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future;

words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

[...]

Assisted living facility means a residential facility, other than a nursing home, with multiple and separate living units, meal preparation, laundry services, room cleaning, transportation, and/or recreation may also be provided, as well as some medical services, exclusively for the residents of the facility.

[...]

Division of engineering manuals (also known as the engineering manuals, or the manuals) is a set of eight (8) documents to provide standards for the design, review, construction, maintenance and inspection of infrastructure. The engineering technical manuals are construction inspection (also known as the inspection manual), geotechnical, roadway, sanitary sewer and pumping station, stormwater, and structures. In addition to the six (6) technical manuals, a procedures manual for infrastructure development (also known as the procedures manual) establishes the responsibilities and procedures to be used by the Lexington-Fayette Urban County government, the land developer and the project engineer; and a maintenance manual for post-construction stormwater controls that outlines minimum maintenance requirements. These manuals are hereby adopted by the urban county government and incorporated into this Zoning Ordinance by reference. From time to time, the urban county government may revise, modify, or amend the manuals in conformance with the procedure established in the procedures manual. When any of the engineering manuals are cited by this Zoning Ordinance, the current edition, latest revision, shall be referenced.

[...]

Drive-through facility means a facility including, but not limited to, drive aisles, stacking areas, menu boards, order points, and pick-up points which accommodate customers in automobiles for the provision of goods and/or services.

[...]

Environmentally sensitive area means any area, which, due to its natural or physical setting, may have environmental constraints concerning development; such lands shall include, but shall not be limited to, areas of steep slope (over 15%), floodplains, sinkholes, springs, blueline streams, ponds, areas of alluvial soils, improper fill, wetlands, significant areas of tree stands, and aquifer recharge areas.

[...]

Extended-stay hotel means a form of hotel allowing for rental or lease of less than one (1) week, provided such rentals or leases of less than one (1) week shall comprise less than fifty percent (50%) of the total dwelling units within the structure(s).

[...]

Geologic hazard area means an environmentally sensitive area where the environmental constraints are so numerous that development would pose a serious problem to the immediate area or the surrounding areas. Such areas may include, but are not limited to: areas of excessive floodplain, areas that have potential collapse problems due to caves, cliff areas, etc.

[...]

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors; automobile and small engine repair; medical or dental offices; fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

[...]

Kenel means commercial business for the sale or temporary boarding or supervision of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence. Such uses shall include dog daycare uses.

[...]

Lot line, front, means in the case of a lot abutting upon only one (1) street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that the primary entrance to the parcel's principal structure is provided along that lot line.

[...]

Micro-distillery means a distillery that produces fifty thousand (50,000) gallons or less of distilled spirits per calendar year and operated under a Class B License as defined by KRS 243.120.

[...]

Story means the usable portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and ceiling next above it. A half-story means the portion of a building between the top floor and a sloping roof, with at least two opposite exterior walls meeting the sloping roof not over three (3) feet above such floor level. This uppermost half-story of a building shall constitute no more than one-half of the square footage of the floor below.

[...]

Stub street means a local or collector, closed-end street that is only acceptable as a temporary street condition. Stubs are similar to cul-de-sacs except that they provide no turnaround circle at their closed end. Stub streets shall only be used when a future continuation is planned.

[...]

Vehicular use area (VUA) means any paved area, which is not exclusive to pedestrian use, containing more than eighteen hundred (1,800) square feet of area or used by five (5) or more of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; drive-through or drive-up window facilities; and sales and service areas. A driveway is considered part of a vehicular use

area when adjacent to public streets or other vehicular use elements. Intervening curbs, sidewalks, or landscaping strips, etc., do not eliminate adjacency of VUA.

Section 2 – That Article 6, Section 6-1(a) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

(a) *Traffic Impact Studies.* All significant developments requiring a Zoning Map Amendment shall submit a Traffic Impact Study. As used herein, the term "significant developments" shall mean any development which will generate more than one hundred (100) new trips and will have a potential impact on areas of congestion bottle-necks and high crash areas as identified by Transportation Planning staff; or alternatively, two hundred (200) or more additional (new) peak trips during the adjacent roadway's peak hour or the development's peak hour. The applicant shall have the responsibility of conducting and paying for the study. The preparer of a Traffic Impact Study shall be listed as pre-qualified by the Kentucky Transportation Cabinet in the service areas of Traffic Engineering or Transportation Planning.

The Urban County Government will cooperate and coordinate with the applicant's team to provide any available data. To the extent that the Urban County Government has done any independent traffic study pertinent to the proposed development, the results of such study shall be made available to the applicant.

Anticipated roadway improvements shall be determined by a review of the Transportation Improvement Program and in consultation with staff from the Divisions of Planning, Traffic Engineering, the Kentucky Transportation Cabinet, and other agencies as deemed appropriate. If the proposed development is within one (1) mile of any county boundary line, then any proposed roadway improvements in the adjoining county shall be included in the study.

The Transportation Planning staff shall review, analyze, and make recommendations on any Traffic Impact study to be submitted as evidence in a rezoning hearing regardless of whether or not such study is required by this Zoning Ordinance.

Section 3 – That Article 6, Section 6-5 of the Lexington-Fayette-Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

Sec. 6-5. - Forwarding of the planning commission's action to the urban county council.

Within fourteen (14) days of the Commission's final action to recommend that a zone map amendment be approved, approved with binding conditions or restrictions, or disapproved, or that a binding condition or restriction amendment be modified, the development plan(s) and/or other plans filed in conjunction with the map amendment shall be certified by the Commission's Secretary as set forth in Section 21-4 herein, or else the final action of the Commission on the zone map amendment shall be null and void. Any further consideration of the zone map amendment shall be treated as a new application and shall be reviewed as set forth herein. Upon certification of the plan(s), the Commission's Secretary shall forward its report in writing to the Urban County Council. This report shall include at least the application, legal description of the property, notification area map, staff report, minutes of the Planning Commission public hearing, and the findings of fact and conclusions of law and the recommendation of the Planning Commission, including any binding conditions or restrictions to be imposed as set forth in Section 6-7 below.

Section 4 – That Article 6, Sections 6-7(a), (b) and (c)(1) and (2) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended, in pertinent part, to read as follows:

Sec. 6-7. - Conditions to granting a zone map amendment.

Pursuant to KRS 100.203(8), the Planning Commission or the Urban County Council may, as a condition to granting a map amendment, restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category; impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and impose screening and buffering restrictions upon the subject property. In recognition that the aforementioned powers may be useful in accomplishing the purposes set forth in Section 1-3, but at the same time in recognition that such powers should be thoughtfully and sparingly used, the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced is set forth below.

- (a) *Criteria and Terms.* A binding restriction or condition may be imposed whenever one (1) or more of the specifications of this Zoning Ordinance for the proposed zoning category, if exercised by the applicant, would impair the integrity and character of the area in which the subject property is located or adjoining areas, unless restrictions or conditions as permitted in this Article are imposed in addition to those imposed in the Zoning Ordinance. Such restriction or condition may include matters set forth in this section 6-7. No restriction or condition may be imposed which shall deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.
- (b) *Procedure.* Imposition of binding restrictions or conditions may be considered at any point in the Zoning Map Amendment procedure. However, before the Commission recommends such a restriction or condition or the Urban County Council adopts the same, it shall make findings of fact and conclusions of law which are supported by substantial and competent evidence; which are not arbitrary or capricious; and which demonstrate that the effect of the proposed Zoning Map Amendment on the public health, safety and welfare in the area in which the subject property is located and adjoining areas has been considered. Conditions or restrictions may be amended, modified or removed by the established map amendment procedures established in section 6-4, except that alternate findings to address the modification, removal or amendment shall be considered by the Planning Commission as set forth under Subsection (c) of this section. Only when the Urban County Council holds its own public hearing or reviews the record and the transcript of the Commission hearing may the Council impose a binding restriction or condition not recommended by the Commission, or modify or remove a restriction recommended by the Commission. Any binding restriction or condition finally imposed after completion of the Zoning Map Amendment process shall be included in the Urban County Council ordinance adopting the Zoning Map Amendment, a copy of which the Urban County Council Clerk shall furnish to the Divisions of Building Inspection and Planning.
- (c) *Amendment.* Modification, removal or amendment of conditions or restrictions shall be as follows:
 - (1) *Restrictions or Conditions Adopted by the Urban County Council.* The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - (a) *Findings Required.* The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or

condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

- (b) *Procedure.* The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment. The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.
- (2) *Neighborhood Character Design (ND-1) Overlay Zone Standards.* The Planning Commission shall have final authority to consider and act upon requests for modification, removal or other amendment of Neighborhood Character Design (ND-1) Overlay Zone standards, which are adopted as map amendment conditions, in accordance with the procedure and requirements set forth in Subsection (c)(1) of this section, except that no Council action shall be required. In the case of a request to modify, remove or amend a Neighborhood Design Character Overlay (ND-1) zone restriction(s), the application shall be reviewed by the Planning Commission for adherence to the requirements set forth in Subsection (c)(2)(a) of this section. In addition, notice shall be given to the members of the Urban County Council, to the Mayor and to the Council Clerk at least fourteen (14) days in advance of the public hearing. Members of the Urban County Council may appear and speak at the public hearing. The Planning Commission's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action, and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.

[...]

Section 5 – That Article 9, Section 9-3 of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

Sec. 9-3. - Permitted uses.

The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that the following uses shall be permitted in a project approved on a final development plan:

- (a) Schools for academic instruction;
- (b) Places of religious assembly;
- (c) Canteens of less than five hundred (500) square feet in size for the sale of sundries and other incidental items to residents of the Project;
- (d) A sales or rental office of less than one thousand, two hundred (1,200) square feet in size, where contracts or leases can be obtained or executed;
- (e) Up to two (2) clubhouses for each Project; and
- (f) Recreational facilities, with or without game rooms and/or one (1) indoor theater.

Single-family detached units permitted under the R-2, R-3, and R-4 zones, with the exception of the Cottage House Project as defined in Section 9-8, are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single-family residential zones.

Section 6 – That Article 9, Section 9-5 of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended, deleting subsection (b) and

sequentially reorganizing subsections, to read as follows:

Sec. 9-5. - Review and approval.

The Division of Planning may approve site plans for a zoning compliance permit, after which the Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less; provided the proposed Project meets the requirements set forth under Section 9-6. For all other Group Residential Projects on lots of more than five (5) acres, a final development plan shall be filed with the Division of Planning in compliance with the procedures and requirements of Article 21. Projects of five (5) acres or less may also submit a final development plan in order to establish the accessory uses listed in Section 9-3 above. The following procedure shall be followed for approval of Group Residential Projects which require a final development plan:

- (a) *Development Plan Required.* A final development plan for all group residential projects on a lot of five (5) acres or more shall be required and contain the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures.
- (b) *Certification of Approval.* The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(f).
- (c) *Permits Required.* After certification by the Secretary of the Commission, the Divisions of Planning and Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

Section 7 – That Article 9, Sections 9-6(b), (c)(1), (g), (h), (i) and (j) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby are amended by deleting subsection (g), adding a new subsection (j), and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 9-6. - Group residential projects minimum design standards.

All Group Residential Projects, with the exception of Cottage Housing Projects, shall conform to the following minimum design standards:

[...]

(b) **Maximum Floor Area Ratio and Lot Coverage.** For Projects in the R-3, R-4 or R-5 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located. When additional open space is provided in excess of the minimum required by Subsection (h) of this section, the applicant may exceed the maximum floor area ratio by one percent (1%) for each one percent (1%) of additional usable open space that is provided. The maximum floor area shall not exceed, by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the total lot coverage shall not exceed twenty-five percent (25%). There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.

(c) **Yard requirements.** The minimum width of required yards shall be as follows:

- (1) **Front Yard.** Frontage along any public or private street shall constitute a front yard. The front yard shall be established as follows:

Zone	Minimum Distance
R-1T	10 feet
R-2	10 feet

R-3	20 feet
R-4	20 feet
R-5	20 feet

[...]

- (g) Open Space. See Article 20 for open space regulations.
- (h) Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.
- (i) Maintenance of Common Spaces. Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common spaces, a Home Owners' Association, or other mechanism for the provision of maintenance, improvement, and operations for all common spaces, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.
- (j) Density of Use. For projects that include one hundred (100) or more dwelling units, a minimum of two (2) commercial access points shall be provided. For projects that include more than six hundred (600) dwelling units, a minimum of three (3) commercial access points shall be provided. Such commercial access point shall be unobstructed.
- (k) Other Requirements. Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

Section 8 – That Article 9, Section 9-7(b) of the Lexington-Fayette Urban County Government Zoning Ordinance be and hereby is amended to read as follows:

(b) Bonus Floor Area. The maximum floor area shall not exceed one hundred twenty-five percent (125%) of the otherwise permitted maximum floor area in the zone in which the Project is located, provided the required usable open space has not been granted a dimensional variance.

Section 9 – That Article 9, Section 9-8(a) of the Lexington-Fayette Urban County Zoning Ordinance be and hereby is amended to read as follows:

- (a) Review and approval. Development Plan Required. No development shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the number and type of dwelling units for each building and use of other structures shall be included.

Section 10 – That Article 11, Section 11-6 of the Lexington-Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 11-6. - Locational standards.

A B-5P zone may be established only upon land having a minimum of five hundred (500) feet of frontage on a street designated as an arterial and abutting a limited access highway interchange.

Section 11 – That Article 11, Sections 11-7(c) and (e) of the Lexington Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 11-7. - Minimum design standards.

[...]

- (c) Parking. No minimum requirements. (See Articles 16 and 18 for additional parking regulations.)

[...]

- (e) Lot, Yard, and Height Requirements. Lot and yard requirements shall be as for the Corridor Business (B-3) zone, except for the lot coverage requirement. There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.

[...]

Section 12 – That Article 11, Section 11-8 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 11-8. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6.

Section 13 – That Article 12, Section 12-7 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 12-7. - Locational standards.

A community commercial center shall abut, front on and have its principal access to and from an arterial or collector street. A regional commercial center shall abut, front on, and have its principal access to and from a street designated as an arterial.

Section 14 – That Article 12, Sections 12-8(c), (e), (f), (g)(5), and (h)(1) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (c)(3) and (h) and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 12-8. - Minimum design standards.

[...]

(c) Screening.

- (1) No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than two hundred (200) feet from the arterial or collector street.
- (2) Any commercial center which directly adjoins any single-family residential zone shall be required to provide a buffer yard of six (6) feet in width, with one (1) tree for every thirty (30) feet of linear boundary from Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a six-foot-high fence, wall or earth mound. The responsibility for such a buffer shall be the B-6P property, although the buffer may be shared as provided in Article 18.

[...]

(e) Maximum Parking. Notwithstanding any other requirements of this Zoning Ordinance:

- (1) For any commercial center that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
- (2) For any commercial center that is not located on a transit route, there shall be a

maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.

(3) For any commercial center containing residential use(s), the residential use(s) there shall be a maximum of one (1) surface parking space per dwelling unit.

(4) Structure parking shall not count toward any maximum parking requirement.

(f) Loading Areas. Notwithstanding any other requirements of this Zoning Ordinance, there shall be provided one (1) off-street loading space for each twenty thousand (20,000) square feet, or fraction thereof, of aggregate floor space of all buildings in the center. At least one-third (1/3) of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type. Such loading facilities shall be permanently and fully screened. The exact type and nature of such screening shall be determined by Article 18.

(g) Lighting. Exterior lighting shall be regulated by Article 30 and restricted as follows:

[...]

(5) Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, shall be shielded or equipped with cutoffs and shall meet all requirements of Article 30.

(h) Transit Facilities.

- (1) For all commercial centers abutting a transit route, a minimum of one (1) transit shelter with seating shall be provided on such route, and shall have sidewalk connections a minimum of five (5) feet in width to both the internal and perimeter pedestrian circulation systems. Such transit shelter shall not be required when an existing transit shelter is present within ¼ mile of the development along the same side of the roadway, and connected to the development with a continuous pedestrian network.

Section 15 – That Article 12, Section 12-9 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 12-9. - Design standards for "big-box" retail establishments.

It is in the best interest of Lexington-Fayette County to minimize the possible "blighting" effect that abandoned shopping centers and large retail establishments can have on the larger area or neighborhood in which they are located. By imposing additional standards in the form of design standards for such centers, these effects can be minimized, and future redevelopment and reuse of vacant retail buildings encouraged through proper facility design, without expenditure of public funds. For this reason, the Planning Commission has adopted the following design standards for commercial centers containing a single "big-box" establishment larger than eighty thousand (80,000) square feet in size (referred to as principal building below):

- (a) For every hundred (100) feet of linear wall along the primary wall plane of the principal building and any additional buildings attached to the principal building, there shall be a corresponding inset, offset, projection or reveal a minimum of three (3) feet in dimension.
- (b) Loading docks, trash collection areas, and outdoor storage items not intended for sale shall not be located within the front yard. Accessory outdoor sales areas for merchandise shall be permitted within the front yard.
- (c) Sidewalks a minimum of five (5) feet in width are required along the full length of any exterior wall featuring a customer entrance or an abutting off-street parking lot, and along sides of the lot that abut a public or private street.
- (d) Walkways and sidewalks must be covered with awnings or other weather

protection at all customer entrances, provided at least twenty percent (20%) of the sidewalk along the exterior wall is covered in front of the entrance.

- (e) Sidewalks a minimum of five (5) feet in width shall be provided to connect the customer entrance locations to the public or private right-of-way. A maximum of two (2) crosswalks are allowed to make the connection.

Section 16 – That Article 12, Sections 12-10(b) and (c) of the Lexington Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 12-10. - Procedure.

[...]

(b) Final Development Plan Required. The procedure for a Final Development Plan shall be the same as provided in Article 21.

(c) Building Permit Required. No building permit shall be issued until a final development plan has been approved and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.

Section 17 – That Article 15, Sections 15-2(a)(3) and (b) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsection (b)(2) and sequentially renumbering subsections, to read in pertinent part as follows:

Sec. 15-2. - Yards.

(a) *Front Yards.*

[...]

(3) *Yard on Street Side on Lot Adjoining or Facing a Residential Zone.* On a lot in any nonresidential zone sharing the same block front with a lot in any residential zone, the depth of the minimum required front yard shall equal the required front yard depth for that residential zone, or as contained in the small lot provisions for the residential zone.

[...]

(b) *Side Yards.*

(1) *Side Yards Decreased for Narrow Lot.* For each foot by which an existing lot of record at the time of enactment of this Zoning Ordinance is narrower than fifty (50) feet, and where the owner of record does not own any adjoining property, one and one-half (1½) inches may be deducted from the required least width of any side yard for buildings not exceeding two and one-half (2½) stories in height. In no case may a side yard be narrower than three (3) feet at any point. For any lot within the designated Infill and Redevelopment Area, the special provisions for the Infill and Redevelopment Area contained in Article 8 shall take precedence.

(2) *Additional Yard Requirements for Certain Multifamily Structures.* In addition to other yard requirements, whenever the principal entrance to a multifamily structure, or the entrance to the individual dwelling units therein, faces on and opens directly onto the side yard portion of the building, that side yard width shall not be less than the front yard requirement, or thirty (30) feet, whichever is greater. No parking shall be permitted within the side yard

space required under this provision.

- (3) *Side Street Side Yard.* On a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.
- (4) *Side Yard Exceptions for Attached Dwellings.* In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.
- (5) *Side Yards Not Parallel to the Building.* Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width. At no point shall the side yard be narrower than one-half (½) the otherwise required side yard; nor shall it be narrower than three (3) feet, in any case.
- (6) *Side Yard for an Addition to an Existing Building.* On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, if the side yard is legally non-conforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three (3) feet to the adjoining lot line.

[...]

Section 18 – That Article 16, Sections 16-6(a)(3), (b)(2) and (c)(2) of the Lexington

Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in nonresidential and mixed-use zones.

- (a) Locational Standards for any P-1, B-1, B-3, B-5P, B-6P, CC, MU-1, MU-2 or MU-3, zones as well as any Supportive Uses in the ED zone:

[...]

(3) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards.
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian walkways shall be provided between vehicular use areas.
- c. Where internal pedestrian walkways are required to cross a drive aisle at a distance of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of six (6) inches shall be utilized as part of the raised pedestrian crossing.
- d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade-separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- e. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(b) Locational Standards for any B-2, B-2A, B-2B zone:

[...]

(2) Connection Standards:

a. Internal pedestrian walkways shall be required and meet the following standards:

- i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
- ii. Extend from the vehicular access point to the building entrance(s).
- iii. Directly connected to all adjacent rights-of-way.

b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.

c. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade-separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.

d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and through connections.

(c) Locational Standards for any B-4, 1-1, I-2, or ED zone:

[...]

(2) Connection Standards:

a. Internal pedestrian walkways shall be required and meet the following standards:

- i. A minimum of five (5) feet wide where there is no vehicular curb overhang. A minimum of seven (7) feet where there is vehicular curb overhang.
- ii. Extend from the vehicular access point to the building entrance(s).
- iii. Directly connected to all adjacent rights-of-way.

b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.

c. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade-separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.

d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and through connections.

Section 19 - That Article 16, Section 16-7 of the Lexington Fayette County Zoning

Ordinance be and hereby is amended to read as follows:

Sec. 16-7. Parking, loading and unloading areas permitted in required front or side street side yard in zones other than residential zones.

In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is a minimum of twenty-five (25) feet of depth between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

Section 20 - That Article 16, Section 16-12 of the Lexington Fayette County Zoning

Ordinance be and hereby is amended, deleting subsection (a)(3) and sequentially renumbering subsections, to read in pertinent part as follows:

Sec. 16-12. - Bicycle parking and storage.

- (a) Where vehicle parking is provided, bicycle parking facilities shall be provided and shall meet the following standards:
 - (1) Bicycle parking shall be provided at a rate of one (1) space for every ten (10) vehicular spaces or fraction thereof;
 - (2) Bicycle parking facilities shall be securely anchored;
 - (3) Long-term bicycle parking facilities shall be constructed with at least one of the following features:
 - a. A bicycle locker or similar structure manufactured for the purpose of securing and protecting a standard-size bicycle, or;
 - b. A secured and dedicated bicycle parking area provided either inside the principal building on the lot, or in a building located elsewhere on the lot.
- (b) Where bicycle parking is provided externally, such parking shall be located adjacent to the building and within twenty (20) feet of a building main entrance. Bicycle parking shall be located so the bicycles do not impede the pedestrian through movement when parked.
- (c) Where bicycle parking facilities are provided within a parking structure, the storage area shall be within ten (10) feet of one (1) or more of the following: an external pedestrian access, stairway tower, and/or an elevator tower.
- (d) 50% or greater of the required bicycle parking for multi-family developments shall be covered and either located directly adjacent to the structure or in a location internal to the structure. Bicycle parking shall be allocated proportionately between the residential structures on a development based on the number of residential units in each structure.
- (e) Each bicycle rack shall accommodate a minimum of 2 bicycles.

Section 21 - That a new section of Article 16, Section 16-15 (“Commercial Access Standards”), of the Lexington Fayette County Zoning Ordinance be and hereby is created to read as follows:

Sec. 16-15. Commercial Access Standards.

Commercial access to a property shall be governed by the following standards and in concert with the adopted Land Subdivision Regulations. Commercial access shall defined as access for the following land uses: multi- family residential; professional services, and banks; institutional uses; schools for academic instruction; businesses for retail sales and eating and drinking establishments; places of religious assembly; commercial parking lots or structures; indoor or outdoor recreation and athletic facilities; hotels of any type; nursing homes, personal care facilities, rehabilitation homes and assisted living facilities; community centers and private clubs; light and heavy industrial; warehouses and storage; and other businesses not specifically identified above.

- (a) Proposed additional or new commercial entrances shall be aligned with existing curb cuts or existing street features on the opposite side of the street. If entrance locations cannot align, then the proposed commercial entrance shall be a minimum distance away from any other entrance based upon the following:

Posted Roadway Speed	Distance Between Commercial Entrances
25 MPH	100 feet
35 MPH	150 feet
45 MPH or greater	200 feet

- (b) Proposed commercial entrances, shall conform to LFUCG Standard Drawing 307-2 and must meet all Fire Code or LFUCG Division of Fire standards.

Driveway width, apron flare and curb radius must meet all Fire Code or LFUCG Division of Fire standards.

- (c) A minimum fifteen (15) foot curb radius shall be provided for commercial entrances, shared access points and for any entrance from an arterial street. A maximum curb radius of thirty-five (35) feet shall be provided and must be supported by tracking path simulation (e.g. AutoTURN).
- (d) Entrance spacing along frontage roads shall meet local road access spacing, with a maximum of two (2) access points.
- (e) Proposed commercial entrances shall be a minimum of one hundred (100) feet from any at-grade railroad crossing right-of-way.
- (f) Where a median exists in the right-of-way, entrances shall be aligned with median openings.
- (g) Appropriate storage and taper lengths, pavement markings (including raised pavement markings) for left turn lanes and monolithic median noses shall comply with design standards established by the Traffic Engineering Manual and LFUCG Standard Drawings.
- (h) No parking spaces shall be permitted to back directly into a public or private street right-of-way. Existing parking lots shall be revised to meet current standards when there is a zone change or addition made to a principal structure of more than thirty percent (30%) of the floor area.
- (i) When a site is redeveloped, existing entrances shall comply with LFUCG Standard Drawing 307 for entrance apron design and width.
- (j) Commercial entrances shall be located a minimum of three (3) feet from the property line or more to allow the corresponding apron flare to remain inside the projected property line and be in compliance with LFUCG Standard Drawing 307-1 or 307-2.
- (k) Existing damage or damage caused during construction activity to existing right-of-way shall be repaired or replaced in concert with permitted construction activities, per Article 5 of the Zoning Ordinance.
- (l) Gated primary entrances for a private street shall be prohibited. Gates shall meet the performance and operation guidelines of the Division of Fire and Emergency Services.
- (m) Gated access points for "exit only" or "emergency access only" shall be located a minimum of thirty (30) feet from the curb to ensure vehicles can see the gate before entering. A "do not enter" sign shall be posted on the gate.
- (n) Any proposed modification to existing LFUCG or KYTC signaling equipment must be reviewed and approved by the Division of Traffic Engineering. Grade changes adjacent to existing LFUCG signaling equipment will require replacement to current LFUCG Traffic Engineering Standards.

Section 22 – That a new section of Article 16, Section 16-16 ("Solid Waste Access Standards"), of the Lexington Fayette County Zoning Ordinance be and hereby is created to read as follows:

Sec. 16-16. Solid Waste Access Standards.

Refuse collection is provided by the Lexington-Fayette Urban County Government in accordance with the standards and procedures of Chapter 16 of the Code of Ordinances. Dumpsters and other solid waste areas shall be located, screened and maintained in accordance with the requirements of the Chapter 16 of the Code of Ordinances.

Section 23 – That Article 18, Section 18-2(b) of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

- (b) Existing Sites. Any development that expands, moves, removes, or reconstructs

the building, structure, or vehicular use area (VUA) by thirty (30%) percent or more of a previously approved development plan by the Planning Commission shall comply with the provisions of this Article. Changes of less than thirty (30%) percent of the site shall comply with the provision of this Article only for the portions of the site being altered or modified.

Section 24 – That Article 18, Section 18-3 of the Lexington-Fayette County Zoning Ordinance be and hereby is amended, deleting Section 18-3(b)(9) and amending Sections 18-3(b)(4) and (b)(7), in pertinent part, to read as follows:

Sec. 18-3. - Where landscape materials required.

[...]

(b) Interior Landscaping for Vehicular Use Areas. Any open vehicular use area containing five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.

[...]

(4) Location for Interior Landscape Areas.

- a. A maximum distance of ninety (90) feet between interior landscape areas.
- b. At the end of every row of parking there shall be an interior landscape area.
- c. Every other row of double-loaded parking requires a continuous interior landscape area of a minimum of eight (8) feet in width when trees are provided or five (5) feet when no trees are provided.

[...]

(7) Landscaping for Service Structures. All service structures shall be fully screened except when located in an R-1, R-2, B-4, I-1 or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air-conditioning units and condensers, electrical transformers, dumpsters, and other equipment or elements providing service to a building or a site.

(a) Location of Screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure shall be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures. Screening for dumpsters and other solid waste service areas shall be installed and maintained in accordance with Chapter 16 of the Code of Ordinances.

(b) Protection of Screening Material. Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement of the shall be provided in accordance with the requirements of Chapter 16 of the Code of Ordinances.

Section 25 – That Article 21, Section 21-4 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 21-4. - Development plan procedures.

The following shall be the procedure for consideration of any development plan.

- (a) *Pre-Application Meeting.* Prior to application for a final development plan, the owner/developer may request to meet with the appropriate staff members of the Division of Planning to discuss the proposed plan. The purpose of the pre-application meeting is to discuss the requirements, procedures and issues related to the proposed development to alleviate possible conflicts by early recognition of existing conditions, current standards, necessary infrastructure and adopted plans.
- (b) *On-Site Meeting.* Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.
- (c) *Filing.* To formally request action on the development plan, the developer shall complete the required application information, and submit a current deed for the subject property, copies of the plan, associated plans and studies as required by the Zoning Ordinance and pay the filing fee as required by the Commission's adopted filing and fee schedules with the Division of Planning. Notice of the proposed development plan shall be posted on the property in a conspicuous location for a minimum of twenty-one (21) days prior to the scheduled Technical Review Committee meeting. The applicant will obtain a sign from the Division of Planning for a fee that covers the cost of the sign. The developer shall provide an affidavit to the Division of Planning stating that the sign was posted and maintained on the property during the notice period to the best of the developer's knowledge and ability. When the development plan includes a change in land use that is not reviewed as part of a zone change, the applicant shall also provide mailed notification of the development plan to all property owners and occupants within a 250-foot radius of the subject property. Such notice shall include the following information: the filing date of the plan, the address of the subject property, the application record number, and the contact information for the Division of Planning. Addresses shall be obtained using current available data from the Property Valuation Administrator. Such notice shall be given no less than ten (10) calendar days prior to the Technical Review Committee at which the request is to be considered.
- (d) *Review.* The Division of Planning shall facilitate the review of all development plans through the following steps:
 - (1) Technical Review Committee. The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Review Committee (TRC) to ensure the plan meets all requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other adopted rules and regulations; as well as resolve all differences or conflicts. Development plans that meet all ordinance requirements, manuals, regulations and rules may be approved by the Technical Review Committee and no further action by the Planning Commission will be required. The Technical Review Committee shall have a maximum of thirty (30) days to review a development plan. If the development plan meets all requirements within that timeframe, it shall be

approved and certified by the Secretary of the Planning Commission in conformance with subsection (e) and (f) herein. If the development plan does not meet all requirements, it may be postponed until revisions are made to meet all requirements or the developer files a waiver request in compliance with Subsection 21-9. In the event a development plan has been postponed for a period of one (1) year from the initial application date, the plan shall become indefinitely postponed and will no longer be considered active. A development plan can be re-activated upon written notice to the Division of Planning and submission of materials in conformance with subsection (c) above.

(2) *Planning Commission Subdivision Committee.* Development plans may require further review by the Planning Commission's Subdivision Committee and the full Planning Commission under the following criteria and circumstances:

- (a) Additional guidance or recommendations may be required from boards and commissions as stipulated by other ordinances or agreements such as, but not limited to, the Royal Springs Aquifer Wellhead Protection Committee, or the Paris Pike Corridor Commission. Such recommendations and conditions shall be incorporated into the development plan. Relief from such recommendations and conditions may be granted by the Planning Commission at a public meeting.
- (b) The developer requests a waiver to the requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations. Allowable waivers are further regulated by Subsection 21-9.
- (c) The Division of Planning refers a development plan because a strict application of the requirements established by the Zoning Ordinance or other adopted rules and regulations would pose a specific threat to public health, safety or welfare in the affected area.
- (d) The development plan filed in conjunction with a map amendment request that requires further evaluation relative to the adopted Comprehensive Plan or a Small Area Plan.
- (e) The preliminary development plan associated with a map amendment request has expired and a new plan is necessary.

The Subdivision Committee will review all recommendations, and then forward their recommendations to the full Planning Commission for final action. These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.

(e) *Commission Action.*

No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by the Subdivision Committee. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property or affected area. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e) hereinbelow. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

- (1) *Approval*. Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.
- (2) *Conditional Approval*. Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
- (3) *Postponement*. Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
- (4) *Disapproval*. Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Subsection (b) of this section.

(f) *Certification of Approval*. Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Technical Review Committee or Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the approval becomes null and void:

- (1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owner's certification to the Division of Planning;
- (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension of no greater than one (1) year, the Commission may require changes in the development plan when applicable ordinances and regulations have been changed.

(g) *Timing Restrictions*. The following timing restrictions shall be applicable to development plans:

- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan, otherwise, the preliminary development plan shall be deemed as disapproved. A new preliminary development plan shall be required to be submitted and reviewed by the Planning Commission.
- (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of action on the development plan. Once expired, a new final development plan filing shall be required.

Section 26 – That Article 21, Section 21-6 of the Lexington Fayette County Zoning

Ordinance be and hereby is amended to read as follows:

Sec. 21-6. - Contents and format of development plans.

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding one (1) inch equals one hundred (100) feet) which enables clear presentation of required information. Required plan information shall be as follows:

- (a) Contents of preliminary development plan. A preliminary development plan shall contain the following information:
 - (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer; written and graphic scale.
 - (2) The boundary of the subject property denoted with a solid line and bearings and distances, and its record plan designation (if available the record plan name or owner's name of all adjacent property. The boundary of all adjacent property shall be denoted with dashed lines.
 - (3) A vicinity sketch, oriented in the same direction as the design scheme, at a scale of one (1) inch equals two thousand (2,000) feet, labeled with roadways and identifying the subject property.
 - (4) Topography with contour intervals not greater than five (5) feet.
 - (5) Location, arrangement, and dimensions of existing and proposed driveways, walkways, pedestrian crossings, parking areas and arrangement of spaces (including reserved parking, display areas, and compact spaces), point of ingress and egress (including all gates restricting vehicular access), traffic calming elements, access points for construction vehicles, and other vehicular and pedestrian rights-of-way or easements (as required by Article 16).
 - (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property, access points for all adjacent land, and stub connections that adjoin any portion of the subject property (both vehicular and pedestrian).
 - (7) Location, arrangement, and dimensions of existing and proposed screening, landscaping and buffering, (as required by Article 18), recreational and other open space areas (as required by Article 20).
 - (8) Location, size, height, floor area, area arrangement and use of proposed and existing buildings, walls over three feet in height, fences, and canopies over drive aisles.
 - (9) Storm drainage areas, floodplains, alluvial soils, conceptual drainage controls and stormwater retention and any other designated environmentally sensitive or geologic hazard area.
 - (10) Existing easements for utilities or other purposes, including dimensions and labels.
 - (11) A tree inventory map and notes as required by Article 26.
 - (12) Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
 - (13) A statistical summary of all pertinent site data, including site area in square

feet and acres, zoning, building coverage and floor area, parking quantities, open space by type (total, common, usable and vegetative, tree canopy, etc). Additional site statistics may be required based on the requirements of the zoning category. Statistical summary table shall meet the standards of the Division of Planning.

(14) Proposed and existing addresses for each lot, building and/or unit, and front yard and exterior building line(s).

(15) The approved conditional zoning, variances, waivers, conditional use permits or other binding restrictions for the subject property.

(b) Preliminary Development Plans shall contain the following general notes stating the following:

- (1) No grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.
- (2) No building permits shall be issued unless and until a final development plan is certified by the Secretary of the Planning Commission.
- (3) All buildings, paving, signs, fences, walls and retaining walls that are depicted, described or required on this Development Plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
- (4) The location of the fire hydrants, fire department or fire service features, if required, shall be approved by the Division of Fire, Water Control Office.
- (5) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textual representations shown hereon, and do adopt this as my (our) development plan for the property."
- (6) A Commission's certification to be signed by the Secretary of the Commission if and when the plan is fully approved by the Planning Commission, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
- (7) An alternative Commission's certification shall be used when the plan meets all requirements of the Zoning Ordinance and has not been acted on by the Planning Commission, as follows: "I do hereby certify that this development plan complies with all provisions of the Zoning Ordinance."

(c) Contents of final development plan. All information required for preliminary development plans as required under Subsections (a) and (b) of this section, above, except that the plan information shall be of an exact nature, rather than approximate or general. In addition, the following information shall be required:

- (1) Environmentally sensitive and geologic hazard areas, as defined in Article 1-11, shall also be depicted on a supplemental environmental plan sheet;
- (2) Contour intervals shall be two (2) feet;
- (3) A tree protection plan, data block, and tree protection areas as required by Article 26;

- (4) A lighting plan as required by Article 30; and
- (5) Proposed easements for utilities or other purposes, including dimensions and labels.

Section 27 – That Article 21, Sections 21-7(b) and (e) of the Lexington Fayette County Zoning Ordinance be and hereby are amended to read as follows:

Sec. 21-7. - Amendments to development plans.

Amendments to an approved development plan shall follow the steps established below. All development plan amendments shall meet the requirements established by the adopted Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations.

Amendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

[...]

(b) Procedures for Minor Amendments. Shall be as follows:

- (1) *Filing.* The developer shall file the following materials with the Division of Planning: a reproducible plan prepared on Mylar or other material capable of reproduction; three (3) black line prints of the plan; a current deed for the subject property; and a filing fee in the amount determined by the Commission's adopted fee schedule.
- (2) *Review.* The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering, and others as appropriate to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, the Division of Planning shall refer the proposed amendment to the Technical Review Committee or the full Commission, however, the plan shall follow the process established in subsection 21-4 above.
- (3) *Certification.* Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

[...]

(e) Major Amendment Procedures. The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Section 21-4 above. However, in addition to the standards listed in Section 21-4(d), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare.

Section 28 – That a new section of Article 21, Section 21-9 ("Waivers"), of the Lexington Fayette County Zoning Ordinance be and hereby is created to read as follows:

Sec. 21-9 – Waivers

The Planning Commission may consider waivers to modify, reduce or eliminate certain standards and minimum requirements established by the Zoning Ordinance which cannot be addressed through a dimensional variance. Use, conditional use, density,

lot coverage and F.A.R. standards shall not be modified by this process. Waivers to the Land Subdivision Regulations, Engineering Manuals or other adopted regulations shall follow the specific waiver or appeal procedures established therein and shall take precedence over the procedures established in this section. Only site, building and structure design elements are subject to the waiver provisions of the Zoning Ordinance. Regulations that prohibit certain structures or activities (e.g. freestanding signs prohibited in certain zones), and other non-design related standards (e.g. limit on hours of operation) may not be waived.

(a) Application Submission Requirements - Applications for waiver shall be submitted by the property owner or his/her agent and filed with the Division of Planning in accordance with these regulations. Applications shall be accompanied by appropriate supporting material and by the appropriate filing fee. The list of required supporting materials shall be available from the Division of Planning. Applications for waivers will not be accepted until all required materials and filing fees are submitted. At a minimum, the following materials shall be submitted with all applications for waiver:

(1) A justification document which addresses as applicable the following items:

- a. The waiver will not compromise public health, safety, and welfare; and
- b. The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and
- c. Either:
 - i. The applicant has incorporated other design measures that exceed the minimums of the zone and mitigate for non-compliance with the requirements to be waived (net beneficial effect); or
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

(2) Unless determined by the Planning Director to be unnecessary, a site plan or development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

(b) Notice Requirements – At the time the applicant files a complete application with the staff of the Commission for a waiver, the applicant also shall provide mail notification of the request for waiver. This notice shall be provided to the occupants and owners of all properties that are within 250 feet of the subject property, as well as all registered neighborhood associations for the property being considered for a waiver. Addresses shall be obtained using current available data from the Property Valuation Administrator. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered.

(c) Public Hearing - The Planning Commission shall hold a public hearing in order to consider a requested waiver. Requests for a waiver may extend review periods when associated with a development plan, but the waiver shall be approved or disapproved within ninety (90) days of the date it is formally filed with the Division of Planning, unless the owner or agent agrees to a longer period of time.

(d) Findings Necessary for Granting of Waiver or Modification

The Planning Commission may approve waivers of standards upon a finding that:

- (1) The waiver will not compromise public health, safety, and welfare; and
- (2) The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and,

(3) Either:

- a. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or

- b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
- (e) Additional Conditions - The Commission may impose additional conditions or restrictions intended to mitigate the specific impact of the modification or waiver. These conditions or restrictions shall be noted on the plan and are only able to be modified by the Planning Commission.

Section 29 – That Article 23B, Section 23B-4 of the Lexington Fayette County Zoning Ordinance be and hereby is amended, deleting (a) and sequentially reorganizing subsections, to read as follows:

Sec. 23B-4. Content and format for final development plans within the Expansion Areas.

Final development plans required pursuant to this Article shall meet, at a minimum, all information as required for a final development plan as set forth under Section 21-6. In addition, the following shall be a required part of the final development plan and shall be submitted at the time of the application:

- (a) Infrastructure Statement. This document shall set forth a project description including engineering and construction cost estimates prepared by a professional engineer for the public and/or private expenditures for system improvements that the developer proposes to construct, and for construction, or other development activity which will be in place prior to or in conjunction with the development. This document will demonstrate that the proposal complies with the "Infrastructure Element" of the adopted Expansion Area Master Plan. Any proposed or executed development agreement that is required or anticipated by the developer as set forth under Section 23C-7 hereinbelow shall also be a part of this statement. At the time of the application, the developer shall distribute copies of the Infrastructure Statement to the Chief Administrative Officer, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services. Such officials shall review the proposed statement and provide their comments to the Division of Planning during the review process.
- (b) Other Information on the Final Plan. The final development plan shall indicate the developer's restrictions for lot sizes (minimum and, where appropriate, maximum); yard and setback restrictions; coverage restrictions; height limitations; floor area ratios; project lighting; or similar restrictive techniques to be established within the development or defined areas within it so as to achieve the purposes of the Expansion Area Master Plan and to prevent or minimize potential adverse effects upon properties within and in the vicinity of the proposed development.
- (c) DTR Related Information. For any final development plan which proposes units permitted under a DTR, a copy of the Certificate of DTR shall be filed as a part of the application.

Section 30 – That Article 23B, Section 23B-5 of the Lexington Fayette County Zoning Ordinance be and hereby is amended to read as follows:

Sec. 23B-5. Review procedures.

Final development plans required under this Article shall follow the development plan procedures as set forth in Section 21-4, except that an Infrastructure Plan shall be required. Approval of the development plan will require staff certification that the plan is in compliance with the Infrastructure Element of the Expansion Area Master Plan.

Section 31 – That Article 28, Sections 28-3(a), (e) and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (a)(3) and

(g) and sequentially renumbering subsections, to read in pertinent part as follows:

Sec. 28-3. - Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:

1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half (½) acre.

[...]

(e) Prohibited Uses. The following uses shall be prohibited in an MU-1 zone:

1. The following principal uses, in the B-1 zone: automobile service stations; parking structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
2. The following accessory use in the B-1 zone: drive-through facilities.
3. All B-1 conditional uses.
4. All uses listed as prohibited in the B-1 zone.

[...]

(g) Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses.
2. Only one (1) principal structure shall be permitted per MU-1 site.
3. All residential uses shall be required to be in the same structure as nonresidential uses.
4. Within the Infill and Redevelopment Area, at least sixty percent (60%) of the front building wall shall be required to be built at the zero-foot setback line. When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement.
5. Signage shall be as permitted and restricted under Section 17-11(e).

Section 32 – That Article 28, Sections 28-4(a), (d), and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (a)(3) and (g) and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 28-4. - Mixed use 2: Neighborhood Corridor Zone (MU-2).

Mixed use 2: "Neighborhood Corridor Zone (MU-2)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-2 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Boundary and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least one-half (½) acre and may not exceed a maximum area of four (4) acres.

[...]

(d) Conditional Uses: The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities, as permitted in Article 8-16(d)5.
2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

[...]

(g) Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-2 project has reached ten thousand (10,000) square feet of commercial use, additional commercial square footage will not be required.
2. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
3. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11 (n) of this Zoning Ordinance.

Section 33 – That Article 28, Sections 28-5(a), (c), (e), (f), and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (a)(3), (e)(2), and (g), and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 28-5. - Mixed use 3: Mixed use Community Zone (MU-3).

Mixed use 3: "Mixed use Community Zone (MU-3)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-3 shall only be permitted on parcels that meet all of the

following criteria:

1. The parcel must be located within the Urban Service Area and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least three (3) acres.

[...]

(c) Accessory Uses. The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.

[...]

(e) Prohibited Uses. The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.
2. The following B-1 conditional uses; self-service car washes; animal hospitals or clinics, except as permitted herein.
3. All uses listed as prohibited in the B-1 zone, except as permitted herein.

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Eighty (80) feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street; seventy (70) feet for all other buildings.
3. Front Yard: No limitation for first or second story; any third or additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; see also Subsection (g)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then, a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone, then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum fifty percent (50%).

(g) Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-3 project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
2. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line.

When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

3. Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.

4. An Entertainment Mixed-use Project may be permitted only by the Planning Commission for a tract of land with a minimum of ten (10) acres, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:

(a) Subdivision of land in an Entertainment Mixed-use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
3. For the overall project area, open space shall be governed by Article 20. Open space may be clustered across multiple lots to facilitate the common use of the land.

(b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed-use Project shall be located on the second or higher floor.

(c) Where multiple principal structures are proposed within an Entertainment Mixed-use Project:

1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.

(d) Buildings within an Entertainment Mixed-use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.

(e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed-use Project:

1. As Principal Permitted Uses:

- a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.

- b. Motels, hotels, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Section 3-13.
 - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
2. As Accessory (clearly incidental and subordinate) Uses:
- a. Outdoor patios, when accessory to any permitted restaurant.
 - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
3. As Conditional Uses:
- a. Self-service car washes.

Section 34 – That Article 28, Sections 28-6(a), (b) and (g) of the Lexington Fayette County Zoning Ordinance be and hereby are amended, deleting subsections (g) and (i), and sequentially reorganizing subsections, to read in pertinent part as follows:

Sec. 28-6. - Provisions applicable to all mixed-use zones.

Provisions applicable to all mixed-use zones shall be as follows:

- (a) *Development Plan Required.* All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the developments within these zones shall comply with provisions of Subsections (b) through (g) of this section, below.
- (b) *Pedestrian Accommodation.* Pedestrian accommodation shall be as follows:
 - (1) At least one (1) primary street-level entrance to a building that faces any public street shall be oriented toward the public street.
 - (2) For at least one (1) location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
 - (3) Where two (2) or more buildings are proposed, they shall be arranged in a manner that provides a centralized open space area, such as a plaza, courtyard, or similar feature.
 - (4) Sidewalks shall be provided along each road frontage, with connections provided to each principal structure, parking area, and open space area.
 - (5) A six-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or

other obstacles.

- (6) For any development within the Downtown Streetscape Master Plan Area, the development shall adhere to the provisions of that plan.

[...]

(g) Increased Setback for Building Height Differences. In cases where the proposed mixed-use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, a minimum 1:1 height-to-yard ratio for the adjoining side yard shall be provided.

Section 35 – That Article 28-7 of the Lexington-Fayette Urban County Zoning Ordinance be and hereby is deleted.

Section 36 – That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: June 12, 2025


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: June 20, 2025-1t

4931-3275-6550, v. 1

Rec'd by _____

Date: _____

RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS – an amendment to Articles 1, 6, 9, 11, 12, 15, 16, 18, 21, 23, and 28 to update the Development Plan review process, and create objective standards for plan review.

Having considered the above matter on March 27, 2025, and April 10, 2025, at a Public Hearing, and having voted 8-2 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL OF THE PLANNING COMMISSION ALTERNATIVE TEXT** of this matter for the following reasons:

1. The proposed text amendment makes the necessary change to existing Zoning Ordinance provisions to allow them to be administered ministerially, in line with the requirements of House Bill 443.
2. The proposed language provides for pathways for review and consideration by the Planning Commission in instances where a development plan cannot meet the objective criteria, or if the proposal would result in a threat to the public health, safety, or welfare.

The Urban County Planning Commission further recommends that the Urban County Council consider alternative public comment opportunities for development plans.

ATTEST: This 25th day of April 2025.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Daniel Crum, Principal Planner, Planning Services.**

OBJECTORS

- Walt Gaffield, 2001 Bamboo Drive
- Branden Gross, attorney
- Dick Murphy, attorney
- Brittany Rothmeyer, Fayette Alliance

OBJECTIONS

- Stated that he thought that the Planning Commission should look at adding more factors than just health and safety into the waiver process.
- Stated that he thought this was five text amendments wrapped into one and that this was done too quickly and took issue with the proposed minimum access at a railroad crossing and updating existing parking lots.
- Stated that he had concerns with the new drive through standards and the new commercial entrance standards and he thought those issues specifically should go through a more strenuous process.
- stated that she appreciated Staff's work in compiling HB 443 and listening to robust feedback from the

- Amy Clark, 628 Kastle Road
 - Nick Nicholson, attorney
 - Patty Draus, 608 Allen Court
 - Rolanda Woolfork
- community on this. She stated that they would encourage people with concerns with public comment and participation to talk with their legislature about the matter.
- Stated her concern about how this text amendment would affect the public comment portion of the development plan process and suggested adding testimony to a specific public health or safety issue during the consent agenda process.
- Stated that this text amendment covered a lot of territory and stated that he thought there was a way to get in compliance with HB 443 while looking at the finer details.
- Stated that she had concerns about this text amendment and she did not think that ministerially meant to block public comment.
- Stated her opposition and assertion that she spoke with the legislator that co-sponsored HB 443 and he stated that he did not understand why public comment was taken out of the final development stage. Ms. Woolfork stated that she thought neighborhood's voices were being silenced.

VOTES WERE AS FOLLOWS:

AYES: (8) Barksdale, Johnathon Davis, Zach Davis, Molly Davis, Owens, Penn, Wilson, and Worth

NAYS: (2) Nicol and Michler

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **PLN-ZOTA-25-00001** carried.

Enclosures: Initiation
 Staff Report
 Planning Commission recommended text
 Applicable excerpts of minutes of above meeting



Summary of Preliminary HB443 Changes (1.29.2025)

1. Article 1 - Definitions

- a. Alterations or changes to the following definitions:
 - i. Assisted Living Facilities
 - ii. Drive-through Facilities
 - iii. Elderly Housing
 - iv. Environmentally Sensitive Area
 - v. Extended Stay Hotel
 - vi. Geologic Hazard Area
 - vii. Home Based Businesses
 - viii. Kennel
 - ix. Lot Line
 - x. Micro-distillery
 - xi. Building Story
 - xii. Stub-Streets
 - xiii. Temporary Construction Trailer
 - xiv. Vehicular Use Area

2. Article 6 - Amendments

- a. Amended ZOTA application procedure, per Attorney General opinion guidance.
- b. Clarified conditional zoning limits to align with KRS.
- c. Clarified review process for amending conditional zoning restrictions.

3. Article 9 - Group Residential Projects

- a. Eliminated required Planning Commission hearing.
- b. Updated review process to reflect Article 21 changes.

4. Article 11 - Interchange Service Business (B-5P)

- a. Removed discretionary elements related to location and review.
- b. Updated lot coverage requirements.
- c. Updated review process to reflect Article 21 changes.



5. Article 12 - Commercial Center (B-6P)

- a. Removal of discretionary language relating to roadway classification, multi-modal accommodation,
- b. Codifying required transit facilities and connectivity
- c. Codifying “Big Box” standards
- d. Process changes

6. Article 15 - General Regulations

- a. Removal of deep building provision

7. Article 16 - Vehicular Use Areas

- a. Drive-through and pick-up window standards
- b. Bicycle Parking and Storage
- c. Commercial access standards

8. Article 21 - Development Plans

- a. Updated development plan review process to reflect ministerial role for review of subdivision plats and development plans.
- b. Updated required items to be depicted on development plans.
- c. Updated certification
- d. Revised the duties of the Planning Commission Committees.
- e. Require pre-application meeting for development plans.
- f. Clarified the waiver process and set process for requesting waivers.
- g. Established process for staff forwarding plans on to the Planning Commission to address specific concerns to Health, Safety, or Welfare.

9. Article 23- Expansion Areas

- a. Removal of the Comprehensive Plan Compliance statement and procedure.
- b. Updated review procedure
- c. Removed duplicative elements

10. Article 28- Mixed-use zones

- a. Removed references to Comprehensive Plan Future Land Use Maps
- b. Removed references to required parking
- c. Updated permitted uses to reflect changes to the B-1 and P-1 zones
- d. Codified sidewalk connectivity standards
- e. Removed duplicative elements

Sec. 1-11. - Definitions.

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

Assisted living facility means a residential facility, other than a nursing home, with multiple and separate living facilities, ~~generally for persons who are fifty-five (55) years of age or over~~, meal preparation, laundry services, room cleaning, transportation, and/or recreation may also be provided, as well as some medical services, exclusively for the residents of the facility.

Drive-through facility means a facility including, but not limited to drive aisles, stacking areas, menu boards, order points, and pick-up points which accommodate customers in automobiles for the provision of goods and/or services.

Single-Lane Drive Through Facility means drive-through facility with a single lane, no more than one order point, and no more than one pick-up point.

Multi-Lane Drive-Through Facility means drive-through facility with multiple lanes, order points, and/or pick-up points. This definition includes multiple stacking lanes that merge at a single pick-up point.

Elderly housing means ~~multiple family structures containing at least twenty-four (24) units and solely devoted to housing families consisting of two (2) or more persons, of which the head (or his spouse) is sixty-two (62) years of age or over, or is handicapped; and single persons who are sixty-two (62) years of age or over, or are handicapped.~~

Environmentally sensitive area means any area, which, due to its natural or physical setting, may have environmental problems with regard to development. Lands in question shall include (but shall not be limited to) areas of steep slope (over 15%), floodplains, sinkholes, springs, blueline streams, ponds, areas of alluvial soils, improper fill, wetlands, significant areas of tree stands, aquifer recharge areas, etc.

Extended-stay hotel means ~~a form of hotel multiple family dwelling(s) with~~ allowing for rental or lease of less than one (1) week, provided such rentals or leases of less than one (1) week shall comprise less than fifty percent (50%) of the total dwelling units within the structure(s).

Geologic hazard area means an environmentally sensitive area where the environmental problems are so numerous that development would pose a serious problem to the immediate area or the surrounding areas. Such areas may include, but are not limited to: areas of excessive floodplain, areas that have potential collapse problems due to caves, cliff areas, etc.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors; automobile and small engine repair; medical or dental offices; ~~palm reading or~~ fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Kenel means commercial business for the sale or temporary boarding or supervision of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence. Such uses shall include dog daycare uses.

Lot line, front, means in the case of a lot abutting upon only one (1) street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that the primary entrance to the parcel's principal structure is provided along that lot line provided that such choice, in the opinion of the division of planning or the division of building inspection, as appropriate, will not be injurious to the existing, or to the desirable future development of adjacent properties.

Micro-distillery means a distillery that produces fifty thousand (50,000) gallons or less of distilled spirits per calendar year and operated under a Class B License as defined by KRS 243.120.

Primary entrance means the place of ingress and egress for a structure used most frequently by the public.

Story means ~~that the usable~~ portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and ceiling next above it. A half-story means the portion of a building between the top floor and a sloping roof, with at least two opposite exterior walls meeting the sloping roof not over three feet above such floor level. This uppermost half-story of a building shall constitute no more than one-half of the square footage of the floor below.

Stub street means a local or collector, closed-end street that is only acceptable as a temporary street condition. Stubs are similar to cul-de-sacs except that they provide no turnaround circle at their closed end. Stub streets shall only be used when a future continuation is planned.

Temporary construction trailer means a manufactured structure that is utilized on a temporary basis in connection with on-site construction work. Such structures shall be subject to the permitting and timing requirements of temporary structures, and are not for use for by the general public.

Vehicular use area (VUA) means any paved area, which is not exclusive to pedestrian use, containing more than eighteen hundred (1,800) square feet of area or used by five (5) or more of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; drive-through or drive-up window facilities; and sales and service areas. A driveway is considered part of a vehicular use area when adjacent to public streets or other vehicular use elements. Intervening curbs, sidewalks, or landscaping strips, etc., do not eliminate adjacency of VUA.

ARTICLE 6 - AMENDMENTS

Sec. 6-2. - Application for zoning ordinance text amendment.

A proposal for amendment to the text of this Zoning Ordinance may originate with any ~~person or~~ governmental body. A application request for a Zoning Ordinance Text Amendment (ZOTA) must be filed with submitted to the Commission requesting the ~~proposed~~ amendment and shall include the proposed changes, the purpose and reasoning for such request, plans, drawings, charts and other description data, as necessary, for the Planning Commission to effectively analyze the proposed changes.

~~in such form and accompanied by such information as required by this Zoning Ordinance and the by laws of the Commission. At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees as established by the Commission; however, there shall be no filing fee for an amendment requested by the Lexington-Fayette Urban County Council, the Commission, or any other governmental agency.~~

Sec. 6-3. - Pre-application conference for ~~text amendments and~~ zone map amendments.

Prior to filing an application for ~~a text amendment or~~ a zone map amendment, the applicant shall meet with appropriate staff members of the Division of Planning to discuss the proposed amendment. The purpose of this conference is to discuss, at the earliest stages, the requirements, procedures and issues related to the proposed amendment. It is intended that this conference will help to alleviate possible conflicts by early recognition of existing conditions, necessary facilities, the recommendations of the adopted Comprehensive Plan and other issues related to the proposed amendment. The applicant shall arrange the conference, which shall be held not less than five (5) working days nor more than three (3) months prior to the filing date. The staff shall keep a record of the conference date, ~~and include the information in the records of the text amendment or the map amendment application.~~ Where a development plan is also required to be submitted in conjunction with a zone map amendment, the applicant ~~should discuss~~ shall provide both the plan and the zone map amendment at the same conference. The Division of Planning shall not accept an application for a zone map amendment ~~or a text amendment~~ for which a pre-application conference has not been held.

Sec. 6-4. - Commission procedure.

Upon the filing of an application for an amendment to the Zoning Map ~~or the text of this Zoning Ordinance~~, or a duly imposed binding condition or restriction as set forth in Section 6-7, the Commission shall direct its staff to review the application, make whatever studies the Commission deems necessary, and report its findings at a public hearing. In addition, the Commission may require the applicant to submit further information subsequent to the filing of an application, as provided by KRS 100 and the by-laws of the Commission. A development plan may be required as set forth in Section 21-3.

Similarly, upon receipt of an amendment to the text of this Zoning Ordinance from a governmental body, the Commission shall direct its staff to evaluate the requested change and report its findings at a public hearing.

(a) *Public Hearing on Amendment Application.* After notice of the public hearing as provided in Subsection (b) of this section, the Commission shall hold a public hearing and vote to recommend approval or disapproval of the proposed amendment within sixty (60) days of the ~~resolution~~ date of filing for any Council initiated text amendment, within six (6) months of the date of filing receipt for all other text amendment requests, within six (6) months of the date of filing of any H-1 or ND-1 Zoning Map Amendment, or within ninety (90) days of the date of filing of all other zoning map or binding conditions or restriction amendment requests, unless the time is extended by the request of or the agreement of the applicant ~~or government body~~. At the public hearing, the Commission shall receive the report of the staff, orally or in writing, and shall hear the testimony

of the staff members as it sees fit. The Commission shall allow the applicant ~~and the public protesters, and other interested citizens~~, to testify and rebut the evidence presented by other parties, provided that the Chairman shall have the power to limit repetitive testimony and exclude irrelevant testimony and evidence.

(b) *Notice of Public Hearing Before the Planning Commission.* Before voting upon any proposed text amendment, zone map amendment, or binding condition or restriction amendment, notice of the time, place and reason for holding a public hearing shall be given by one (1) publication in the newspaper of highest circulation in Fayette County, Kentucky, not earlier than twenty-one (21) days or later than seven (7) days before the public hearing. In addition, for any map amendment, or binding condition or restriction amendment, notice of the public hearing shall be posted on the subject property for fourteen (14) consecutive days prior to the hearing, and notice shall be given by first-class letter at least twenty-one (21) days in advance to owners of all property within a 500-foot radius of the subject property. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 500-foot radius of the subject property, but to the next two (2) properties beyond those included in the 500-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property for a zone change or variance request, or more than one (1) mile from the subject property for a conditional use request in conjunction with a zone change as allowed in Subsection (c) of this section. For any Council- or Commission-initiated map amendment, notice by first-class letter shall be given to all owners of property, the classification of which is proposed to be changed, at least thirty (30) days prior to the public hearing.

(c) *Conditional Uses and Variances Allowed at the Time of Zoning.* The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change. If the Planning Commission ~~should choose to hear~~ a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Sections 7-6(a) and 7-6(b) of this Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days from the date of the application, unless postponed further by the applicant.

(d) *Recommendation of Commission for Zoning Map Amendment.*

- (1) Before recommending to the Lexington-Fayette Urban County Council that an application for amendment to the Zoning Map be granted, the Commission shall find that the map amendment is in agreement with the Comprehensive Plan adopted by the Commission; or, in the absence of such a finding, that:
 - a. The existing zoning classification given to the property was inappropriate and the proposed zoning classification is appropriate; or
 - b. There have been major changes of an economic, physical or social nature within the area involved, which were not anticipated in the Comprehensive Plan adopted by the Commission and which have substantially altered the basic character of such area.
- (2) The findings of fact made by the Commission shall be recorded in the minutes and records of the Commission. The Commission shall vote to recommend that an application for amendment to the Zoning Map be approved, approved with binding conditions or restrictions, or disapproved. A tie vote shall be subject to further consideration by the Planning Commission for a period not to exceed thirty (30) days, at the end of which, if the tie has not been broken, the application shall be forwarded to the Urban County Council without a recommendation of approval or disapproval.

(e) *Recommendation of Commission for Text Amendment.* After voting to recommend that an application for amendment to the text of this Zoning Ordinance be granted or denied, the Commission shall forward its recommendation in writing to the Lexington-Fayette Urban County Council.

Sec. 6-5. - Forwarding of the planning commission's action to the urban county council.

Within fourteen (14) days of the Commission's final action to recommend that a zone map amendment be approved, approved with binding conditions or restrictions, or disapproved, ~~or that a binding condition or restriction amendment be modified,~~ the development plan(s) and/or other plans filed in conjunction with the map amendment shall be certified by the Commission's Secretary as set forth in Section 21-4 herein, or else the final action of the Commission on the zone map amendment shall be null and void. Any further consideration of the zone map amendment shall be treated as a new application and shall be reviewed as set forth herein. Upon certification of the plan(s), the Commission's Secretary shall forward its report in writing to the Urban County Council. This report shall include at least the application, legal description of the property, notification area map, staff report, ~~minutes of the Planning Commission public hearing,~~ and the findings of fact and conclusions of law and the recommendation of the Planning Commission, including any binding conditions or restrictions to be imposed as set forth in Section 6-7 below. ~~Minutes of the Planning Commission public hearing shall be included in the final report whenever they are available.~~

Sec. 6-6. - Action by Lexington-Fayette Urban County Council on Zoning Map Amendments.

The Lexington-Fayette Urban County Council shall take final action upon a proposed map amendment within ninety (90) days of the date upon which the Planning Commission takes its final action upon such a proposal. The Council shall not act upon a proposed amendment to the Zoning Map until it shall have received the written report from the Commission. Upon receiving the report, the Council may adopt the recommendation of the Commission without a public hearing or may elect to hold a new public hearing. In the event that the Council shall elect to have a public hearing, notice of such hearing shall be in the same manner as the notice required to be given under Section 6-4(b) herein. The Council shall allow testimony from members of the staff, the applicant, ~~and the public protestors, and any other interested citizens,~~ and it shall allow parties to rebut the evidence presented by other parties, provided that the Mayor or presiding officer of the Council shall have the authority to limit repetitive testimony and to exclude irrelevant testimony or evidence. Regardless of whether or not the Council holds a public hearing, the Council may order a written transcript of the Planning Commission's hearing to be prepared for distribution to each Council member. In the event the Council shall order the preparation of a transcript, it shall be prepared at the cost of the applicant, certified by the Secretary of the Commission, and distributed to each Council member at least forty-eight (48) hours prior to second reading of the ordinance pertaining to the Zoning Map Amendment. It shall take a majority of the entire Lexington-Fayette Urban County Council to override the recommendation of the Commission, and it shall take a majority of the entire Council to adopt a zone map amendment whenever the Planning Commission forwards the application to the Council without a recommendation due to a tie vote.

Sec. 6-7. - Conditions to granting a zone map amendment.

Pursuant to KRS 100.203(8), ~~the~~ Planning Commission or the Urban County Council may, as a condition to granting a map amendment, ~~restrict~~ the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category; impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and impose screening and buffering restrictions upon the subject property. In recognition that the aforementioned powers may be useful in accomplishing the purposes set forth in Section 1-3, but at the same time in recognition that such powers should be thoughtfully and sparingly used, the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced is set forth below.

- (a) *Criteria and Terms.* A binding restriction or condition may be imposed whenever one (1) or more of the specifications of this Zoning Ordinance for the proposed zoning category, if exercised by the

applicant, would impair the integrity and character of the area in which the subject property is located or adjoining areas, unless restrictions or conditions as permitted in this Article are imposed in addition to those imposed in the Zoning Ordinance. Such restriction or condition may include, ~~but shall not be limited to, time limitations, requirements that one (1) or more things be done, or restrictions or conditions of a continuing nature, so long as the same are limited to the~~ matters set forth in this section 6-7. No restriction or condition may be imposed which shall deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.

- (b) *Procedure.* Imposition of binding restrictions or conditions may be considered at any point in the Zoning Map Amendment procedure. However, before the Commission recommends such a restriction or condition or the Urban County Council adopts the same, it shall make findings of fact and conclusions of law which are supported by substantial and competent evidence; which are not arbitrary or capricious; and which demonstrate that the effect of the proposed Zoning Map Amendment on the public health, safety and welfare in the area in which the subject property is located and adjoining areas has been considered. ~~The Council may also designate certain conditions or restrictions as amendable only by Council action. Any such condition or restriction so designated may only be amended, modified or removed by Council action as set forth under Subsection (c)(1) of this section.~~ Conditions or restrictions ~~not so designated~~ may be amended, modified or removed by the ~~established map amendment procedures established in section 6-4, except that alternate findings to address the modification, removal or amendment shall be considered by the~~ Planning Commission as set forth under Subsection (c)(2) of this section. Only when the Urban County Council holds its own public hearing or reviews the record and the transcript of the Commission hearing may the Council impose a binding restriction or condition not recommended by the Commission, or modify or remove a restriction recommended by the Commission ~~or designate certain conditions as amendable only by Council action.~~ Any binding restriction or condition finally imposed after completion of the Zoning Map Amendment process shall be included in the Urban County Council ordinance adopting the Zoning Map Amendment, a copy of which the Urban County Council Clerk shall furnish to the Divisions of Building Inspection and Planning.

- (c) *Amendment.* Modification, removal or amendment of conditions or restrictions shall be as follows:

- (1) *Restrictions or Conditions ~~Designated Adopted~~ by the Urban County Council.* The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.

- (a) *Findings Required.* The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

- (b) *Procedure.* The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment, ~~except that a full public hearing by the Urban County Council shall be required in all cases.~~ The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.

- (2) ~~*All Other Restrictions or Conditions Neighborhood Character Design (ND-1) Overlay Zone Standards.*~~ The Planning Commission shall have final authority to consider and act upon requests for modification, removal or other amendment of Neighborhood Character Design (ND-1) Overlay Zone standards, which are adopted as map amendment. ~~all other restrictions or~~

conditions, in accordance with the procedure and requirements set forth in Subsection (c)(1) of this section, except that no Council action shall be required. In the case of a request to modify, remove or amend a Neighborhood Design Character Overlay (ND-1) zone restriction(s), the application shall ~~follow the procedure as set forth above, but shall~~ be reviewed by the Planning Commission for adherence to the requirements set forth in Subsection (c)(2)(a) of this section. In addition, notice shall be given to the members of the Urban County Council, to the Mayor and to the Council Clerk at least fourteen (14) days in advance of the public hearing. Members of the Urban County Council may appear and speak at the public hearing. The Planning Commission's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action, and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.

(a) *Findings Required for ND-1 Overlay Zone.* The request may be granted by the Planning Commission only if the request for modification, removal or amendment is found to meet the following:

(1) The granting of the modification, removal or amendment to an ND-1 Overlay restriction will not adversely affect the public health, safety or welfare, will not alter the essential character of the overlay district, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the ND-1 Overlay restrictions. In making these findings, the Planning Commission shall consider whether:

- (a) The requested modification, removal or amendment arises from special circumstances that do not generally apply to land in the same ND-1 Overlay District;
- (b) The strict application of the provisions of the restriction would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the ND-1 Overlay restrictions from which relief is sought; and
- (d) The general intent and preservation goals of the ND-1 Overlay District are being met.

(2) The Planning Commission shall deny any request for modification, removal or amendment to an ND-1 Overlay restriction arising from circumstances that are the result of willful violations of the restriction by the applicant subsequent to the adoption of the ND-1 Overlay zone from which the amendment is sought.

(b) The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

(c) The decision of the Planning Commission shall be recorded in minutes and records and issued in written form to the applicant, the Division of Planning and the Division of Building Inspection to constitute proof of the change.

(d) *Enforcement.* Binding restrictions or conditions imposed under this Article shall be enforced through subsequent development plans, subdivision plans, building permits, occupancy permits and other enforcement powers and shall be in addition to requirements imposed by such plans or permits and other laws or regulations.

(e) *Judicial Review.* Imposition of binding restrictions or conditions pursuant to this Article shall be upheld on review if supported by substantial, reliable and probative evidence found within the record as a whole.

Sec. 6-8. - Action by Lexington-Fayette Urban County Council on text amendments.

The Lexington-Fayette Urban County Council shall not act upon a proposed amendment to the text of this Zoning Ordinance until it shall have received the written recommendation thereon from the Planning Commission. It shall take an affirmative vote of a majority of the Lexington-Fayette Urban County Council to adopt the proposed amendment.

Article 9 - GROUP RESIDENTIAL PROJECTS

Sec. 9-1. - Intent.

The intent of this Article is to provide a means to permit two (2) or more detached buildings for residential purposes to be placed on the same parcel or lot of land in any R-1T, R-2, R-3, R-4 or R-5 zone, if approved as a Group Residential Project as provided herein, and to allow slight variations from the requirements of the zone in which it is located only as specifically provided herein.

Sec. 9-2. - Where required.

Any development in an R-1T, R-2, R-3, R-4, or R-5 zone, which proposes two (2) or more detached buildings for residential purposes on the same lot or parcel, shall be considered a Group Residential Project, and shall conform to the provisions of this Article.

Sec. 9-3. - Permitted uses.

The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that the following uses shall be permitted in a project approved on a final development plan:

- (a) Schools for academic instruction;
- (b) Places of religious assembly;
- (c) Canteens of less than five hundred (500) square feet in size for the sale of sundries and other incidental items to residents of the Project;
- (d) A sales or rental office of less than one thousand, two hundred (1,200) square feet in size, where contracts or leases can be obtained or executed;
- (e) Up to two (2) clubhouses for each Project; and
- (f) Recreational facilities, with or without game rooms and/or one (1) indoor theater; ~~shall be permitted in a project approved by the Commission.~~

Single-family detached units permitted under the R-2, R-3, and R-4 zones, with the exception of the Cottage House Project as defined in Section 9-8, are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single-family residential zones.

Sec. 9-4. - Detached buildings defined.

For the purposes of this Article, the term "detached buildings for residential purposes" shall be defined as single-family, two-family, or multifamily residential buildings, including ranch, motel or garden design types; townhouses; apartment buildings butted against each other; or apartment buildings connected by an open breezeway or similar connection. Buildings connected by breezeways or similar connections shall be considered to be detached buildings rather than one (1) building. Ranch, motel, garden, butted buildings or other design types may be counted as single detached buildings, as long as they do not exceed two hundred

(200) feet in length; and buildings exceeding this length shall be considered as two (2) or more detached buildings, and shall be permitted only in Group Residential Projects.

Sec. 9-5. - Review and approval.

The Division of Planning may approve site plans for a zoning compliance permit, after which the Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less; provided the proposed Project meets the requirements set forth under Section 9-6. ~~The Planning Commission shall review For all other Group Residential Projects on lots of more than five (5) acres, a final development plan shall be filed with the Division of Planning in compliance with the procedures and requirements of Article 21, within ninety (90) days of their filing with the Division of Planning, unless the applicant agrees to a longer period. Projects of five (5) acres or less may also submit a final development plan in order to establish the accessory uses listed in Section 9-3 above, be submitted to the Commission. Regardless of the size, the Commission may only approve those Projects which meet the requirements of Section 9-6. The following procedure shall be followed for approval of Group Residential Projects which require a final development plan by the Commission:~~

- ~~(a)~~ **Development Plan Required.** ~~The Commission shall require a A final development plan for all group residential projects on a lot of five (5) acres or more shall be required and containing the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures. The Commission shall review the plan for provision of safe, convenient, efficient and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.~~
- ~~(b)~~ **Public Hearing Required.** ~~The Commission shall advertise and hold a public hearing before proceeding to postpone, approve, conditionally approve or disapprove the plan for a Group Residential Project. Amendments to the plan shall follow the same procedure as provided in Section 21-7.~~
- ~~(b)~~ ~~(c)~~ **Certification of Approval.** The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(f).
- ~~(c)~~ ~~(d)~~ **Permits Required.** After certification by the Secretary of the Commission, the Divisions of Planning and Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

Sec. 9-6. - Group residential projects minimum design standards.

All Group Residential Projects, with the exception of Cottage Housing Projects, shall conform to the following minimum design standards:

- (a) ~~Size.~~ The parcel or lot on which the Project is located shall not be less than the minimum lot area for the zone in which it is located.
- (b) Maximum Floor Area Ratio and Lot Coverage. For Projects in the R-3, R-4 or R-5 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located. ~~When additional open space is provided in excess of the minimum required by Subsection (h) of this section, the applicant may exceed the maximum floor area ratio by one percent (1%) for each one percent (1%) of additional usable open space that is provided, unless specific permission is given by the Commission to exceed said permitted floor area by not more than one percent (1%) for each one percent (1%) of additional usable open space that is provided over the~~

~~minimum required by Subsection (h) of this section. In any case, t~~The maximum floor area shall not exceed, by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the total lot coverage shall not exceed twenty-five percent (25%) There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.

(c) Yard requirements. The minimum width of required yards shall be as follows:

- (1) Front Yard. Frontage along any public or private street shall constitute a front yard, ~~and more than one (1) may be designated for each Project, as appropriate.~~ The front yard shall be established as follows:

Zone	Minimum Distance
R-1T	10 feet
R-2	10 feet
R-3	20 feet
R-4	20 feet
R-5	20 feet

- (2) Project Exterior Yard. The Project exterior yard shall be established along the outside boundary of the property, except where a front yard has been established as required in Subsection (c)(1) of this section. Where a Project exterior yard is required, the distance between principal buildings and the outside boundary of the property upon which the Project is located shall not be less than the height of the building, nor twenty (20) feet, whichever is less. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.

- (3) Distances Required Between Buildings. The distances between principal buildings shall not be less than the required side yard in the zone in which the Project is located. Where the walls of the buildings are not parallel, or are broken or otherwise irregular, the average distance between the principal buildings shall not be less than as specified above, and shall at no point be less than one-half ($\frac{1}{2}$) the required side yard for the zone in which the Project is located.

- (d) Proximity to Drive. A part of every residential building shall not be farther than one hundred sixty (160) feet from an access roadway or drive providing vehicular access from a public street. Residential buildings shall not be closer than five (5) feet to any access roadway or drive.

- (e) Maximum Height. The maximum height of nonresidential buildings within a Project shall be thirty-five (35) feet. The maximum height of residential or mixed-use buildings within a Project shall be as follows:

Zone	Maximum Height
R-1T	35 feet
R-2	40 feet
R-3	40 feet
R-4	60 feet
R-5	80 feet

- (f) Parking Area. As for the zone in which it is located (See Articles 16 and 18 for additional parking regulations).

~~(g) Service Areas. Proper open spaces shall be devoted to service needs of the Project, including, among others, refuse collection areas and equipment service areas.~~

~~(g) (h)~~ Open Space. See Article 20 for open space regulations.

~~(h) (i)~~ Private Streets. Private streets may be permitted by the Commission. Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.

~~(i) (j)~~ Maintenance of Common Spaces. Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common spaces, a Home Owners' Association, or other mechanism for the provision of maintenance, improvement, and operations for all common spaces, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.

~~(j) Density of Use. For projects that include two hundred (200) or more dwelling units, a minimum of two (2) commercial access points shall be provided. Such commercial access point shall be unobstructed.~~

(k) Other Requirements. Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

Sec. 9-7. - Group residential projects in the infill and redevelopment area.

Projects in the Infill and Redevelopment Area shall follow the same procedures set out as provided in Sections 9-5 and 9-6 herein for Group Residential Projects, except that such Projects may utilize the following alternative minimum design standards:

- (a) Provisions of the Underlying Zone. Projects in the Infill and Redevelopment Area may choose to comply in whole with the height; front, rear and side yard setbacks; and parking requirements as for the underlying zone rather than with Sections 9-6(b) through 9-6(f) above.
- (b) Bonus Floor Area. The maximum floor area shall not exceed one hundred twenty-five percent (125%) of the otherwise permitted maximum floor area in the zone in which the Project is located, provided the required usable open space has not been granted a dimensional variance. ~~Any Project that proposes a total floor area of more than one hundred percent (100%) of that permitted in the zone in which the Project is located, shall require that notice be provided to all property owners within four hundred (400) feet of the site, as outlined in Section 6-4(b) herein prior to Planning Commission consideration.~~
- (c) Open Space Reductions. Where proposed dwelling unit entrances or other applicable building entrances are located within ¼ mile (1,320 feet) walking distance along a walkable route of an existing LFUCG park, the minimum required useable open space shall be reduced by fifty percent (50%).
- (d) Front Yard Averaging. The front yard may be averaged as permitted in Section 15-2(a)(1) only if the primary wall plane of the building is parallel to the public or private street.

Sec. 9-8. Cottage housing project.

(a) Review and approval. Development Plan Required. ~~No development shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21. The Commission shall require an approved final development plan containing the information as required by Article 21; and, in addition, specifying T the number and type of dwelling units for each building and use of other structures shall be included. The Commission shall review the plan for provision of safe,~~

~~convenient, efficient, and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.~~

(b) Project Site Requirements:

1. Minimum Project Size - twenty thousand (20,000) square feet.
2. Minimum Density - four (4) detached single-family dwelling units per twenty thousand (20,000) square feet; eight (8) attached single-family dwelling units per twenty thousand (20,000) square feet.
3. Minimum Project Lot Frontage - thirty (30) feet.
4. Minimum Project Setbacks.
 - a. Side Yard - five (5) feet.
 - b. Front Yard Setback - ten (10) feet.
 - c. Rear Yard Setback - ten (10) feet.
5. Cottage Housing Shared Open Space.
 - a. Shall be centrally located to the cottage house project.
 - b. Shall be a minimum of four hundred (400) square feet per cottage.
 - c. Abut at least fifty percent (50%) of cottages in a cottage housing development.
 - d. Have cottages on at least two sides.

(c) Cottage Requirements:

1. Cottages shall be oriented around and have the primary entrance from the shared open space.
2. Cottages shall be sited to avoid the rear of the building facing a street (other than an alley) to the greatest extent practicable.
3. Cottages shall be within sixty (60) feet of walking distance of the shared open space.
4. A minimum distance between structures shall be ten (10) feet, including accessory structures.
5. Cottages shall have a roofed porch with a minimum dimension of eight (8) feet on any side.
6. Minimum Lot Frontage - no limitation.
7. Maximum Cottage Size - one thousand five hundred (1,500) square feet.
8. Minimum Lot Size - no limitation.
9. Minimum yard requirements - no limitation.

(d) Parking Requirements: Per Article 16 and Article 18.

Article 11 - INTERCHANGE SERVICE BUSINESS (B-5P) ZONE

Sec. 11-1. - Intent.

The intent of this zone is to permit the establishment of limited commercial facilities which should be located at limited access highway interchange areas so that the traveling public is conveniently provided with transient type services without endangering the movement along, as well as access to and from, the limited access highway. The standards contained in this Article are intended to provide adequate protection for, and consideration of, the traveling public. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

Sec. 11-2. - Principal uses permitted.

The following are principal permitted uses in an Interchange Service Business (B-5P) zone:

- a. Automobile Service Stations and automobile and vehicle refueling stations providing full-service, self-service, or a combination thereof; including the sale of convenience-type merchandise in conjunction therewith in an enclosed building. Such uses shall conform to all requirements of Article 16.
- b. Facilities for the sale of convenience-type merchandise in an enclosed building in conjunction with pumps for the sale of fuel for vehicles.
- c. Restaurants, excluding drive-in restaurants.
- d. Cocktail Lounges, Nightclubs, Wine Tasting Rooms and Discotheques, with or without live entertainment or dancing.
- e. Brew-pubs, when located at least one hundred (100) feet from a residential zone, which shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
- f. Hotels and Motels.
- g. One Confectionery or Candy Store, not exceeding one thousand, five hundred (1,500) square feet, per interchange quadrant.
- h. Roadside stand and value-added product sales.
- i. Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare or deny such if public health, safety, or welfare are adversely affected. A carnival may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
- j. Temporary cellular telephone transmitting facility; not to exceed seventy (70) feet in height and with a 1:1 height to yard ratio.
- k. Car washing establishments, provided that surface water from such uses shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. The use shall be located at least one hundred fifty (150) feet from a residential zone or residential structure in a nonresidential zone; or the use shall be designed so that all vehicular stacking areas and machine operations, including vacuuming and mechanical washing, shall be conducted inside a building, or shall be separated from the residential zone or residential structure in a nonresidential zone by a building or an eight-foot solid wall.

Sec. 11-3. - Accessory uses permitted.

Accessory uses permitted in the B-5P zone are those uses which are customarily accessory, clearly incidental, and subordinate to any permitted principal use, such as:

- (a) Swimming pools.
- (b) Meeting rooms.
- (c) Tennis courts, putting greens, handball courts, and other similar indoor or outdoor recreational facilities.
- (d) Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
- (e) Bus agencies.

Sec. 11-4. - Conditional uses.

The following are conditional uses in an Interchange Service Business (B-5P) zone (Permitted only with Board of Adjustment approval):

- (a) Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - (1) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - (2) That a reasonable degree of reclamation and proper drainage control is feasible; and
 - (3) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- (b) Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
- (c) Seasonal activities.
- (d) Market gardens.

Sec. 11-5. - Prohibited uses.

All uses, other than those specifically named as permitted uses, shall be prohibited in the B-5P zone.

Sec. 11-6. - Locational standards.

A B-5P zone may be established only upon land having a minimum of five hundred (500) feet of frontage on a street designated ~~by the Commission~~ as an arterial and abutting a limited access highway interchange. ~~The~~

~~location of such B-5P zone shall have an acceptable relationship to the design of the limited access highway which it abuts.~~

Sec. 11-7. - Minimum design standards.

- (a) Access. There shall be no direct entrances or exits from any establishments to any arterial street unless acceleration and deceleration lanes not less than two hundred (200) feet in length and eleven (11) feet in width are provided for both directions of travel.
- (b) Non-conforming Uses. Development of a B-5P zone in accordance with the provisions of this Article shall include the removal of any non-conforming use located on the property involved.
- (c) Parking. No minimum requirements. (See Articles 16 and 18 for additional parking regulations).

~~Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~

- (d) Screening. Landscaping and screening shall be provided as required in Article 18.
- (e) Lot, Yard, and Height Requirements. Lot and yard requirements shall be as for the Corridor Business (B-3) zone; ~~however, the Lot Coverage requirements shall not apply.~~ There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.
- (f) Minimum open space. See Article 20 for additional open space regulations.

Sec. 11-8. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6, ~~herein above; and in addition, as follows:~~

~~(a) Preliminary Development Plan Required. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 hereinbelow~~

~~(b) Final Development Plans Required. Within two (2) years of approval by the Urban County Council of any B-5P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the B-5P zone to its previous zone or other appropriate zone may be filed by the Commission, as provided under Article 6 hereinabove. The final development plan shall show the information as specified by Article 21 hereinbelow. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits the development plan.~~

~~(c) Building Permit Required. No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.~~

Article 12 - COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-1. - Intent.

The intent of the Commercial Center (B-6P) zone is to create centers of activity that promote commerce and retail along major corridors within the community, while supporting existing residential neighborhoods and incorporating new residential opportunities in accordance with the Comprehensive Plan. The standards contained in this provision are intended to:

- (a) Improve the economic base and tax structure of the Lexington metropolitan area by:
 - (1) Creating a variety of employment, retail, and commerce opportunities, and improving access to these opportunities;
 - (2) Increasing the supply and mixture of housing types available throughout Lexington, thereby improving overall housing affordability;
 - (3) Protecting and enhancing the investments of existing B-6P developments by providing redevelopment opportunities that unlock additional potential to better utilize existing zoned land.
- (b) Create a sense of place, with experiences and community minded development rather than the over-parked, underutilized suburban model shopping centers of times past by:
 - (1) Creating strongly defined street edges through orienting buildings to roadways, both internal and external;
 - (2) Ensuring that intensive operations, such as loading areas, do not adversely impact or effectively wall off existing neighborhoods;
 - (3) Reducing the impact of parking on land use consumption and walkability by:
 - (i) Encouraging shared parking across complementary professional office and retail uses;
 - (ii) Reducing overall parking.
- (c) Ensure safe multi-modal transportation options through:
 - (1) Providing walkable developments that function well internally;
 - (2) Creating a well-connected external pedestrian network to adjacent neighborhoods and developments;
 - (3) Providing accessible mass transit facilities that easily connect people to internal destinations;
 - (4) Increasing residential density along major corridors, improving mass transit efficiency;
 - (5) Connecting roadways to provide efficient and direct access for motorists and emergency services.

Sec. 12-2. - Types of shopping centers.

The types of commercial centers provided for in this section may be generally described as follows:

- (a) A community commercial center provides not only convenience goods, but a range of facilities for the sale of "shopping goods" such as apparel and home furnishings, as well as banking, professional services, residential units, and recreation. A community commercial center shall have a minimum area of ten (10) acres.
- (b) A regional commercial center generally provides more and larger facilities than the community commercial center. A regional shopping center shall have a minimum area of thirty (30) acres.
- (c) **Proposed Sites** consisting of ten (10) acres or less shall utilize the Neighborhood Business (B-1) or another Mixed Use Zone. Existing sites of less than ten (10) acres shall be regulated as a community commercial center.

Sec. 12-3. - Principal permitted uses.

The principal permitted uses in a B-6P zone shall be as follows:

- (a) The principal permitted uses in the B-1 and P-1 zones.
- (b) Indoor theaters.
- (c) Parking lots and structures.
- (d) Offices of veterinarians, animal hospital or clinic, provided all exterior walls are completely soundproofed and all animal pens are completely within the principal building and used only for the medical treatment of small animals.
- (e) Self-service car wash, provided that such uses shall be located at least one hundred (100) feet from any residential zone; and that surface water from such establishment shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
- (f) Multifamily dwellings.
- (g) Eating and drinking establishments, brew-pubs, nightclubs, and discotheques offering live entertainment and/or dancing, unless otherwise prohibited. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
- (h) Hotels, extended-stay hotels, and motels. Such uses shall only be permitted within a commercial center zone with a minimum of ten (10) acres.
- (i) Automobile service stations, subject to the conditions of Article 16, provided that they meet the following criteria:
 - 1. There shall be no outdoor amplified audio, except where required by federal or state regulations.
 - 2. There shall be no greater than sixteen (16) vehicle locations for refueling.
 - 3. Fueling pump canopy shall not be utilized to meet the maximum front yard.

Sec. 12-4. - Accessory uses.

The accessory uses permitted in a B-6P zone shall be as follows:

- (a) The accessory uses in the B-1 and P-1 zones.
- (b) Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

Sec. 12-5. - Conditional uses.

Shall be as follows:

- (a) Restaurants, cocktail lounges, brew-pubs, nightclubs, and discotheques offering live entertainment and/or dancing, less than one hundred (100) feet from any residential zone. Such uses shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.

- (b) Recycling drop-off centers for aluminum, steel, glass, newspapers, cardboard and other paper products, oil and other household recyclable waste, provided that such establishment shall be located at least two hundred (200) feet from any residential zone. Any appeal for a conditional use permit to operate a recycling drop-off center shall include as part of the application:
 - (1) Reasons for the location of the use at a specific site; description of equipment to be used; physical arrangement; and operation of the proposed center. The Board of Adjustment shall consider the necessity of screening, if needed.
- (c) Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - (1) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - (2) That a reasonable degree of reclamation and proper drainage control is feasible; and
 - (3) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- (d) Rehabilitation homes, when located closer than five hundred (500) feet from a residential zone; school for academic instruction or a childcare center.
- (e) Automobile and vehicle refueling stations, provided such uses conform to all requirements of Article 16.
- (f) Drive-through facilities for the sale of goods or products or provision of services otherwise permitted herein, except as accessory uses herein.

Sec. 12-6. - Prohibited uses.

In a B-6P zone, all uses other than as permitted herein are prohibited.

Sec. 12-7. - Locational standards.

A community commercial center shall abut, front on and have its principal access to and from ~~a street designated by the Commission as an arterial or collector street, as deemed to be appropriate by the Commission.~~ A regional commercial center shall abut, front on, and have its principal access to and from a street designated ~~by the Commission as an arterial.~~ ~~The proposed commercial center shall be at a location where congestion will be minimized by provision in the plan for proper entrances, exits, transit, bicycle, and pedestrian facilities, and by internal provisions for traffic circulation and parking.~~

Sec. 12-8. - Minimum design standards.

The following minimum standards shall be met in the design of a planned commercial center:

- (a) Height Requirement. There shall be no height limitation.
- (b) Required Setback.
 - (1) Streetfront building setbacks (Four-story buildings and below), the building setback line shall be:
 - (i.) Arterial street: Fifteen (15) feet minimum.

- (ii.) Collector street: Fourteen (14) feet minimum.
 - (2) Streetfront building setbacks (buildings above four (4) stories), the building setback line shall be:
 - (i.) Arterial street: Eighteen (18) feet minimum.
 - (ii.) Collector street: Sixteen (16) feet minimum.
 - (3) Side and Rear yard building setback: Ten (10) feet, unless adjacent to a residential zone, then a 3:1 height-to-yard ratio.
- (c) Screening.
- (1) No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than two hundred (200) feet from the arterial or collector street.
 - (2) Any commercial center which directly adjoins any single-family residential zone shall be required to provide a buffer yard of six (6) feet in width, with one (1) tree for every thirty (30) feet of linear boundary from Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a six-foot-high fence, wall or earth mound. The responsibility for such a buffer shall be the B-6P property, although the buffer may be shared as provided in Article 18.
 - ~~(3) Pedestrian and/or bicycle connections and programmed amenities (such as seating, canopies, pergolas, and/or patios) which integrate the commercial center with adjacent residential zones shall be incorporated into the development plan at appropriate locations along the required buffer.~~
- (d) Lot Coverage and Floor Area Requirements. The ground area occupied by all the buildings shall not exceed the maximums noted below, based upon the minimum floor area requirements. Parking structures shall not be considered as a building for the purposes of this section.
- (1) Community Commercial Center.
 - (i.) For a proposed development that meets the following locational criteria:
 - A. Ten (10) acres or larger;
 - B. Smaller than thirty (30) acres;
 - C. Contains frontage along a collector street.
 - (ii.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:
 - A. The minimum F.A.R. shall be 0.30.
 - B. The maximum Lot Coverage shall be 0.35.
 - (iii.) For a proposed development that meets the following locational criteria:
 - A. Ten (10) acres or larger.
 - B. Smaller than thirty (30) acres.
 - C. Contains frontage along an arterial street.
 - (iv.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:
 - A. The minimum F.A.R. shall be 0.4.
 - B. The maximum Lot Coverage shall be 0.30.
 - (2) Regional Commercial Center.
 - (i.) For a proposed development that meets the following locational criteria:
 - A. Thirty (30) acres or larger.
 - B. Contains frontage along an arterial street.
 - (ii.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:
 - A. The minimum F.A.R. shall be 0.5.
 - B. The maximum Lot Coverage shall be 0.3.

(3) Special Provisions for All Centers.

- (i.) Increases in floor area over and above the minimum shall grant an increase in the maximum lot coverage at a rate of 2 to 1.
- (ii.) Increases in floor area for residential uses shall grant an increase in the maximum lot coverage at a rate of 1 to 1.
- (iii.) Minimum Open Space: See Article 20 for open space regulations.

(e) Maximum ~~Required~~ Parking. Notwithstanding any other requirements of this Zoning Ordinance:

- (1) For any commercial center that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
- (2) For any commercial center that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
- (3) For any commercial center containing residential use(s), the residential use(s) there shall be a maximum of one (1) surface parking space per dwelling unit.
- (4) Structure parking shall not count toward any maximum parking requirement.

(f) Loading Areas. Notwithstanding any other requirements of this Zoning Ordinance, there shall be provided one (1) off-street loading space for each twenty thousand (20,000) square feet, or fraction thereof, of aggregate floor space of all buildings in the center. At least one-third ~~(1/3)~~ of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type. Such loading facilities shall be permanently and fully screened. The exact type and nature of such screening shall be determined by Article 18.

(g) Lighting. Exterior lighting shall be regulated by Article 30 and restricted as follows:

- (1) Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.
- (2) Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.
- (3) Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.
- (4) Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height unless specifically used to light an outdoor recreation facility such as a tennis court, ball field, or similar use.
- (5) Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, ~~and shall be shielded or equipped with cutoffs~~ and shall meet all requirements of Article 30.
~~so as to prevent undue light spill onto adjoining properties.~~

~~(h) Multi-Modal Accommodation. The applicant shall, on the submitted development plan or on a separate exhibit, provide a proposed multi-modal improvement plan designed to accommodate all users for the entirety of the property, as well as connecting to any planned and/or existing public facilities. For redeveloping or infill sites, the multi-modal improvement plan shall also be a guide for future improvements as redevelopment occurs.~~

~~(h)~~ ~~(f)~~ Transit Facilities.

- (1) For all commercial centers located along a transit route, a minimum of one transit shelter ~~and with~~ seating shall be provided on such route, and shall have sidewalk connections a minimum of five (5)

~~feet in width to both the internal and perimeter pedestrian circulation systems, required and indicated clearly on the development plan to the approval of the local transit authority. Adequate pedestrian facilities to serve the required transit infrastructure, both along the right-of-way and internal to the site, shall be to the approval of the Metropolitan Planning Organization (MPO). It will be strongly encouraged that the development plan afford appropriate facilities and accommodations for additional ridesharing services.~~

- (2) No zoning compliance permits shall be issued for the commercial center until all approved transit infrastructure is constructed in accordance with the approved final development plan.

Sec. 12-9. - Design guidelines standards for "big-box" retail establishments.

It is in the best interest of Lexington-Fayette County to minimize the possible "blighting" effect that abandoned shopping centers and large retail establishments can have on the larger area or neighborhood in which they are located. By imposing additional standards in the form of design guidelines standards for such centers, these effects can be minimized, and future redevelopment and reuse of vacant retail buildings encouraged through proper facility design, without expenditure of public funds. For this reason, the Planning Commission has adopted the following design guidelines standards for commercial centers containing a single "big-box" establishment larger than eighty thousand (80,000) square feet in size (referred to as principal building below): ~~These additional standards are listed in Design Guidelines for "Big-Box" Establishments incorporated by reference, and are consistent with guidelines which have been established in other cities and counties across the United States for such facilities. These design guidelines are intended to provide professional designers and the Planning Commission with direction for improved development plans which address the following issues:~~

- (a) ~~Variation in building heights and identifiable customer service entrances and pedestrian entryways; For every 100 feet of linear wall along the primary wall plane of the principal building and any additional buildings attached to the principal building, there shall be a corresponding inset, offset, projection or reveal a minimum of three (3) feet in dimension.~~
- (b) ~~Uninterrupted facades, windows, allowance for smaller stores or departments having exterior entrances, and back or side facades; Customer entrances are required along all exterior walls facing a public or private street or access easement constructed to serve as frontage. Where this involves more than two sides of a principal building, this shall only apply to two sides of such building.~~
- (c) ~~Landscaping and/or screening of outdoor display of building materials or other similar bulky products, and of trash collection and loading areas; Loading docks, trash collection areas, and outdoor storage of materials shall not be located within the front yard.~~
- (d) ~~Pedestrian circulation in relation to vehicular movement and common open spaces for pedestrians Sidewalks a minimum of five (5) feet in width are required along the full length of any exterior wall featuring a customer entrance or an off-street parking lot, and along sides of the lot that abut a public or private street.~~
- (e) ~~Walkways and sidewalks must be covered with awnings or other weather protection at all customer entrances, provided at least 20% of the sidewalk along the exterior wall is covered in front of the entrance.~~
- (f) ~~Sidewalks a minimum of five (5) feet in width shall be provided to connect the customer entrance locations to the public or private right-of-way. A maximum of one (1) crosswalk is allowed to make the connection.~~

Sec. 12-10. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-6P zone shall be the same as provided in Article 6 hereinabove, in addition, as follows:

- (a) Preliminary Development Plan Required. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment, with the information as specified in Article 21; and, in addition, approximate total gross floor area of anticipated retail facilities; the approximate total gross floor area of anticipated office and service facilities; the approximate number of anticipated off-street parking spaces; and the stages which will be followed in the construction of the proposed commercial center.

- (b) Final Development Plan Required. The procedure for a Final Development Plan shall be the same as provided in Article 21.

~~(1) Within two (2) years of final approval by the Urban County Council of any B-6P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and action; otherwise, an application to change the B-6P zone to its previous zone or other appropriate zone may be filed by the Commission as provided under Article 6 hereinabove.~~

~~(2) The final development plan shall show the information as specified by Article 21, Development Plans. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits his development plan.~~

- (c) Building Permit Required. No building permit shall be issued until a final development plan has been approved ~~by the Commission~~ and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.

Article 15 - GENERAL REGULATIONS FOR HEIGHTS, YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES AND INFILL/REDEVELOPMENT CONSTRUCTION

Sec. 15-2. - Yards.

Except as otherwise specified herein, every lot shall have a front yard, a rear yard, and a side yard on each side, the least depths of which shall not be less than those specified for the respective zone, or as contained in the small lot provisions for each residential zone.

(a) Front Yards.

- (1) *Required Front Yard for Redevelopment of a Lot.* In any residential zone, whenever a principal structure is destroyed or demolished by any means, any subsequent principal structure on that lot shall be located within ten (10) feet of the same setback as the previous structure, except as provided in the small lot provisions established for each residential zone. Where the setback of the original structure cannot be determined, or if the lot is vacant, the setback of the new structure, including any projections, shall be within ten (10) feet of the average front yard of the principal structures on the two (2) lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two (2) lots immediately adjoining, but shall be at least ten (10) feet. In no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.
- (2) *Required Front Yard for Building Additions.* In any residential zone, whenever an addition is made to the primary wall plane of an existing principal residential structure, any addition to that structure shall be located within ten (10) feet of the average front yard of the principal structures on either side of the subject property, provided they are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two (2) lots immediately adjoining, but shall be at least ten (10) feet. If the lots on either side of the property in question are vacant, then the setback required for the specific zone shall be used to determine the front yard required for any building addition; but in no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.
- (3) *Yard on Street Side on Lot Adjoining or Facing a Residential Zone.* On a lot in any nonresidential zone sharing the same block front with a lot in any residential zone, the depth of the minimum required front yard shall equal the required front yard depth for that residential zone, or as contained in the small lot provisions for the residential zone.
- (4) *Front Yards on Through Lots.* On any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line. In residential zones, the small lot provisions will apply. In the event that one (1) of the streets is an alley, the required front yard along the alley shall be the equivalent of fifty percent (50%) of the otherwise required front yard for the zone in which it is located. Alignment of existing structures shall not be used to determine a building line along a rear alley.
- (5) *Front Yards Not Parallel to the Building.* Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the front yard required for that zone, or as contained in the small lot provisions for residential zones. No wall of a building shall encroach more than five (5) feet into the otherwise required front yard depth.

- (6) *Required Front Yard for Infill and Redevelopment of Lots in Business Zones.* On a lot in a business zone and inside the Infill and Redevelopment Area, the required front setback (minimum and maximum) of the building shall be within five (5) feet of the average front yard of the principal structures on the two (2) lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. This setback shall be considered more restrictive than the underlying zone setback when applicable.

(b) *Side Yards.*

- (1) *Side Yards Decreased for Narrow Lot.* For each foot by which an existing lot of record at the time of enactment of this Zoning Ordinance is narrower than fifty (50) feet, and where the owner of record does not own any adjoining property, one and one-half (1½) inches may be deducted from the required least width of any side yard for buildings not exceeding two and one-half (2½) stories in height. In no case may a side yard be narrower than three (3) feet at any point. For any lot within the designated Infill and Redevelopment Area, the special provisions for the Infill and Redevelopment Area contained in Article 8 shall take precedence.

~~(2) *Side Yards Increased for Deep Buildings.* In any zone where a side yard is required, the least width of each side yard shall be increased by one (1) inch for each foot by which the side wall of a building adjacent to a side yard exceeds fifty (50) feet.~~

~~(2)~~ (3) *Additional Yard Requirements for Certain Multifamily Structures.* In addition to other yard requirements, whenever the principal entrance to a multifamily structure, or the entrance to the individual dwelling units therein, faces on and opens directly onto the side yard portion of the building, that side yard width shall not be less than the front yard requirement, or thirty (30) feet, whichever is greater. No parking shall be permitted within the side yard space required under this provision.

~~(3)~~ (4) *Side Street Side Yard.* On a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. If a recorded final record plat reflects a side street side yard of a lesser dimension, that lesser width shall apply. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.

~~(4)~~ (5) *Side Yard Exceptions for Attached Dwellings.* In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

~~(5)~~ (6) *Side Yards Not Parallel to the Building.* Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width. At no point shall the side yard be narrower than one-half (½) the otherwise required side yard; nor shall it be narrower than three (3) feet, in any case.

~~(6)~~ (7) *Side Yard for an Addition to an Existing Building.* On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, if the side yard is legally non-conforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three (3) feet to the adjoining lot line. All provisions of Subsection (b)(2) of this section regarding increased side yards for deep buildings shall apply.

- (c) *Rear Yards.* Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required

rear yard; provided, however, that such rear wall shall not at any point encroach any more than one (1) foot into the otherwise required rear yard.

Article 16 GENERAL REGULATIONS FOR VEHICULAR USE AREAS

Sec. 16-1. Intent.

The intent of this article is to allow development that provides the off-street parking, loading, and circulation facilities needed to meet demands created by occupants, employees, visitors, customers, and patrons, and to improve local traffic patterns. The standards in this section ensure that all provided off-street parking and vehicular use areas allow for safe and equitable access to developments for all users, including drivers, pedestrians, transit-riders, and cyclists.

The standards are intended to implement policies that support new development and the revitalization of mixed-use urban areas that encourages pedestrian-oriented development, reduces excessive paved surface areas, and promotes environmental sustainability.

Sec. 16-2. General regulations for parking and loading and pedestrian areas.

- (a) *Parking or Loading Spaces Established Prior to Adoption or Amendment of this Zoning Ordinance.* Any parking or loading spaces established prior to the adoption or amendment of this Zoning Ordinance shall be governed by any certified Development Plan or approved site plan, as acted upon by the Planning Commission or Board of Adjustment.
- (b) *Permit Requirement.* Permits are required for private walkways, parking, loading or unloading areas. Such permits shall not be issued until the applicant has met the design standards jointly promulgated by the Division of Traffic Engineering and the Division of Building Inspection, the storm drainage requirements of the Division of Engineering, and all other requirements of the Zoning Ordinance.

Sec. 16-3. Minimum design and maintenance requirements for parking areas.

Every parcel of land hereafter used as a parking area shall be designed and maintained in accordance with the following requirements:

- (a) Off-street parking areas shall be of useable shape and surface, and shall have convenient ingress and egress. Not less than seventy-five percent (75%) of the total provided parking spaces shall be designed for use by full-size vehicles. Up to twenty-five percent (25%) of the provided parking may be designed and designated for compact vehicles. Aisles and access drives shall be designed so as to provide adequate vehicular maneuvering wholly upon the property being served; and in no case shall off-street parking areas be permitted that encourage or require the backing onto, or maneuvering within, the right-of-way of any public or private street.
- (b) Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way. Free-standing lighting shall be no taller than twelve (12) feet in height.
- (c) Any off-street parking area having more than one thousand, eight hundred (1,800) square feet of area and/or used by five (5) or more vehicles shall be landscaped and screened as required by Article 18, Landscape and Land Use Buffers.
- (d) A "sight triangle" shall be observed at all street intersections or intersections of driveways with streets as required in Article 18, Landscape and Land Use Buffers and Section 3-3 of this Zoning Ordinance.
- (e) All parking areas shall be paved and drained so as to dispose of all surface water within the parking area without carrying said water accumulation over a public sidewalk. Piping the water to a suitable outfall may be required.

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- (f) The parking area and driveway shall be paved with concrete, asphalt, brick, grass pavers, or other suitable hard surface materials as approved by the Division of Building Inspection.

Loose aggregate or other type of gravel is prohibited, except:

- (i) for agricultural land uses;
- (ii) as approved by the Board of Architectural Review for the purpose of historic preservation; or
- (iii) when approved by the Urban County Forester for the purpose of tree protection.

In any case, the applicant must show that there is not another reasonable alternative to the loose aggregate. Where decorative rock, or a similar product, is being driven on or being used for parking, it shall be considered loose aggregate and prohibited, except where described in this section.

- (g) Permanent stormwater management, in compliance with the stormwater manuals and accepted by the Division of Engineering, shall be provided for all off-street parking areas containing five (5) or more parking spaces and/or more than one thousand, eight hundred (1,800) square feet. For off-street parking areas of one thousand, eight hundred (1,800) square feet or less, or less than five (5) parking spaces, permanent stormwater retention may be required by the Division of Engineering upon the determination that the lack of such retention would cause or aggravate flooding or other drainage problems on surrounding property.

Sec. 16-4. Professional Office, or Business (except B-2B) Zone automobile parking area as a conditional use in R-3, R-4 or R-5 zone.

The establishment and operation of a restricted accessory parking area may be authorized by the Board of Adjustment as a conditional use in such parts of any Planned Neighborhood Residential (R-3) Zone, High Density Apartment (R-4) Zone or High Rise Apartment (R-5) Zone as abut, either directly or across an alley, a Professional Office or Business (except B-2B) Zone or any conforming or nonconforming commercial use in a particular residential zone, subject to the following conditions and requirements:

- (a) The parking area shall be accessory to a use and for that use in conjunction with one (1) or more permitted uses located on an adjoining Professional Office or business (except B-2B) zone, or in connection with one (1) or more existing conforming or nonconforming commercial uses on adjoining premises.
- (b) Such parking shall be situated on premises not less than five thousand (5,000) square feet in area which shall abut at least fifty (50) feet, either directly or across an alley, on a Professional Office or business (except B-2B) zone, or on the premises of the existing conforming or nonconforming commercial use to which the parking area is accessory.
- (c) Each entrance and exit to and from such parking area shall be at least twenty (20) feet distant from any adjacent lot line located in any residential zone.
- (d) The parking area shall be subject to all requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping, screening, and minimum yards and setbacks.
- (e) Any permit issued by the Division of Planning for such parking area may be revoked any time that the aforementioned requirements are not complied with; and any permittee who uses the premises in violation of any of the conditions specified above, or attached as conditions to such permit by the Board of Adjustment, shall be deemed in violation of this Zoning Ordinance.

Sec. 16-5. Parking, loading and unloading areas in residential zones.

- (a) For all single-family detached dwelling units, no space shall be located within any required front yard or side street side yard area.

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- (1) Any private walkway shall be designed in such a way that a vehicle cannot drive on it so as to permit the area to be used as a parking space or vehicular use area. No private walkways shall be built in the street right-of-way without approval of an encroachment permit.
 - (2) The setback from the side and rear lot line shall be three (3) feet for paved areas and driveways.
 - (3) Paving within a required front yard or side street side yard shall be limited to private walkways and residential driveways as defined and regulated herein.
 - (4) Driveway Width - Allowable driveway width shall be based on the lot frontage, regardless of the width of the provided off-street parking area.
 - a. Outside the infill and redevelopment area, where lot frontage is forty (40) feet or more, the maximum driveway width shall be twenty-four (24) feet.
 - b. Inside the infill and redevelopment area, driveway width shall not exceed ten (10) feet.
 - c. Where existing lot frontage is less than forty (40) feet, driveway width shall not exceed ten (10) feet. A driveway width may be widened to fifty (50%) percent of the lot frontage if an approved pervious surface is installed.
 - d. If the width of a garage exceeds the allowable driveway width, the driveway shall be allowed to flare to that width for a distance no less than eighteen (18) feet, beginning at a location no closer to the street than half ($\frac{1}{2}$) of the required front yard or side street side yard.
 - e. Shared driveways are allowed (and encouraged for lots with less than forty (40) feet of frontage), but may not exceed a total width of twenty (20) feet. (See Figure 2: Shared Driveways)
 - (5) The design of the parking areas and driveways shall be developed so as to discourage the backing of vehicles onto a public right-of-way.
 - (6) The parking area shall be landscaped and screened as required by Article 18 of this Zoning Ordinance.
 - (7) A permit shall be required for the construction of all parking areas and driveways that fall under the above regulations. The owner must provide the Division of Building Inspection with a plot plan showing the entire lot, the location of the residence, the layout of the parking areas and driveways and all proposed landscaping and screening required, as well as any other information necessary to clearly define the proposed construction as required by the Division of Building Inspection.
 - (8) Within the defined Infill and Redevelopment Area, the maximum number of parking spaces on the lot will be no more than two (2) parking spaces.
 - (9) The maximum amount of paved area, including private walkways, shall not exceed sixty percent (60%) of the total required front or side street side yard.
 - (b) For all single family attached dwelling units and multi-family residential (six (6) or fewer dwelling units), driveways, parking areas, and private walkways shall be regulated in accordance with the regulations for single family detached above, except:
 - (1) Single-family attached units shall receive vehicle access only from the front or rear lot line exclusively, not both. End units with a side street side yard may receive vehicle access from that lot line in lieu of front or rear entry.
 - (2) Single-family attached units with vehicle access in the rear shall be served by an alley or public street.
 - (3) Single-family attached units with all front-loaded garages and driveways must be paired, except where a paired unit cannot be achieved.

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- (4) Where shared parking courts are provided, or a lot dedicated to providing shared off-street parking for single family attached dwelling units, shall meet the following standards:
- a. Shared parking courts shall be owned and maintained by a common ownership mechanism.
 - b. Shared parking courts shall contain a maximum of twelve (12) parking spaces.
 - c. Landscaping shall be in accordance with Article 18-3.
 - d. Parking courts shall be located to the rear or side of the single-family attached units.
 - i. Shared parking courts shall not be the principal use on a corner lot.
 - ii. Shared parking courts shall be adjacent to single-family attached units on at least two sides.
 - iii. When located in the same block frontage as other residential uses, no parking spaces shall be located within the required front yard for the zone.
- (c) For multi-family residential (greater than six (6) dwelling units) and Group Residential Projects, driveways, parking areas, and private walkways shall be regulated as follows:
- (1) Vehicular use area (VUA) shall not be located between a principal structure and the street.
 - (2) No portion of the front yard or side street side yard, exclusive of driveways or pedestrian walkways, shall be paved or surfaced; and all such front and side street side yards shall be enclosed by a barrier, or landscaped in such a manner, suitable to preclude any such activity as prohibited in this section.

Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in nonresidential and mixed-use zones.

- (a) Locational Standards for any P-1, B-1, B-3, B-5P, B-6P, CC, MU-1, MU-2 or MU-3, zones as well as any Supportive Uses in the ED zone:
- (1) On a corner lot, vehicular use areas shall not be in the front yard.
 - (2) On all other lots a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to sixty (60) feet in depth as measured perpendicular to the street, whichever is greater, shall be permitted between the building and the street, except otherwise prohibited by a maximum setback.
 - (3) Connection Standards:
 - a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
 - b. For projects with two or more buildings, internal vehicular and pedestrian walkways shall be provided between vehicular use areas.
 - c. Where internal pedestrian walkways are required to cross vehicular use areas at a width of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of three and one-half (3-1/2) inches shall be utilized as part of the raised pedestrian crossing.
 - d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.

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- e. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.
- (b) Locational Standards for any B-2, B-2A, B-2B zone:
- (1) There shall be no vehicular use areas located in the front yard or side street side yard.
 - (2) Connection Standards:
 - a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
 - b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
 - c. Where internal pedestrian walkways are required to cross vehicular use areas at a width of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of three and one-half (3-1/2) inches shall be utilized as part of the raised pedestrian crossing.
 - d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
 - e. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.
- (c) Locational Standards for any B-4, 1-1, I-2, or ED zone:
- (1) There shall be a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to one hundred twenty (120) feet in depth as measured perpendicular to the street, whichever is greater.
 - (2) Connection Standards:
 - a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. A minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
 - b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
 - c. Where internal pedestrian walkways are required to cross vehicular use areas at a distance of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of three and one-half (3-1/2) inches shall be utilized as part of the raised pedestrian crossing.
 - d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
 - e. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

Sec. 16-7. Parking, loading and unloading areas permitted in required front or side street side yard in zones other than residential zones.

In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is ~~a minimum of twenty-five (25) feet of depth~~ ~~sufficient depth~~ between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

Sec. 16-8. Special access, surface, and location requirements for garages, parking lots, automobile service stations, and vehicle sales lots.

- (a) *Required Distance Between Service Stations/Garages/Automobile Repair Shops/Automobile and Vehicle Refueling Stations and Residential Zones and/or Institutional Uses.* No building, structure or premises intended or designed to be used as a community garage; an automobile repair shop; a service station; an automobile and vehicle refueling station or a parking lot or structure, whether a principal or a conditional use on a property, shall be used, erected or altered, which has an entrance or exit for vehicles in the same block front and within two hundred (200) feet of the property boundary of any school; public playground; place of religious assembly; hospital; public library; convalescent home, nursing home or personal care facility or orphanage. No such entrance or exit, except for a community garage, shall be located within twenty (20) feet of any residential zone; nor shall any structure used for an automobile repair shop or service station, or any part of a parking lot or structure, be located within one hundred (100) feet of any property boundary line of any of the aforesaid public or institutional uses. The term "parking lot," as used herein, does not include off-street parking areas for the public or institutional uses listed above.
- (b) *Required Distance Between Gasoline/Oil Dispensing Facilities and Residential Zones/Uses.* No gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within fifteen (15) feet of any right-of-way line, or within fifty (50) feet of a residential zone, except where such a pump, pit or appliance is within a completely enclosed building and distant at least fifteen (15) feet from any vehicular entrance or exit of such building. Notwithstanding the above provision, no gasoline pump, oil draining pit, or similar appliance for any purpose shall be located within sixty-five (65) feet of a single-family residential zone or within sixty-five (65) feet of a single-family detached residential unit located in any residential zone. However, such 65-foot dimension shall not be applicable to the renovation, reconstruction, redevelopment, or construction of such a service station upon a tract used by such a facility within twelve (12) months prior to the application for a building permit. Except for gasoline service stations, no gasoline pump shall be permitted as an accessory use for another activity unless a site plan showing the following is submitted to, and approved by, the Division of Planning:
- (1) A safe traffic flow pattern shall exist at all times for vehicles to be serviced with gas, including a safe entrance and exit to the service area, and a traffic flow lane not impeded by parked vehicles or other objects.
 - (2) A safe traffic pattern shall exist for pedestrians to ensure that pedestrian flow for other purposes is not routed by the gasoline pumps, thereby exposing such pedestrians to unnecessary hazards.
 - (3) The gasoline pumps shall be operated only by employees of the activity; or if others are permitted to operate them, the facility must comply with Chapter 28 of the Kentucky Fire Prevention Code, specifically Section F-2803.8.2 and Section F-2803.8.3.

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- (c) *Required Distances Between Automobile and Vehicle Refueling Stations Dispensing Compressed Natural Gas and/or Liquid Natural Gas and Other Uses.* In addition to the requirements of this section (above), no stationary dispensing equipment for compressed natural gas or liquid natural gas associated with an automobile and vehicle refueling station may be located within:
- (1) Ten (10) feet of any sidewalk, walkway, parking lot or property line;
 - (2) Fifteen (15) feet of any electrical source or any overhead electric utility line;
 - (3) Fifty (50) feet of a right-of-way line, a building on another lot, or the nearest rail of any railroad line;
 - (4) Sixty-five (65) feet of a residential zone; and
 - (5) Not less than fifty (50) feet of a fire hydrant.
- (d) *Requirements for Vehicle Sales Lots.* Every parcel of land hereafter used as an automobile, truck, mobile home, boat, trailer, or camper sales lot, or as an automobile service station shall be subject to the requirements of this Zoning Ordinance concerning surfacing, lighting, landscaping and screening, and minimum yards and setbacks; and shall be considered, in the application thereof, as the equivalent of a parking area for more than five (5) vehicles, regardless of its size.
- (e) *Community Garages as Conditional Uses.* Community garages permitted as a conditional use in a R-3 and R-4 zone shall not be within eighty (80) feet of any right-of-way line or in a R-3 zone be within twenty-five (25) feet of any other lot line; or in a R-4 zone be within twenty (20) feet of any lot line, except the rear lot line of an adjoining Professional Office, Business or Industrial Zone.

Sec. 16-9. Stacking area, Drive-Through Facilities and Drive-Up Windows

For any use which utilizes a drive-in or drive-through window or service area, a vehicular stacking area shall be provided for a minimum of five (5) vehicles. Such vehicular stacking area shall not include any spaces located at the windows or service areas, shall be provided wholly on the property and shall not include any right-of-way. Where menu boards or other stopping points are utilized before moving to the window or service area, the vehicular stacking area shall not include the space at the stopping point nor the spaces between that stopping point and the window or service area. The vehicular stacking area shall be subject to all yard, paving, landscaping and other requirements of a vehicular use area, as contained in Article 18.

- (a) A vehicular stacking area shall be provided for any drive-up window or drive-through facility. Such vehicular stacking area shall not include any right-of-way, shall be provided wholly on the property, and shall not interfere with the use of any parking spaces provided. The minimum number of required stacking spaces within the vehicular stacking area shall include the space at the initial point of service, including but not limited to, a window, menu board, service area or other stopping point. Each stacking space shall be twenty-two (22) feet in length. The vehicular stacking area shall not include the area between the initial point of service and any subsequent window, service area or other stopping point. The vehicular stacking area shall be subject to all yard, paving, landscaping, and other requirements of a vehicular use area, as contained in Article 18 in order to provide separation between the drive-through lane and other drive aisles on the site.
- (1) For drive-up windows, a minimum of three (3) stacking spaces shall be provided.
 - (2) For quick-service food and beverage services, accessory to a restaurant, a minimum of six (6) stacking spaces shall be provided for the first drive-through lane. For any subsequent drive-through lane a minimum of three (3) stacking spaces shall be provided.
 - (3) For quick-service food and beverage services without indoor service or seating, and provision of retail products, including packaged food and beverages, a minimum of six (6) stacking spaces shall be provided per drive-through lane.

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- (4) For banks, and pharmacies a minimum of five (5) of stacking spaces shall be provided for the first drive-through lane, with no additional stacking spaces required for multiple lanes.
 - (5) For self service car-wash facilities, a minimum of two (2) stacking spaces shall be provided per bay.
 - (6) The number of required stacking spaces may only be modified by the Planning Commission on a final development plan based on the recommendations of an Operational Plan if the Planning Commission makes a finding that modifying the minimum stacking requirements will not impede traffic circulation on-site, negatively impact adjoining properties or land uses, nor create a public safety hazard.
 - (7) An Operational Plan shall include the following:
 - a. A site plan with an applicable tracking path simulation (e.g. AutoTURN) for the design vehicle of the drive-through facility;
 - b. The required stacking area;
 - c. The drive-through width; and
 - d. The pedestrian circulation.
- (b) General Standards for Drive-Up Windows
- (1) Drive-up windows, including the stacking area, shall be located at least one hundred (100) feet from any residential use.
 - (2) Drive-up windows, including the stacking area, shall be screened from any adjoining residential use or zone, public park, place of religious assembly, school, or childcare facility by a 6-foot tall, solid fence in addition to any VUA or property perimeter screening required by Article 18.
- (c) General Standards for Single-Lane Drive-Through Facilities shall meet the requirements established for Drive-Up Windows, in addition to the following:
- (1) A minimum of one direct pedestrian walkway a minimum of five feet in width shall be provided that allows pedestrians to access the building from the right-of-way without crossing drive-through lanes.
 - (2) All components of the drive-through facilities, including but not limited to menu boards, stacking lanes, ordering points, and other objects associated with the drive-through shall be located to the side or rear of the building, and shall not be located between the principal structure and a public or private street.
 - (3) All drive-through lanes shall be located and designed to ensure that they do not adversely affect traffic circulation on adjoining streets. Drive-through lanes on corner lots shall not route exiting traffic onto a local street within a residential zone.
 - (4) If a bail out lane for unobstructed exit capability is provided, it must be a minimum width of 10 feet and run parallel to the drive-through lane. If such bail out lane is also an interior access drive providing access to parking spaces, the bail out lane is limited to a one-way traffic pattern following the direction of the drive-through lane.
 - (5) Pedestrian walkways shall be clearly visible and emphasized by enhanced paving or markings where they intersect drive-through lanes.
 - (6) Drive-through lanes shall be a minimum of ten (10) feet and a maximum of twelve (12) feet in width.
- (d) General Standards for Multi-Lane Drive-Through Facilities shall be as provided above for Single-Lane Drive Through Facilities, in addition to the following:
- (1) Drive-through facilities with more than one (1) lane shall be approved by the Planning Commission on a final development plan.

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- (2) Property containing any combination of two or more drive-through facilities and/or drive-up windows shall be approved by the Planning Commission on a final development plan.

Sec. 16-10. - Effect of pedestrian-oriented business district.

For any such district created under Code of Ordinances Article 18, Chapter XIII, the provisions of the district will take precedence over any related provisions contained in the Zoning Ordinance.

Sec. 16-11. - Parking structures.

(a) *General Standards:*

- (1) Gated vehicular entrances shall be recessed from the front building plane fifteen (15) feet.
- (2) There shall be a delineated pedestrian access point(s) into the parking structure. Pedestrian walkways shall meet the following standards:
 - a. A minimum of five (5) feet wide.
 - b. Directly connected to all adjacent rights-of-way.
- (3) Transparent windows or openings shall be provided for a minimum of sixty (60%) percent of the ground level, except where residential uses are located.
- (4) Ground floor activation shall include one of the following along every street frontage:
 - a. Facade articulation that includes a change in exterior material type, style or finish such that materials vary for every eighty (80) feet of length or fraction thereof, or;
 - b. At least thirty (30%) percent of the ground floor façade includes commercial land uses or dwelling units, or;
 - c. An accessible useable open space of a minimum depth of twenty (20) feet along twenty (20%) percent of the ground floor. Open space includes plazas with seating, playgrounds, parks, porches, patios, or similarly programmed spaces. Landscaping not designed to be used by people are not included.

Sec. 16-12. - Bicycle parking and storage.

- (a) Where vehicle parking is provided, bicycle parking facilities shall be provided and shall meet the following standards:
- (1) Bicycle parking shall be provided at a rate of one (1) space for every ten (10) vehicular spaces or fraction thereof;
 - (2) Bicycle parking facilities shall be securely anchored;
 - (3) Short-term bicycle parking facilities shall be located within fifty (50) feet from the entrance;
 - (4) Long-term bicycle parking facilities shall be constructed with at least one of the following features:
 - a. A bicycle locker or similar structure manufactured for the purpose of securing and protecting a standard size bicycle, or;
 - b. A secured and dedicated bicycle parking area provided either inside the principal building on the lot, or in a building located elsewhere on the lot.

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- (b) Bicycle parking shall be located adjacent to the building within 20' of a building main entrance and situated so it can be viewed from the interior of the building. Bicycle parking shall be located so the bicycles do not impede the sidewalks through movement when parked.
 - (c) Where bicycle parking facilities are provided within a parking structure, the storage area shall be within ten (10) feet of one (1) or more of the following: an external pedestrian access, stairway tower, and/or an elevator tower.
 - (d) 50% or greater of the required bicycle parking for multi family developments shall be covered and either located directly adjacent to the dwellings or in a secure location internal to the structures. The bicycle parking shall be divided equally by total number of units per building and then multiplied by the number of buildings in order to serve the development equally.
 - (e) Each bicycle rack shall accommodate 2 bicycles and requires a rectangular dimension free from blocking adjacent uses to the minimum dimensions of 32" wide by 84" long. Racks should be located 24" from the front of bike end of the rectangle and centered about the 32" dimension.

Sec. 16-13. - Loading and unloading areas.

Loading and Unloading Spaces Required. In any zone, every nonresidential building or part thereof, hereafter erected, with a floor area of ten thousand (10,000) square feet or more, there shall be provided and maintained on the same premises with such building at least one (1) off-street loading space plus one (1) additional off-street loading space for each twenty thousand (20,000) square feet or fraction thereof of floor area so used in excess of twenty thousand (20,000) square feet.

Sec. 16-14. Parking demand mitigation studies.

All significant developments requiring a Zone Map Amendment shall submit a Parking Demand Mitigation Study. As used herein, the term "significant developments" shall mean any new construction in excess of five thousand (5,000) square feet of lot coverage. A study shall not be required for new construction of single family residential and multifamily residential with 6 or fewer dwelling units, or for any construction in the B-2, B-2A, B-2B and B-6P zones. The applicant shall have the responsibility of providing the study. The information from the study shall provide guidance to determine the necessary parking facilities. Those facilities shall be approved by the Planning Commission and reflected on the associated development plan per Article 21-6.

- (a) The study shall be submitted to identify the necessary provision of vehicular and bicycle parking spaces based on the unique locational and end-user/tenant mix for the development. Such a study shall be prepared by a qualified professional well-suited to addressing the quantity of parking for the property, including a Professional Engineer, AICP Planner, CCIM Real Estate Professional, or substantially similar qualification. The Parking Demand Mitigation Study shall include:
 - (1) Review of national best practices for parking calculations for the project, including the current ITE Manual Parking ranges or the ranges produced by the ITE ParkGen Report;
 - (2) The anticipated parking demand for the project;
 - (3) How the anticipated parking demand will be satisfied on-site or off-site;
 - (4) The methods and strategies to be implemented in order to reduce vehicle trips by site users;
 - (5) The methods and strategies to be implemented in order to promote transportation options by site users; and
 - (6) The projected mode share by site users from the utilization of the Study's strategies.

(b) Strategies for parking mitigation can include, but are not limited to, the following:

- (1) Shared or joint parking arrangements;
- (2) Mixed-use developments that promotes live/work arrangements;
- (3) Support for car-share and bike-share services and facilities;
- (4) Dedicated areas for drop off/pick up areas along public right-of-way;
- (5) Parking cash-out programs or unbundled parking/market rate pricing;
- (6) Roadway improvements adjacent to the site that will help encourage transportation options;
- (7) Parking management partnerships with LexPark.

Sec. 16-15. Commercial Access Standards.

Commercial access to a property shall be governed by the following standards and in concert with the adopted Land Subdivision Regulations. Commercial access shall defined as access for the following land uses: multi-family residential; professional services, banks and ; institutional or schools for academic instruction; businesses for retail sales and eating and drinking establishments; places of religious instruction; commercial parking lots or structures; indoor or outdoor recreation and athletic facilities; hotels of any type; nursing homes, personal care facilities, rehabilitation homes and assisted living facilities; community centers and private clubs; light and heavy industrial; warehouses and storage; and other businesses not specifically identified above.

- (a) Proposed commercial entrances shall aligned with existing curb cuts or existing street features on the opposite side of the street. If entrance locations cannot align, then the proposed commercial entrance shall be a minimum distance of three seconds drive time away from any other entrance based upon the posted speed limit.
- (b) Proposed commercial entrances shall be a minimum width of twenty (20) feet and a maximum width of thirty (30) feet. Driveway width, apron flare and curb radius must meet all Fire Code or LFUCG Division of Fire standards.
- (c) A minimum fifteen (15) foot curb radius shall be provided for commercial entrances, shared access points and for any entrance from an arterial street. A maximum curb radius of thirty-five (35) feet shall be provided and must be supported by tracking path simulation (e.g. AutoTURN).
- (d) Entrance spacing along frontage roads shall meet local road access spacing, with a maximum of two (2) access points.
- (e) Proposed commercial entrances shall be a minimum of one hundred (100) feet from any railroad crossing right-of-way.
- (f) Entrances shall be aligned with median openings, and have a dedicated left turn lane.
- (g) Appropriate storage and taper lengths, pavement markings (including raised pavement markings) for left turn lanes and monolithic median noses shall comply with design standards established by the Traffic Engineering Manual and LFUCG Standard Drawing ###.
- (h) No parking spaces shall be permitted to back directly into a public or private street right-of-way. Existing parking lots shall be revised to meet current standards when there is a zone change, change of use, or addition make to a principal structure.
- (i) When a site is redeveloped, existing entrances shall be removed, replaced or relocated unless they are in compliance with LFUCG Standard Drawing 307 for entrance apron design and width.
- (j) Commercial entrances shall be located a minimum of three (3) feet from the property line or more to allow the corresponding apron flare to remain inside the projected property line and be in compliance with LFUCG Standard Drawing 307-1 or 307-2.
- (k) Existing damage or damage caused during construction activity to existing right-of-way shall be repaired or replacement in concert with permitted construction activities, per Article 5 of the Zoning Ordinance.
- (l) Gated primary entrances for a private street or commercial access point shall be prohibited.

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- (m) Gated entrances for "exit only" or "emergency access only" shall be located a minimum of thirty (3) feet from the curb to ensure vehicles can see the gate before entering. A "do not enter" sign shall be posted on the gate.
 - (n) Any proposed modification to existing LFUCG or KYTC signaling equipment must be reviewed and approved by the Division of Traffic Engineering. Grade changes adjacent to existing LFUCG signaling equipment will require replacement to current LFUCG Traffic Engineering Standards.

Article 21- DEVELOPMENT PLANS

Sec. 21-4. - Development plan procedures.

The following shall be the procedure for ~~Planning Commission~~ consideration of any development plan.

(a) ~~Pre-Application Meeting.~~ Prior to application for a final development plan, the owner/developer shall meet with the appropriate staff members of the Division of Planning to discuss the proposed plan. The purpose of the pre-application meeting is to discuss the requirements, procedures and issues related to the proposed development to alleviate possible conflicts by early recognition of existing conditions, current standards, necessary infrastructure and adopted plans. The owner/developer shall arrange the meeting with the staff so that the meeting occurs no later than five (5) working days nor more than three (3) months prior to the filing date. The Division of Planning shall not accept an application for a final development plan unless the pre-application meeting has been conducted.

(b) ~~On-Site Meeting.~~ Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.

(c) ~~(b) Filing.~~ To formally request ~~Planning Commission~~ action on the development plan, the developer shall file a completed the required application information form, and submit a current deed for the subject property, copies of the plan, associated plans and studies as required by the Zoning Ordinance and pay the filing fee and copies of the plans as required by the Commission's adopted filing and fee schedules with the Division of Planning. The Division of Planning shall make copies of the plan available to all other concerned agencies.

(d) ~~(c) Review.~~ The Division of Planning shall facilitate the review of all development plans through the following steps:

(1) ~~Technical Review Committee.~~ The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Review Committee (TRC) to try to ensure the plan meets all requirements established by the Zoning Ordinance, the Land Subdivision Regulations, the Engineering Manuals, the Traffic Engineering Manual, the Complete Streets Manual, and other adopted rules and regulations; as well as resolve all differences or conflicts. Development plans that meet all ordinance requirements, manuals, regulations and rules may be approved by the Technical Review Committee and no further action by the Planning Commission will be required. The Technical Review Committee shall have a maximum of sixty (60) days to review a development plan. If the development plan meets all requirements within that timeframe, it shall be approved and certified by the Secretary of the Planning Commission in conformance with subsection (e) and (f) herein, and to make recommendations to the Commission's Subdivision Committee. If the development plan cannot meet all requirements, it will be disapproved by the Technical Review Committee unless the developer files a waiver request in compliance with Subsection 21-9.

(2) ~~Planning Commission Subdivision Committee.~~ Development plans may require further review by the Planning Commission's Subdivision Committee and the full Planning Commission under the following criteria and circumstances:

(a) ~~Additional guidance or recommendations may be required from boards and commissions as stipulated by other ordinances or agreements such as, but not limited to, the Royal Springs Aquifer Wellhead Protection Committee, the Paris Pike Corridor Commission, or the Board of Architectural Review. If a board or commission makes a recommendation to the Planning Commission, it shall require Subdivision Committee review and Planning Commission action at a public meeting.~~

- (b) The developer requests a waiver to the requirements established by the Zoning Ordinance, the Land Subdivision Regulations, the Engineering Manuals, the Traffic Engineering Manual, the Complete Streets Manual, and other adopted rules and regulations. Allowable waivers are further regulated by Subsection 21-9.
- (c) The Division of Planning refers a development plan because a strict application of the requirements established by the Zoning Ordinance or other adopted rules and regulations would pose a specific threat to public health, safety or welfare in the affected area.
- (d) The development plan filed in conjunction with a map amendment request that requires further evaluation relative to the adopted Comprehensive Plan or a Small Area Plan.
- (e) The preliminary development plan associated with a map amendment request has expired and a new plan is necessary.

The Subdivision Committee will review all recommendations, and then forward their recommendations to the full Planning Commission for final action. These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.

- ~~1. The Subdivision Committee shall have the authority to require an applicant to prepare a traffic impact study for significant developments per Article 6-1(a).~~
- ~~2. The Subdivision Committee shall have the authority to require an applicant to prepare a Parking Demand Mitigation Study for significant developments per Article 16-14.~~

(e) (d) Commission Action.

No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by the Subdivision Committee ~~unless this requirement is waived by the Commission under its adopted late filing procedures~~. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed ~~for Commission action~~ with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations ~~or~~ if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance ~~or~~ other similar problems relating to the development of the subject property or affected area. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e) hereinbelow. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

- (1) *Approval.* Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

- (2) *Conditional Approval*. Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
 - (3) *Postponement*. Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
 - (4) *Disapproval*. Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Subsection (b) of this section.
- ~~(f)~~ *(e) Certification of Approval*. Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Technical Review Committee or Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:
- (1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owner's certification to the Division of Planning;
 - (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension of no greater than one (1) year or reapproval of an expired plan, the Commission may require changes in the development plan ~~when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or~~ when applicable ordinances and regulations have been changed.
- ~~(g)~~ *(f) Timing Restrictions*. The following timing restrictions shall be applicable to development plans:
- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan, otherwise, the preliminary development plan shall be deemed as disapproved ~~by the Commission. A new preliminary development plan shall be required to be submitted and reviewed by the Planning Commission.~~
 - (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of ~~Commission~~ action on the development plan; ~~otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission. Once expired, a new final development plan filing shall be required.~~

Sec. 21-5. - Types of development plans.

There shall be a preliminary development plan and a final development plan, defined as follows:

- (a) *Preliminary Development Plans*. A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan.

(b) *Final Development Plan.* A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

Sec. 21-6. - Contents and format of development plans.

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding one (1) inch equals one hundred (100) feet) which enables clear presentation of required information. Required plan information shall be as follows:

(a) Contents of preliminary development plan. A preliminary development plan shall contain the following information at a minimum:

- (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer; ~~and~~ written and graphic scale.
- (2) The boundary of the subject property denoted with a solid line and bearings and distances, and its record plan designation (if available); and the record plan name or owner's name of all adjacent adjoining property. The boundary of all adjacent property shall be denoted with dashed lines.
- (3) A vicinity sketch, oriented in the same direction as the design scheme, at a scale of one (1) inch equals two thousand (2,000) feet, labeled with roadways and identifying the subject property.
- (4) Topography with contour intervals not greater than five (5) feet.
- (5) Location, arrangement, and ~~approximate~~ dimensions of existing and proposed driveways, walkways, pedestrian crossings, parking areas and arrangement of spaces (including reserved parking, display areas, and compact spaces), point of ingress and egress (including all gates restricting vehicular access), traffic calming elements, access points for construction vehicles, and other vehicular and pedestrian rights-of-way or easements (as required by Article 16).
- (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property, access points for all adjacent land, and stub connections that adjoin any portion of the subject property (both vehicular and pedestrian).
- (7) Location, arrangement, and dimensions of existing and proposed ~~S~~screening, landscaping and buffering, (as required by Article 18), recreational and other open space areas (as required by Article 20).
- (8) ~~Approximate size, location,~~ size, height, floor area, area arrangement and use of proposed and existing buildings, walls over three feet in height, fences, and canopies over drive aisles and signs.
- (9) Storm drainage areas, floodplains, alluvial soils, conceptual drainage controls and stormwater retention and any other designated environmentally sensitive or geologic hazard area.
- (10) Proposed and existing easements for utilities or other purposes, including dimensions and labels.
- (11) A tree inventory map and notes as required by Article 26.

- (12) Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
 - (13) A statistical summary of all pertinent site data, including site area in square feet and acres, zoning, building coverage and floor area, parking quantities, open space by type (total, common, usable and vegetative, tree canopy etc. Additional site statistics may be required based on the requirements of the zoning category. Statistical summary table shall meet the standards of the Division of Planning.
 - (14) Proposed and existing addresses for each lot, building and/or unit, and front yard and exterior building line(s).
 - (15) The approved conditional zoning, variances, waivers, conditional use permits or other binding restrictions for the subject property.
 - ~~(14) A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.~~
 - ~~(15) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."~~
- (b) Preliminary Development Plans shall contain the following general notes stating the following: A note stating that no
- (1) No grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.
 - (2) No building permits shall be issued unless and until a final development plan is certified by the Secretary of the Planning Commission.
 - (3) All buildings, paving, signs, fences, walls and retaining walls that are depicted, described or required on this Development Plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
 - (4) The location of the fire hydrants, fire department or fire service features, if required, shall be approved by the Division of Fire, Water Control Office.
 - (5) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."
 - (6) (16) A Commission's certification to be signed by the Secretary of the Commission's Secretary if and when the plan is fully approved by the Planning Commission, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
 - (7) An alternative Commission's certification shall be used when the plan meets all requirements of the Zoning Ordinance and has not been acted on by the Planning

Commission, as follows: "I do hereby certify that this development plan complies with all provisions of the Zoning Ordinance."

~~(17) — A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~

~~(c) (b)~~ Contents of final development plan. All information required for preliminary development plans as required under Subsections (a) and (b) 1 through 17 of this section, above; except that that the plan information shall be of an exact nature, rather than approximate or general. In addition, the following information shall be required:

(1) Environmentally sensitive and geologic hazard areas, as defined in Article 1-11, shall also be depicted on a supplemental environmental plan sheet.

(2) Contour intervals shall be two (2) feet

(3) A tree protection plan, data block, and tree protection areas as required by Article 26

(4) shall be required and that the plan information shall be of an exact nature, rather than approximate or general.

Sec. 21-7. - Amendments to development plans.

Amendments to an approved development plans shall follow the steps established below. All development plan amendments shall meet the requirements established by the adopted Zoning Ordinance, the Land Subdivision Regulations, the Engineering Manuals, the Traffic Engineering Manual, the Complete Streets Manual, and other adopted rules and regulations.

can be made only by official Planning Commission action in a public hearing. However,

Aamendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

(a) Minor Amendments Defined. Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments:

- (1) Shall not decrease the overall land area in yards, or other open spaces;
- (2) Shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units;
- (3) Shall not increase the number or size of signs;
- (4) Shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation will not have a negative effect on traffic safety and movement.

(b) Procedures for Minor Amendments. Shall be as follows:

- (1) *Filing.* The developer shall file the following materials with the Division of Planning: a reproducible tracing of the plan prepared on Mylar or other material capable of clear reproduction using ozalid

~~print process~~; three (3) ~~blue or~~ black line prints of the ~~plan tracing~~; and a filing fee in the amount determined by the Commission's adopted fee schedule.

- (2) *Review.* The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering, and others as appropriate to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, or if the Division of Planning feels that the proposed amendment raises issues deserving the attention of the Technical Review Committee or the full Commission, however, the plan shall ~~be referred to the full Commission for action follow the process established in subsection 21-4 above.~~
 - (3) *Certification.* Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.
- (c) *Content and Format of Minor Amendments.* Minor amendments shall have the same content and format requirements as the original development plan, except that:
- (1) The title shall indicate the plan is a minor amendment;
 - (2) A note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note); and
 - (3) The following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Section 21-7 of this Zoning Ordinance."
- (d) *Content and Format of Major Amendment Requirements.* Major amendments to development plans shall have the same content and format requirements as the original development plan, except that:
- (1) The title shall indicate the plan is an amended development plan; and
 - (2) A note shall be added listing the exact nature of the requested changes.
- No plan change shall be considered in effect unless it is referenced in this note.
- (e) *Major Amendment Procedures.* The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Section 21-4 above. However, in addition to the standards listed in Section 21-4(~~de~~), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, or alter the essential character of the development as originally approved.

Sec. 21-8. - Relationship to land subdivision regulations.

The relationships between development plans and the Land Subdivision Regulations are established as follows:

- (a) *Applicability of Land Subdivision Regulations.* Although developments plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

- (b) *Development Plans Required Under Section 5-2(g) of the Land Subdivision Regulations.* Development plans required under Section 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this [Article 21](#) of this Zoning Ordinance.
- (c) *Development Plans and Preliminary Subdivision Plans May Be Combined.* It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:
- (1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.
 - (2) The plan shall show all information required for a development plan (preliminary or final as appropriate) and all information required for preliminary subdivision plans as set forth in Section [5-2](#) of the Land Subdivision Regulations.
 - (3) Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.
- (d) *Preliminary Subdivision Plan May Be Substituted for Development Plans Required in Conjunction with map amendment request.* It is recognized that in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivisions plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Section [21-3\(c\)](#) hereinabove, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.

Sec. 21-9 - Waivers

The Planning Commission may modify, reduce or waive those standards and minimum requirements established by the Zoning Ordinance which cannot be modified through a dimensional variance. Use, conditional use, density, lot coverage and F.A.R. standards shall not be modified by this process. Waivers to the Land Subdivision Regulations, Engineering Manuals or other adopted regulations shall follow the specific waiver or appeal procedures established therein and shall take precedence over the procedures established in this section. Only site, building and structure design elements are subject to the waiver provisions of the Zoning Ordinance. Regulations that prohibit certain structures or activities (e.g. freestanding signs prohibited in certain zones), and other non-design related standards (e.g. limit on hours of operation) may not be waived. The Division of Planning maintains current listing of items that have been determined to be variable or waivable. This listing shall be updated periodically by the Division of Planning as determinations are made.

- (a) Application Submission Requirements - Applications for waiver shall be submitted by the property owner or his/her agent and filed with the Division of Planning in accordance with these regulations. Applications shall be accompanied by appropriate supporting material and by the appropriate filing fee. The list of required supporting materials shall be available from the Division of Planning. Applications for waiver will not be accepted until all required materials and filing fees are submitted. At a minimum, the following materials shall be submitted with all applications for waiver:

(1) A justification document which addresses as applicable the following items:

- a. The waiver will not adversely affect adjacent property owners; and,
- b. The waiver will not compromise public health and safety; and
- c. The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,
- d. Either:
 - i. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. Additional cost shall not constitute an unnecessary hardship in any case.

(2) Unless determined by the Planning Director to be unnecessary, a site plan or development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

(3) Not all waivers require engineered surveys; however, where dimensional information is determined to be essential for consideration of such waivers by staff and the Planning Commission, the applicant shall provide a survey prepared by a licensed Land Surveyor in the Commonwealth of KY. Only those property boundaries that are contiguous with the dimension(s) in question need to be provided. The cost of the required survey shall be borne by the applicant. In cases where staff determines a survey is not required the applicant shall not be responsible for the cost of any survey submitted by any party.

(b) Notice Requirements - Following receipt of a completed application, staff of the Commission shall provide notice of the request for modification or waiver to adjacent property owners on the proposal now under consideration for waiver or modification. Addresses shall be obtained using current available data from the Property Valuation Administrator. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered.

(c) Public Hearing - The Planning Commission shall hold a public hearing in order to consider a requested waiver. Requests for a waiver may extend review periods when associated with a development plan, but the waiver shall be approved or disapproved within ninety (90) days of the date it is formally filed with the Division of Planning, unless the owner or agent agrees to a longer period of time.

(d) Findings Necessary for Granting of Waiver or Modification

The Planning Commission may approve waivers or modifications of standards upon a finding that:

- (1) The waiver will not adversely affect adjacent property owners; and,
- (2) The waiver will not compromise public health and safety; and
- (3) The extent of waiver of the regulation is the minimum necessary to afford relief to the applicant; and,
- (4) Either:
 - a. The applicant has incorporated other design measures that exceed the minimums of the district and compensate for non-compliance with the requirements to be waived (net beneficial effect); or

b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant. Additional cost shall not constitute an unnecessary hardship in any case.

(e) Additional Conditions - The Commission may impose additional conditions or restrictions intended to mitigate the impact of the modification or waiver. These conditions or restrictions shall be noted on the plan and are only able to be modified by the Planning Commission.

APPENDIX 23B. EXPANSION AREAS PROCEDURES AND REQUIREMENTS

Sec. 23B-1. Purpose.

The purpose of this appendix is to create and define procedures and requirements for approval of development within the Expansion Areas of the Lexington-Fayette County Urban Service Area.

Sec. 23B-2. Preliminary and final development plan required.

A preliminary development plan shall be required as specified in Section 21-3 in conjunction with any zone map amendment request in the Expansion Area. The standards and procedures specified in Sections 21-4, 21-5 and 21-6 shall be applicable. No development activity, building, or occupancy of property shall be permitted unless and until a final development plan has been approved by the Planning Commission. The development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land to the conditions as set forth in the plan.

Sec. 23B-3. Interim agricultural uses excepted.

The only exception from the provisions of Section 23B-2 above shall be the principal permitted uses as set forth for the A-R zone in Section 8-1. Such uses, including the construction of one (1) principal single-family dwelling, shall be permitted by right, subject to the typical requirements of law contained in this Zoning Ordinance or other applicable ordinances for such construction, such as building permits, land disturbance permits, and the like.

Sec. 23B-4. Content and format for final development plans within the Expansion Areas.

Final development plans required pursuant to this Article shall meet, at a minimum, all information as required for a final development plan as set forth under Section 21-6. In addition, the following shall be a required part of the final development plan and shall be submitted at the time of the application:

~~(a) Comprehensive Plan Compliance Statement. This document shall set forth the developer's specific actions related to natural environment, land use, open space, housing, community design, public facilities, design features and criteria, density, and similar matters to demonstrate that the final development plan complies with the "Future Land Use" and "Community Design" Elements of the adopted Expansion Area Master Plan.~~

~~(a)~~ ~~(b)~~ Infrastructure Statement. This document shall set forth a project description including engineering and construction cost estimates prepared by a professional engineer for the public and/or private expenditures for system improvements that the developer proposes to construct, and for construction, or other development activity which will be in place prior to or in conjunction with the development. This document will demonstrate that the proposal complies with the "Infrastructure Element" of the adopted Expansion Area Master Plan. Any proposed or executed development agreement that is required or anticipated by the developer as set forth under Section 23C-7 hereinbelow shall also be a part of this statement. At the time of the application, the developer shall distribute copies of the Infrastructure Statement to the Chief Administrative Officer, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services. Such officials shall review the proposed statement

and provide their comments to the Division of Planning ~~during the review process. Planning Commission action.~~

- ~~(b)~~ ~~(e)~~ Other Information on the Final Plan. The final development plan shall indicate the developer's restrictions for lot sizes (minimum and, where appropriate, maximum); yard and setback restrictions; coverage restrictions; height limitations; floor area ratios; project lighting; or similar restrictive techniques to be established within the development or defined areas within it so as to achieve the purposes of the Expansion Area Master Plan and to prevent or minimize potential adverse effects upon properties within and in the vicinity of the proposed development.
- ~~(c)~~ ~~(d)~~ DTR Related Information. For any final development plan which proposes units permitted under a DTR, a copy of the Certificate of DTR shall be filed as a part of the application.

Sec. 23B-5. Review procedures.

Final development plans required under this Article shall follow the development plan procedures as set forth in Section 21-4, except ~~that an Infrastructure Plan shall be required. Approval of the development plan will require staff certification that the plan is in compliance with the Infrastructure Element of the Expansion Area Master Plan as specifically modified herein.~~

~~(a) Staff Report on Compliance with Expansion Area Master Plan and Infrastructure. In addition to all other reports and recommendations from staff and review committees provided to the Commission, the Division of Planning shall prepare and submit for Commission review a report reviewing the final development plan's compliance with the Expansion Area Master Plan. The report shall review the statements and information provided by the developer under Sections 23B-4(a) through (d) above, and may make specific recommendations on design changes needed to establish compliance with the Expansion Area Master Plan. The Division shall include comments from all applicable Departments involved with public facilities within the development, including the physical extent of the proposed project improvements; exactions; related capital improvements financing; regulations; and similar matters.~~

~~(b) Commission Hearing and Action. The Planning Commission shall advertise and conduct at least one (1) public hearing and shall approve, conditionally approve with conditions noted, or disapprove any request for action on a final development plan within one hundred twenty (120) days of its filing unless the applicant agrees to an extension of time beyond such period. The minimum notice shall include a newspaper notice placed not more than twenty-one (21) days, nor less than seven (7) days, in advance of the hearing; and the posting by the applicant of a sign in a conspicuous location on the property. The sign shall be constructed of durable material; shall not be less than four (4) feet by four (4) feet; shall state "development plan" in bold letters not less than three (3) inches in height; shall state the time, date, and location of the hearing and the phone number of the Division of Planning in letters at least one (1) inch in height; and shall be posted on the property at a location which is visible from the highest traffic volume roadway abutting the property not more than fourteen (14) days after the filing of the plan and maintained until the hearing date. The applicant shall provide an affidavit to the Planning Commission at the hearing, stating that the sign was posted as required and has been maintained on the property during the notice period to the best of the applicant's knowledge and ability.~~

~~(c) Commission Action. No development plan shall be considered for action by the Commission until it has been reviewed by, and recommendations made by, the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. The Commission will review all staff and committee recommendations, comments made in the public hearing, and shall then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify through conditional approval or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations; or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property which cannot be properly mitigated.~~

- (1) Further, approval of the development plan will require a finding on the part of the Planning Commission that the plan is in compliance with the Infrastructure, Future Land Use, and Community Design Elements of the Expansion Area Master Plan, and the Commission may disapprove or require modifications to the development plan to ensure such compliance, and the need to prevent or minimize adverse effects upon properties within or in the vicinity of the development. The Commission shall impose conditions regarding construction of required infrastructure and the proposed development to ensure that development is supported by infrastructure consistent with the Expansion Area Master Plan and any development agreement. The Commission shall permit the construction and bonding of required infrastructure pursuant to the provisions of Section 4-7 of the Land Subdivision Regulations.
- (2) In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e). Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:
- (1) Approval means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.
- (2) Conditional Approval means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
- (3) Postponement means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
- (4) Disapproval means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required herein. For any action of disapproval, the Planning Commission shall be required to make specific findings to support such action.
- (d) Certification of Approval. Within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:
- (1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan, including the signed owners' certification, to the Division of Planning;
- (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense.
- In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.

Sec. 23B-6. Subdivision of land.

The following provisions shall apply to subdivision of land within the Expansion Area:

- (a) Applicability to Subdivisions. Except as expressly specified in this Article, all subdivision of land within the Expansion Area shall be required to comply with all procedures, requirements and standards of the

Land Subdivision Regulations for major or minor subdivisions as applicable to the nature of the proposed subdivision.

- (b) **Applicability to Development Plans.** Where any development plan under this Article indicates a need or intent to subdivide property, all design and improvement standards contained in the Land Subdivision Regulations shall be applicable to the development plan.
- (c) **Development Plan and Preliminary Subdivision Plan May Be Combined.** The required development plan and preliminary subdivision plan may be combined as set forth in Section 21-8(c).

Sec. 23B-7. Amendments.

Amendments to development plans under this Article shall be as provided in Section 21-7 of this Zoning Ordinance, except as modified hereinabove.

Article 28 - MIXED USE ZONING CATEGORIES

Sec. 28-1. - Intent.

The intent of this Article is to permit the development of zoning categories which promote the proper locations and regulation of development which inherently permits the mixing of residential and nonresidential uses. Such mixing of uses in appropriate location and subject to appropriate restrictions can create a combination of functions compatible with abutting residential neighborhoods. This Article is intended to provide neighborhood-based employment opportunities; provide support services that enhance livability of neighborhoods; enhance the use of public transit and alternative modes of transportation; revitalize established neighborhood commercial centers; and promote quality infill and redevelopment potential in accordance with the adopted Comprehensive Plan.

Sec. 28-2. - Creation of zones.

This Article hereby creates zoning categories Mixed use 1 (MU-1), Mixed use 2 (MU-2), and Mixed use 3 (MU-3) as specifically regulated hereinbelow.

Sec. 28-3. - Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:

1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half (½) acre.
- ~~3. The parcel must be designated in a Medium, High, or Very High Density Residential, or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use.~~

(b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-1 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.

(c) *Accessory Uses.* The following shall be considered accessory uses in the MU-1 zone:

1. The accessory uses permitted in the P-1 and B-1 zone except for drive-through facilities.

(d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:

1. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

(e) Prohibited Uses. The following uses shall be prohibited in an MU-1 zone:

1. The following principal uses, in the B-1 zone: automobile service stations; parking ~~lots and~~ structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
- ~~2. The following accessory use in the B-1 zone: drive-through facilities, the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.~~
- ~~2.~~ 3. All B-1 conditional uses.
- ~~3.~~ 4. All uses listed as prohibited in the B-1 zone.

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 1.0.
2. Height: Thirty-five (35) feet Maximum.
3. Front Yard: No limitation for first or second story; any third floor shall be set back at least fifteen (15) feet; also see Subsection (h)(5) of this section, below.
4. Each Side Yard:

For one- and two-story structures, ten (10) feet.

For three-story structures, twenty (20) feet.
5. Rear Yard: Ten (10) feet or thirty percent (30%) of lot depth, whichever is greater.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: No limitation.

~~(g) Off-Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g)~~ (h) Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses.
2. Only one (1) principal structure shall be permitted per MU-1 site.
3. All residential uses shall be required to be in the same structure as nonresidential uses.
4. Within the Infill and Redevelopment Area, at least sixty percent (60%) of the front building wall shall be required to be built at the zero-foot setback line. When ~~the Planning Commission requires~~ additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement.
5. Signage shall be as permitted and restricted under Section 17-11(e) ~~for a P-1 zone.~~

Sec. 28-4. - Mixed use 2: Neighborhood Corridor Zone (MU-2).

Mixed use 2: "Neighborhood Corridor Zone (MU-2)" is hereby created and regulated as follows:

(a) Location Criteria. MU-2 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Boundary and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least one-half ($\frac{1}{2}$) acre and may not exceed a maximum area of four (4) acres.
3. ~~The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.~~

(b) Principal Permitted Uses. The following shall be principal permitted uses in the MU-2 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zone except as specifically prohibited herein below.

(c) Accessory Uses. The following shall be accessory uses in the MU-2 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

(d) Conditional Uses: The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities, ~~as an adjunct to a permitted use as permitted in Article 8-16(d)5.~~
2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

(e) Prohibited Uses. Prohibited uses shall be as for the MU-1 zone, except for drive-through facilities which are permitted as a conditional use.

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Fifty-five (55) feet.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; also see Subsection ~~(h)(g)~~ (3) of this section, below.

4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum seventy-five percent (75%).

~~(g) Off Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g) (h) Special Provisions. Special provisions shall be as follows:~~

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-2 project has reached ten thousand (10,000) square feet of commercial use, additional commercial square footage will not be required.
- ~~2. For any MU-2 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-2 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above.~~
- ~~2.~~ 3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. ~~Where the Planning Commission requires~~ When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
- ~~3.~~ 4. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11 (n) of this Zoning Ordinance.

Sec. 28-5. - Mixed use 3: Mixed use Community Zone (MU-3).

Mixed use 3: "Mixed use Community Zone (MU-3)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-3 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Area and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland

Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.

2. The parcel must contain at least three (3) acres.

~~3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.~~

(b) Principal Permitted Uses. The following shall be principal permitted uses in the MU-3 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.

(c) Accessory Uses. The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, ~~including drive-through facilities~~, except as prohibited under Subsection (e) of this section, below.

(d) Conditional Uses. The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.

(e) Prohibited Uses. The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: ~~parking lots~~; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.

~~2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle, 28-foot maximum overall length), trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abut a residential zone.~~

~~3. The following B-1 conditional uses; self-service car washes; animal hospitals or clinics; the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.~~

~~4. All uses listed as prohibited in the B-1 zone, except as permitted herein.~~

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Eighty (80) feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street: seventy (70) feet for all other buildings.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; see also Subsection ~~(h)~~(g)(3) of this section, below.

4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum fifty percent (50%).

~~(g) Off Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g) (h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-3 project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

~~2. For any MU-3 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-3 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above. Renumber as needed~~

~~2.~~ ~~3.~~ Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. ~~Where the Planning Commission requires~~ When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

~~3.~~ ~~4.~~ Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.

~~4.~~ ~~5.~~ An Entertainment Mixed use Project may be permitted only by the Planning Commission for a tract of land with a minimum of ten (10) acres, and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:

- (a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
 2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
 3. For the overall project area, open space shall be governed by Article 20. Open space may be clustered across multiple lots to facilitate the common use of the land.
- (b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.
- (c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:
1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.
 2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.
- (d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.
- (e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:
1. As Principal Permitted Uses:
 - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
 - b. Motels, hotels, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Section 3-13.
 - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 2. As Accessory (clearly incidental and subordinate) Uses:

- a. Outdoor patios, when accessory to any permitted restaurant.
 - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
3. As Conditional Uses:
- a. Self-service car washes.
 - ~~b. Gasoline pumps available to the public without an employee on site.~~

Sec. 28-6. - Provisions applicable to all mixed use zones.

Provisions applicable to all mixed use zones shall be as follows:

- (a) *Development Plan Required.* All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, ~~the developments within these zones shall comply with provisions Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed use zone shall require a finding that the development plan complies with the provisions~~ of Subsections (b) through (g) of this section, below.

- (b) *Pedestrian Accommodation.* Pedestrian accommodation shall be as follows:

- (1) At least one (1) primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one (1) location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two (2) or more buildings are proposed, they shall be arranged in a manner that provides a centralized open space area, such as a plaza, courtyard or similar feature.
- (4) ~~Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas. Sidewalks shall be provided along each road frontage, with connections provided to each principal structure, parking area, and open space area.~~
- (5) A six-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. ~~Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.~~
- (6) For any development within the Downtown Streetscape Master Plan Area, the development shall adhere to the provisions of that plan.

- (c) *Building Features.* Shall be as follows:

- (1) For every primary wall plane:
 - a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every eighty (80) feet of length or fraction thereof; or
 - b. Implementation of a minimum of three (3) of the following for every sixty (60) feet of length or fraction thereof:
 - 1. A change of at least one (1) foot in depth for at least one (1) story;

2. A change in wall height of at least two (2) feet;
3. A change in exterior material type, style, or finish for at least one (1) story;
4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.

(2) For every side or rear wall plane:

- a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every one hundred (100) feet in length; or
- b. Implementation of a minimum of three (3) of the following for every eighty (80) feet of length or fraction thereof:
 1. A change of at least one (1) foot in depth for at least one (1) story;
 2. A change in wall height of at least two (2) feet;
 3. A change in exterior material type, style, or finish for at least one (1) story;
 4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.

(3) The primary wall plane shall provide at least one (1) of the following features at ground level:

- a. A balcony at least four (4) feet by five (5) feet.
- b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
- c. A covered entrance at least three (3) feet by three (3) feet.
- d. A porch at least four (4) feet by six (6) feet, with a floor at least twelve (12) inches above grade.
- e. A recessed entrance at least three (3) feet by five (5) feet.

(4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

(d) *Location and Assignment of Provided Off-Street Parking.* At least fifty percent (50%) of provided parking spaces shall be located so as to not project between any front building face and any adjoining street, except an alley. The Planning Commission may require designation of certain spaces for use of residents only on the development plan.

(e) *Accessory Structures.* Shall be regulated as follows:

1. The sides of any parking structure shall include one (1) or more of the following features:
 - a. First floor retail or office uses.
 - b. Murals or public art on at least fifteen percent (15%) of the building face.
 - c. Display cases on at least ten percent (10%) of the building face.
 - d. Landscaping in an area of at least five (5) feet in width, with plantings as specified in Article 18 for edges of vehicular use areas.
2. Any garage doors shall meet one (1) of the following criteria:

- a. The garage door shall face perpendicular to or away from any adjoining street.
 - b. The garage door shall be offset at least four (4) feet behind the primary wall plane.
 - c. If flush with the primary wall plane, the garage door shall not cover more than thirty percent (30%) of the surface area of the wall plane.
- (f) *Parking for Bicycles.* For projects with three (3) or more dwelling units, four (4) bicycle rack spaces shall be provided per every three (3) units, with a maximum requirement of twelve (12) spaces.

~~(g) Site Lighting. Site lighting shall be restricted as follows:~~

- ~~1. Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.~~
- ~~2. Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.~~
- ~~3. Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.~~
- ~~4. Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height, unless specifically used to light an outdoor recreation facility, such as a tennis court, ball field, or similar use.~~
- ~~5. Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, and shall be shielded or equipped with cutoffs so as to prevent undue light spill onto adjoining properties.~~

~~(g) (h) Increased Setback for Building Height Differences.~~ In cases where the proposed mixed use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, ~~the Commission may require the establishment of a minimum 1:1 height-to-yard ratio for the adjoining side yard shall be provided., additional screening, or other mitigating measures as deemed appropriate to address compatibility of mixed use structures to the surrounding residential structures.~~

~~(i) On Street Parking.~~ The number of on-street parking spaces, calculated at one (1) space for every twenty-two (22) feet of curb length or the number of marked spaces, may reduce the number of off-street parking spaces required, as long as the reduction otherwise complies with Section 16-10 of this Zoning Ordinance.

~~Sec. 28-7. Effect of historic zoning.~~

~~In the event any Mixed use zone is created within an Historic District (H-1), the Board of Architectural Review shall perform its normal duties in the approval of a Certificate of Appropriateness. This shall include approval of specific details designed to accommodate the requirements of Sections 28-6(b), (c), (e), and (g), above.~~

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT****PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS**

APPLICANT: Urban County Council

PROPOSED TEXT: SEE ATTACHED (Note: **Red** text indicates the original initiation language, while **Blue** text represents a subsequent edit; text ~~stricken through~~ indicates a deletion.)**STAFF REVIEW:**

On April 4, 2024, the Kentucky General Assembly passed House Bill 443, which instituted new requirements to KRS 100 that apply to the process of development plan and subdivision plat review. Under this framework, development plans and plats would be required to reviewed ministerially, and the criteria for evaluating them would be based on objective standards. House Bill 443 requires that these updates be adopted prior to July 1, 2025. In February of 2025, the Planning Commission initiated a text amendment to update the Zoning Ordinance in order to meet the House Bill 443 requirements. The following report reviews the necessary changes to the existing regulations to ensure compliance with the requirements of House Bill 443, and to provide other clarification or process corrections to ensure clarity and consistency in the Ordinance's application.

TEXT AMENDMENT PROPOSAL

Below are summaries of the proposed changes to the Zoning Ordinance, organized by section.

Article 1 – GENERAL PROVISIONS AND DEFINITIONS

Within Article 1, several changes to the Definitions section of the Ordinance are proposed to eliminate inconsistencies, provide additional clarity, and reduce the number of redundant definitions.

Article 6 - AMENDMENTS

The first change proposed to Article 6 of the Zoning Ordinance relate to the process for initiating Zoning Ordinance Text Amendments. Under the current framework, requests for texts amendments can originate from any governmental body or citizen. This framework was the subject of a recent KY Attorney General opinion, which stated that KRS does not provide local jurisdictions with the authority to delegate the power to initiate a text amendment to non-government entities. Consistent with this opinion, the text amendment process is revised to reflect that such requests must come from the Planning Commission or the Urban County Council.

The second alteration to the language of Article 6 relates to the process for amending conditional zoning and other restrictions. The proposed alteration eliminates some ambiguity in the current language that relates to when hearings from the Urban County Council are required. The proposed change clarifies that the Urban County Council is not required to hold a hearing on removing or altering conditions, and do not preclude the Urban County Council from holding a hearing on a particular item if they so desire.



Article 9 – GROUP RESIDENTIAL PROJECT

Article 9 of the Zoning Ordinance, which provides for Group Residential Projects, needed several changes in order to align with the objective, ministerial process required by House Bill 443. These changes removed discretionary elements and removed the required Planning Commission public hearing for sites larger than five (5) acres.

Article 11 – INTERCHANGE SERVICE BUSINESS (B-5P) ZONE

Article 11 of the Zoning Ordinance, which deals with the Interchange Service Business (B-5P) zone, had several changes that needed to be made within the review process to bring the zone in line with the ministerial review mandated by House Bill 443. This removed some discretionary elements that applied to the locations where the zone was appropriate and removed language relating to the old development review process.

Staff is also proposing a change to a lot coverage requirement in the B-5P zone that was inadvertently established with the 2024 Urban Growth Management Zoning Ordinance Text Amendment (ZOTA-23-00006). At that time, a minimum lot coverage requirement was implemented within the Corridor Business (B-3) zone, in an attempt to intensify the land uses on our corridors. The lot standards of the B-3 zone are mirrored by reference in the B-5P zone. As a result, the lot coverage provision carried over to the B-5P zone's lot development standards, which was not intended. The B-5P zone, which is oriented exclusively towards providing services to the traveling public, is not an appropriate location for such a requirement, and so staff has recommended its removal. Outside of this text amendment process, the Planning Commission has initiated a separate text amendment to examine the lot coverage requirements for the B-3 zone.

Article 12 – COMMERCIAL CENTER (B-6P) ZONE

Article 12 of the Zoning Ordinance, which deals with the Commercial Center (B-6P) zone, had several changes that needed to be made within the review process to bring the zone in line with the ministerial review mandated by House Bill 443 as well. This removed some discretionary elements that applied to the locations where the zone was appropriate and removed language relating to the old development review process.

Additionally, Article 12 contained provisions relating to design guidelines for “Big Box” stores within the zone, which are defined as buildings with greater than 80,000 square-feet in size. These guidelines provided additional design, site layout, and connectivity considerations for the Planning Commission to review. Those guidelines have been shifted to requirements, and converted into objective standards that no longer require Planning Commission review.

Article 15 – GENERAL REGULATIONS FOR HEIGHTS, YARDS, ETC.

Within review of Article 15, staff identified a provision that had been resulting in significant delays with development, especially within the Infill and Redevelopment Areas. This provision required that increases to the depth of a building past fifty (50) feet required an increase in the required side yard setback. This provision resulted in conflicts with many older nonconforming structures, as increases in the depth of the building was resulting in the structure becoming more nonconforming with respect to their side yard setback. As a result, many projects required variances for additions that otherwise met all other Ordinance provisions. Removing this language will help simplify development, especially within the Infill and Redevelopment Area.



Article 16 – GENERAL REGULATIONS FOR VEHICULAR USE AREAS

In conjunction with the Division of Traffic Engineering, several changes are proposed to Article 16 of the Zoning Ordinance, which deals with vehicular use areas. A number of significant changes were proposed for drive-through facilities. While this text amendment does not change the zones where drive-up windows and drive-through facilities can be located, new objective standards are provided to clarify how such uses are designed. Under the proposed revisions, requirements that govern where on a site drive up windows and drive through facilities can be located, how much stacking for the uses are required, how such facilities are required to be screened, and the instances in which pedestrian facilities are required.

Additionally, the Ordinance provides new standards for evaluating commercial access. Many of these standards have been a part of the standard review process for the Division of Traffic Engineering but are now being objectively codified with this text amendment. These codified standards include minimum and maximum dimensional requirements, spacing and alignment standards, parking specifications, and other standards. These provisions are anticipated to be supplemented by the provisions of the Traffic Engineering Manual and the Complete Streets Manual, which will need to be adopted by the Lexington Fayette Urban County Government through a separate process.

Article 18 – LANDSCAPE AND LAND USE BUFFERS

In conjunction with the Division of Environmental Services and the Division of Solid Waste, several changes were proposed to Article 18, which regulates required landscaping and screening. The changes include clarification on the landscaping requirements when redevelopment occurs, screening requirements for dumpsters and solid waste areas, as well as removing elements of the section which did not refer to objective standards.

Article 21 – DEVELOPMENT PLANS

The proposed changes to Article 21, which regulates the Development Plan process, are among the most substantial proposed under this text amendment. The current Development Plan process requires that all Final Development Plans (including major amendments) be reviewed and approved by the Planning Commission. These plans are approved on a conditional basis, with a list of conditions needed in order to be certified. Currently, many of those conditions relate to the approval of specific staff sign-offs, who review and interpret the Ordinance, as well as other adopted manuals, guidelines, and apply those requirements and best practices.

In order to comply with House Bill 443, the review of such plans would be required to be ministerial, and approvable at the staff level. Under the new framework, the Planning Commission would only review Final Development Plans if there was a waiver associated with the request, or if the Planning Staff or Technical Review committee identified a specific threat to health, safety, or welfare posed by the development. Under the House Bill 443 framework, Preliminary Development plans are not required to be reviewed ministerially, and could continue under the current process, with review by the Planning Commission Subdivision Committee, as well as a Planning Commission public meeting.

Revisions to Article 21 establish the updated process for Technical Review Committee review, the timelines associated with the review, and the establishment of a waiver process. Revisions also



include updating the requirements of what information is included on a development plan, standard notes and plan certifications.

Article 23 – EXPANSION AREA ZONING CATEGORIES AND RESTRICTIONS

Article 23 of the Zoning Ordinance deals with the process and procedures relating to development with the 1996 Expansion Areas. Development Plans within these areas are currently required to be heard and approved by the Planning Commission, and have specific notification requirements as well as compliance statements. That requirement has been removed, and now plans in those areas that meet the necessary conditions for approval can be approved ministerially.

Article 28 – MIXED USE ZONES

Within Article 28, the proposed changes address issues of consistency that arose when the provisions of the Neighborhood Business (B-1) zone changed when the Urban Growth Management ZOTA was adopted. These changes ensure the uses present and allowable within the mixed-use zones align property with the other commercial uses. Additionally, changes were made to ensure that the process and review of the mixed-use zones were based on objective standards that could be applied ministerially.

EVALUATION

In staff's review, the proposed changes satisfy the requirements of House Bill 443. The proposed language changes clarify existing definitions and processes, establish a new framework for Development Plan review, and ensure that the ordinance is being applied with objective standards.

The PROPOSED STAFF ALTERNATIVE TEXT is attached for further review and consideration.

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

1. The proposed text amendment makes the necessary change to existing Zoning Ordinance provisions to allow them to be administered ministerially, in line with the requirements of House Bill 443.
2. The proposed language provides for pathways for review and consideration by the Planning Commission in instances where a development plan cannot meet the objective criteria, or if the proposal would result in a threat to the public health, safety, or welfare.

DAC/TLW

3/5/2025

Planning Services/Staff Reports/ZOTA/2025/PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS



Sec. 1-11. - Definitions.

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

Assisted living facility means a residential facility, other than a nursing home, with multiple and separate living facilities-units, generally for persons who are fifty-five (55) years of age or over, meal preparation, laundry services, room cleaning, transportation, and/or recreation may also be provided, as well as some medical services, exclusively for the residents of the facility.

Division of engineering manuals (also known as the engineering manuals, or the manuals) is a set of ~~seven (7)~~ eight (8) documents to provide standards for the design, review, construction, maintenance and inspection of infrastructure. The engineering technical manuals are construction inspection (also known as the inspection manual), geotechnical, roadway, sanitary sewer and pumping station, stormwater, and structures. In addition to the six (6) technical manuals, a procedures manual for infrastructure development (also known as the procedures manual) establishes the responsibilities and procedures to be used by the Lexington-Fayette Urban County government, the land developer and the project engineer; and a maintenance manual for post-construction stormwater controls that outlines minimum maintenance requirements. These manuals are hereby adopted by the urban county government and incorporated into this Zoning Ordinance by reference. From time to time, the urban county government may revise, modify, or amend the manuals in conformance with the procedure established in the procedures manual. When any of the engineering manuals are cited by this Zoning Ordinance, the current edition, latest revision, shall be referenced.

Drive-through facility means a facility including, but not limited to, drive aisles, stacking areas, menu boards, order points, and pick-up points which accommodate customers in automobiles for the provision of goods and/or services.

Elderly housing means ~~multiple family structures containing at least twenty-four (24) units and solely devoted to housing families consisting of two (2) or more persons, of which the head (or his spouse) is sixty-two (62) years of age or over, or is handicapped; and single persons who are sixty-two (62) years of age or over, or are handicapped.~~

Environmentally sensitive area means any area, which, due to its natural or physical setting, may have environmental constraints concerning development; such lands shall include, but shall not be limited to, areas of steep slope (over 15%), floodplains, sinkholes, springs, blueline streams, ponds, areas of alluvial soils, improper fill, wetlands, significant areas of tree stands, and aquifer recharge areas.

Extended-stay hotel means a form of hotel ~~multiple family dwelling(s) with~~ allowing for rental or lease of less than one (1) week, provided such rentals or leases of less than one (1) week shall comprise less than fifty percent (50%) of the total dwelling units within the structure(s).

Geologic hazard area means an environmentally sensitive area where the environmental constraints are so numerous that development would pose a serious problem to the immediate area or the surrounding areas. Such areas may include, but are not limited to: areas of excessive floodplain, areas that have potential collapse problems due to caves, cliff areas, etc.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors; automobile and small engine repair; medical or dental offices; ~~palm reading or~~ fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Kennel means commercial business for the sale or temporary boarding or supervision of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence. Such uses shall include dog daycare uses.

Lot line, front, means in the case of a lot abutting upon only one (1) street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that the primary entrance to the parcel's principal structure is provided along that lot line provided that such choice, in the opinion of the division of planning or the division of building inspection, as appropriate, will not be injurious to the existing, or to the desirable future development of adjacent properties.

Micro-distillery means a distillery that produces fifty thousand (50,000) gallons or less of distilled spirits per calendar year and operated under a Class B License as defined by KRS 243.120.

Primary entrance means the place of ingress and egress for a structure used most frequently by the public.

Story means that the usable portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and ceiling next above it. A half-story means the portion of a building between the top floor and a sloping roof, with at least two opposite exterior walls meeting the sloping roof not over three (3) feet above such floor level. This uppermost half-story of a building shall constitute no more than one-half of the square footage of the floor below.

Stub street means a local or collector, closed-end street that is only acceptable as a temporary street condition. Stubs are similar to cul-de-sacs except that they provide no turnaround circle at their closed end. Stub streets shall only be used when a future continuation is planned.

Temporary construction trailer means a manufactured structure that is utilized on a temporary basis in connection with on-site construction work. Such structures shall be subject to the permitting and timing requirements of temporary structures, and are not for use for by the general public.

Vehicular use area (VUA) means any paved area, which is not exclusive to pedestrian use, containing more than eighteen hundred (1,800) square feet of area or used by five (5) or more of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; drive-through or drive-up window facilities; and sales and service areas. A driveway is considered part of a vehicular use area when adjacent to public streets or other vehicular use elements. Intervening curbs, sidewalks, or landscaping strips, etc., do not eliminate adjacency of VUA.

ARTICLE 6 - AMENDMENTS

Sec. 6-1. - Application for Zoning Map Amendment.

A proposal for amendment to the zoning map may originate only with the Commission, the Lexington Fayette Urban County Council, the owner of the subject property, or by a person having written authorization from the owner of the subject property. Regardless of the origin of the proposed amendment, an application must be filed with the Commission requesting the proposed amendment in such form and accompanied by such information as required by this Zoning Ordinance and the by-laws of the Commission. At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees as established by the Commission, however, there shall be no filing fee for an amendment requested by the Lexington-Fayette Urban County Council, the Commission, or any other governmental agency. Upon the filing of an application for a map amendment by a governmental body, the Commission shall promptly notify the owner of the subject property as required by KRS 100.

(a) *Traffic Impact Studies.* All significant developments requiring a Zoning Map Amendment shall submit a Traffic Impact Study. As used herein, the term "significant developments" shall mean any development which will generate more than one hundred (100) new trips and will have a potential impact on areas of congestion bottle-necks and high crash areas as identified by Transportation Planning staff; or alternatively, two hundred (200) or more additional (new) peak trips during the adjacent roadway's peak hour or the development's peak hour. The applicant shall have the responsibility of conducting and paying for the study. The preparer of a Traffic Impact Study shall be listed as pre-qualified by the Kentucky Transportation Cabinet in the service areas of Traffic Engineering or Transportation Planning.

The Urban-County Government will cooperate and coordinate with the applicant's team to provide any available data. To the extent that the Urban-County Government has done any independent traffic study pertinent to the proposed development, the results of such study shall be made available to the applicant.

Anticipated roadway improvements shall be determined by a review of the Transportation Improvement Program and in consultation with staff from the Divisions of Planning, Traffic Engineering, the Kentucky Transportation Cabinet, and other agencies as deemed appropriate. If the proposed development is within one (1) mile of any county boundary line, then any proposed roadway improvements in the adjoining county shall be included in the study.

The Transportation Planning staff shall review, analyze, and make recommendations on any Traffic Impact study to be submitted as evidence in a rezoning hearing regardless of whether or not such study is required by this Zoning Ordinance.

Sec. 6-5. - Forwarding of the planning commission's action to the urban county council.

Within fourteen (14) days of the Commission's final action to recommend that a zone map amendment be approved, approved with binding conditions or restrictions, or disapproved, or that a binding condition or restriction amendment be modified, the development plan(s) and/or other plans filed in conjunction with the map amendment shall be certified by the Commission's Secretary as set forth in Section 21-4 herein, or else the final action of the Commission on the zone map amendment shall be null and void. Any further consideration of the zone map amendment shall be treated as a new application and shall be reviewed as set forth herein. Upon certification of the plan(s), the Commission's Secretary shall forward its report in writing to the Urban County Council. This report shall include at least the application, legal description of the property, notification area map, staff report, minutes of the Planning Commission public hearing, and the findings of fact and conclusions of law and the recommendation of the Planning Commission, including any

binding conditions or restrictions to be imposed as set forth in Section 6-7 below. ~~Minutes of the Planning Commission public hearing shall be included in the final report whenever they are available.~~

Sec. 6-7. - Conditions to granting a zone map amendment.

Pursuant to KRS 100.203(8), ~~the~~ Planning Commission or the Urban County Council may, as a condition to granting a map amendment, restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category; impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and impose screening and buffering restrictions upon the subject property. In recognition that the aforementioned powers may be useful in accomplishing the purposes set forth in Section 1-3, but at the same time in recognition that such powers should be thoughtfully and sparingly used, the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced is set forth below.

- (a) *Criteria and Terms.* A binding restriction or condition may be imposed whenever one (1) or more of the specifications of this Zoning Ordinance for the proposed zoning category, if exercised by the applicant, would impair the integrity and character of the area in which the subject property is located or adjoining areas, unless restrictions or conditions as permitted in this Article are imposed in addition to those imposed in the Zoning Ordinance. Such restriction or condition may include, ~~but shall not be limited to, time limitations, requirements that one (1) or more things be done, or restrictions or conditions of a continuing nature, so long as the same are limited to the~~ matters set forth in this section 6-7. No restriction or condition may be imposed which shall deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.
- (b) *Procedure.* Imposition of binding restrictions or conditions may be considered at any point in the Zoning Map Amendment procedure. However, before the Commission recommends such a restriction or condition or the Urban County Council adopts the same, it shall make findings of fact and conclusions of law which are supported by substantial and competent evidence; which are not arbitrary or capricious; and which demonstrate that the effect of the proposed Zoning Map Amendment on the public health, safety and welfare in the area in which the subject property is located and adjoining areas has been considered. ~~The Council may also designate certain conditions or restrictions as amendable only by Council action. Any such condition or restriction so designated may only be amended, modified or removed by Council action as set forth under Subsection (c)(1) of this section. Conditions or restrictions not so designated may be amended, modified or removed by the established map amendment procedures established in section 6-4, except that alternate findings to address the modification, removal or amendment shall be considered by the~~ Planning Commission as set forth under Subsection (c) ~~(2)~~ of this section. Only when the Urban County Council holds its own public hearing or reviews the record and the transcript of the Commission hearing may the Council impose a binding restriction or condition not recommended by the Commission, or modify or remove a restriction recommended by the Commission ~~or designate certain conditions as amendable only by Council action.~~ Any binding restriction or condition finally imposed after completion of the Zoning Map Amendment process shall be included in the Urban County Council ordinance adopting the Zoning Map Amendment, a copy of which the Urban County Council Clerk shall furnish to the Divisions of Building Inspection and Planning.
- (c) *Amendment.* Modification, removal or amendment of conditions or restrictions shall be as follows:
 - (1) *Restrictions or Conditions* ~~Designated~~ *Adopted* ~~by the Urban County Council.~~ The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - (a) *Findings Required.* The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or

within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

- (b) *Procedure.* The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment; ~~except that a full public hearing by the Urban County Council shall be required in all cases.~~ The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.
- (2) ~~All Other Restrictions or Conditions Neighborhood Character Design (ND-1) Overlay Zone Standards.~~ The Planning Commission shall have final authority to consider and act upon requests for modification, removal or other amendment of Neighborhood Character Design (ND-1) Overlay Zone standards, which are adopted as map amendment ~~all other restrictions or conditions~~, in accordance with the procedure and requirements set forth in Subsection (c)(1) of this section, except that no Council action shall be required. In the case of a request to modify, remove or amend a Neighborhood Design Character Overlay (ND-1) zone restriction(s), the application shall ~~follow the procedure as set forth above, but shall~~ be reviewed by the Planning Commission for adherence to the requirements set forth in Subsection (c)(2)(a) of this section. In addition, notice shall be given to the members of the Urban County Council, to the Mayor and to the Council Clerk at least fourteen (14) days in advance of the public hearing. Members of the Urban County Council may appear and speak at the public hearing. The Planning Commission's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action, and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.
- (a) *Findings Required for ND-1 Overlay Zone.* The request may be granted by the Planning Commission only if the request for modification, removal or amendment is found to meet the following:
- (1) The granting of the modification, removal or amendment to an ND-1 Overlay restriction will not adversely affect the public health, safety or welfare, will not alter the essential character of the overlay district, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the ND-1 Overlay restrictions. In making these findings, the Planning Commission shall consider whether:
 - (a) The requested modification, removal or amendment arises from special circumstances that do not generally apply to land in the same ND-1 Overlay District;
 - (b) The strict application of the provisions of the restriction would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the ND-1 Overlay restrictions from which relief is sought; and
 - (d) The general intent and preservation goals of the ND-1 Overlay District are being met.
 - (2) The Planning Commission shall deny any request for modification, removal or amendment to an ND-1 Overlay restriction arising from circumstances that are the result of willful violations of the restriction by the applicant subsequent to the adoption of the ND-1 Overlay zone from which the amendment is sought.

- (b) The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
- (c) The decision of the Planning Commission shall be recorded in minutes and records and issued in written form to the applicant, the Division of Planning and the Division of Building Inspection to constitute proof of the change.
- (d) *Enforcement.* Binding restrictions or conditions imposed under this Article shall be enforced through subsequent development plans, subdivision plans, building permits, occupancy permits and other enforcement powers and shall be in addition to requirements imposed by such plans or permits and other laws or regulations.
- (e) *Judicial Review.* Imposition of binding restrictions or conditions pursuant to this Article shall be upheld on review if supported by substantial, reliable and probative evidence found within the record as a whole.

Article 9 - GROUP RESIDENTIAL PROJECTS

Sec. 9-1. - Intent.

The intent of this Article is to provide a means to permit two (2) or more detached buildings for residential purposes to be placed on the same parcel or lot of land in any R-1T, R-2, R-3, R-4 or R-5 zone, if approved as a Group Residential Project as provided herein, and to allow slight variations from the requirements of the zone in which it is located only as specifically provided herein.

Sec. 9-2. - Where required.

Any development in an R-1T, R-2, R-3, R-4, or R-5 zone, which proposes two (2) or more detached buildings for residential purposes on the same lot or parcel, shall be considered a Group Residential Project, and shall conform to the provisions of this Article.

Sec. 9-3. - Permitted uses.

The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that the following uses shall be permitted in a project approved on a final development plan:

- (a) Schools for academic instruction;
- (b) Places of religious assembly;
- (c) Canteens of less than five hundred (500) square feet in size for the sale of sundries and other incidental items to residents of the Project;
- (d) A sales or rental office of less than one thousand, two hundred (1,200) square feet in size, where contracts or leases can be obtained or executed;
- (e) Up to two (2) clubhouses for each Project; and
- (f) Recreational facilities, with or without game rooms and/or one (1) indoor theater; ~~shall be permitted in a project approved by the Commission.~~

Single-family detached units permitted under the R-2, R-3, and R-4 zones, with the exception of the Cottage House Project as defined in Section 9-8, are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single-family residential zones.

Sec. 9-4. - Detached buildings defined.

For the purposes of this Article, the term "detached buildings for residential purposes" shall be defined as single-family, two-family, or multifamily residential buildings, including ranch, motel or garden design types; townhouses; apartment buildings butted against each other; or apartment buildings connected by an open breezeway or similar connection. Buildings connected by breezeways or similar connections shall be considered to be detached buildings rather than one (1) building. Ranch, motel, garden, butted buildings or other design types may be counted as single detached buildings, as long as they do not exceed two hundred

(200) feet in length; and buildings exceeding this length shall be considered as two (2) or more detached buildings, and shall be permitted only in Group Residential Projects.

Sec. 9-5. - Review and approval.

The Division of Planning may approve site plans for a zoning compliance permit, after which the Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less; provided the proposed Project meets the requirements set forth under Section 9-6. ~~The Planning Commission shall review For all other Group Residential Projects on lots of more than five (5) acres, a final development plan shall be filed with the Division of Planning in compliance with the procedures and requirements of Article 21, within ninety (90) days of their filing with the Division of Planning, unless the applicant agrees to a longer period. Projects of five (5) acres or less may also submit a final development plan in order to establish the accessory uses listed in Section 9-3 above, be submitted to the Commission. Regardless of the size, the Commission may only approve those Projects which meet the requirements of Section 9-6. The following procedure shall be followed for approval of Group Residential Projects which require a final development plan by the Commission:~~

- (a) ~~Development Plan Required. The Commission shall require a~~ A final development plan ~~for all group residential projects on a lot of five (5) acres or more shall be required and~~ containing the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures. ~~The Commission shall review the plan for provision of safe, convenient, efficient and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.~~
- ~~(b) Public Hearing Required. The Commission shall advertise and hold a public hearing before proceeding to postpone, approve, conditionally approve or disapprove the plan for a Group Residential Project. Amendments to the plan shall follow the same procedure as provided in Section 21-7.~~
- ~~(b)~~ (e) *Certification of Approval.* The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(f).
- ~~(c)~~ (d) *Permits Required.* After certification by the Secretary of the Commission, the Divisions of Planning and Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

Sec. 9-6. - Group residential projects minimum design standards.

All Group Residential Projects, with the exception of Cottage Housing Projects, shall conform to the following minimum design standards:

- (a) Size. The ~~parcel~~ lot on which the Project is located shall not be less than the ~~minimum~~ lot area for the zone in which it is located.
- (b) Maximum Floor Area Ratio and Lot Coverage. For Projects in the R-3, R-4 or R-5 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located. ~~When additional open space is provided in excess of the minimum required by Subsection (h) of this section, the applicant may exceed the maximum floor area ratio by one percent (1%) for each one percent (1%) of additional usable open space that is provided, unless specific permission is given by the Commission to exceed said permitted floor area by not more than one percent (1%) for each one percent (1%) of additional usable open space that is provided over the~~

~~minimum required by Subsection (h) of this section. In any case, t~~ The maximum floor area shall not exceed, by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the total lot coverage shall not exceed twenty-five percent (25%) There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.

(c) Yard requirements. The minimum width of required yards shall be as follows:

- (1) Front Yard. Frontage along any public or private street shall constitute a front yard, ~~and more than one (1) may be designated for each Project, as appropriate.~~ The front yard shall be established as follows:

Zone	Minimum Distance
R-1T	10 feet
R-2	10 feet
R-3	20 feet
R-4	20 feet
R-5	20 feet

- (2) Project Exterior Yard. The Project exterior yard shall be established along the outside boundary of the property, except where a front yard has been established as required in Subsection (c)(1) of this section. Where a Project exterior yard is required, the distance between principal buildings and the outside boundary of the property upon which the Project is located shall not be less than the height of the building, nor twenty (20) feet, whichever is less. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.

- (3) Distances Required Between Buildings. The distances between principal buildings shall not be less than the required side yard in the zone in which the Project is located. Where the walls of the buildings are not parallel, or are broken or otherwise irregular, the average distance between the principal buildings shall not be less than as specified above, and shall at no point be less than one-half ($\frac{1}{2}$) the required side yard for the zone in which the Project is located.

- (d) Proximity to Drive. A part of every residential building shall not be farther than one hundred sixty (160) feet from an access roadway or drive providing vehicular access from a public street. Residential buildings shall not be closer than five (5) feet to any access roadway or drive.

- (e) Maximum Height. The maximum height of nonresidential buildings within a Project shall be thirty-five (35) feet. The maximum height of residential or mixed-use buildings within a Project shall be as follows:

Zone	Maximum Height
R-1T	35 feet
R-2	40 feet
R-3	40 feet
R-4	60 feet
R-5	80 feet

- (f) Parking Area. As for the zone in which it is located (See Articles 16 and 18 for additional parking regulations).

~~(g) Service Areas. Proper open spaces shall be devoted to service needs of the Project, including, among others, refuse collection areas and equipment service areas.~~

~~(g) (h)~~ Open Space. See Article 20 for open space regulations.

~~(h) (i)~~ Private Streets. Private streets may be permitted by the Commission. Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.

~~(i) (j)~~ Maintenance of Common Spaces. Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common spaces, a Home Owners' Association, or other mechanism for the provision of maintenance, improvement, and operations for all common spaces, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.

~~(j) Density of Use. For projects that include one hundred (100) or more dwelling units, a minimum of two (2) commercial access points shall be provided. For projects that include more than six hundred (600) dwelling units, a minimum of three (3) commercial access points shall be provided. Such commercial access point shall be unobstructed.~~

(k) -Other Requirements. Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

Sec. 9-7. - Group residential projects in the infill and redevelopment area.

Projects in the Infill and Redevelopment Area shall follow the same procedures set out as provided in Sections 9-5 and 9-6 herein for Group Residential Projects, except that such Projects may utilize the following alternative minimum design standards:

- (a) Provisions of the Underlying Zone. Projects in the Infill and Redevelopment Area may choose to comply in whole with the height; front, rear and side yard setbacks; and parking requirements as for the underlying zone rather than with Sections 9-6(b) through 9-6(f) above.
- (b) Bonus Floor Area. The maximum floor area shall not exceed one hundred twenty-five percent (125%) of the otherwise permitted maximum floor area in the zone in which the Project is located, provided the required usable open space has not been granted a dimensional variance. ~~Any Project that proposes a total floor area of more than one hundred percent (100%) of that permitted in the zone in which the Project is located, shall require that notice be provided to all property owners within four hundred (400) feet of the site, as outlined in Section 6-4(b) herein prior to Planning Commission consideration.~~
- (c) Open Space Reductions. Where proposed dwelling unit entrances or other applicable building entrances are located within ¼ mile (1,320 feet) walking distance along a walkable route of an existing LFUCG park, the minimum required useable open space shall be reduced by fifty percent (50%).
- (d) Front Yard Averaging. The front yard may be averaged as permitted in Section 15-2(a)(1) only if the primary wall plane of the building is parallel to the public or private street.

Sec. 9-8. Cottage housing project.

(a) Review and approval. Development Plan Required. No development shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, The Commission shall require an approved final development plan containing the information as

~~required by Article 21; and, in addition, specifying T~~he number and type of dwelling units for each building and use of other structures ~~shall be included. The Commission shall review the plan for provision of safe, convenient, efficient, and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.~~

(b) Project Site Requirements:

1. Minimum Project Size - twenty thousand (20,000) square feet.
2. Minimum Density - four (4) detached single-family dwelling units per twenty thousand (20,000) square feet; eight (8) attached single-family dwelling units per twenty thousand (20,000) square feet.
3. Minimum Project Lot Frontage - thirty (30) feet.
4. Minimum Project Setbacks.
 - a. Side Yard - five (5) feet.
 - b. Front Yard Setback - ten (10) feet.
 - c. Rear Yard Setback - ten (10) feet.
5. Cottage Housing Shared Open Space.
 - a. Shall be centrally located to the cottage house project.
 - b. Shall be a minimum of four hundred (400) square feet per cottage.
 - c. Abut at least fifty percent (50%) of cottages in a cottage housing development.
 - d. Have cottages on at least two sides.

(c) Cottage Requirements:

1. Cottages shall be oriented around and have the primary entrance from the shared open space.
2. Cottages shall be sited to avoid the rear of the building facing a street (other than an alley) to the greatest extent practicable.
3. Cottages shall be within sixty (60) feet of walking distance of the shared open space.
4. A minimum distance between structures shall be ten (10) feet, including accessory structures.
5. Cottages shall have a roofed porch with a minimum dimension of eight (8) feet on any side.
6. Minimum Lot Frontage - no limitation.
7. Maximum Cottage Size ~~Size~~ - one thousand five hundred (1,500) square feet.
8. Minimum Lot Size - no limitation.
9. Minimum yard requirements - no limitation.

(d) Parking Requirements: Per Article 16 and Article 18.

Article 11 - INTERCHANGE SERVICE BUSINESS (B-5P) ZONE

Sec. 11-1. - Intent.

The intent of this zone is to permit the establishment of limited commercial facilities which should be located at limited access highway interchange areas so that the traveling public is conveniently provided with transient type services without endangering the movement along, as well as access to and from, the limited access highway. The standards contained in this Article are intended to provide adequate protection for, and consideration of, the traveling public. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

Sec. 11-2. - Principal uses permitted.

The following are principal permitted uses in an Interchange Service Business (B-5P) zone:

- a. Automobile Service Stations and automobile and vehicle refueling stations providing full-service, self-service, or a combination thereof; including the sale of convenience-type merchandise in conjunction therewith in an enclosed building. Such uses shall conform to all requirements of Article 16.
- b. Facilities for the sale of convenience-type merchandise in an enclosed building in conjunction with pumps for the sale of fuel for vehicles.
- c. Restaurants, excluding drive-in restaurants.
- d. Cocktail Lounges, Nightclubs, Wine Tasting Rooms and Discotheques, with or without live entertainment or dancing.
- e. Brew-pubs, when located at least one hundred (100) feet from a residential zone, which shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
- f. Hotels and Motels.
- g. One Confectionery or Candy Store, not exceeding one thousand, five hundred (1,500) square feet, per interchange quadrant.
- h. Roadside stand and value-added product sales.
- i. Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare or deny such if public health, safety, or welfare are adversely affected. A carnival may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
- j. Temporary cellular telephone transmitting facility; not to exceed seventy (70) feet in height and with a 1:1 height to yard ratio.
- k. Car washing establishments, provided that surface water from such uses shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. The use shall be located at least one hundred fifty (150) feet from a residential zone or residential structure in a nonresidential zone; or the use shall be designed so that all vehicular stacking areas and machine operations, including vacuuming and mechanical washing, shall be conducted inside a building, or shall be separated from the residential zone or residential structure in a nonresidential zone by a building or an eight-foot solid wall.

Sec. 11-3. - Accessory uses permitted.

Accessory uses permitted in the B-5P zone are those uses which are customarily accessory, clearly incidental, and subordinate to any permitted principal use, such as:

- (a) Swimming pools.
- (b) Meeting rooms.
- (c) Tennis courts, putting greens, handball courts, and other similar indoor or outdoor recreational facilities.
- (d) Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
- (e) Bus agencies.

Sec. 11-4. - Conditional uses.

The following are conditional uses in an Interchange Service Business (B-5P) zone (Permitted only with Board of Adjustment approval):

- (a) Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - (1) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - (2) That a reasonable degree of reclamation and proper drainage control is feasible; and
 - (3) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- (b) Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
- (c) Seasonal activities.
- (d) Market gardens.

Sec. 11-5. - Prohibited uses.

All uses, other than those specifically named as permitted uses, shall be prohibited in the B-5P zone.

Sec. 11-6. - Locational standards.

A B-5P zone may be established only upon land having a minimum of five hundred (500) feet of frontage on a street designated ~~by the Commission~~ as an arterial and abutting a limited access highway interchange. ~~The~~

~~location of such B-5P zone shall have an acceptable relationship to the design of the limited access highway which it abuts.~~

Sec. 11-7. - Minimum design standards.

- (a) Access. There shall be no direct entrances or exits from any establishments to any arterial street unless acceleration and deceleration lanes not less than two hundred (200) feet in length and eleven (11) feet in width are provided for both directions of travel.
- (b) Non-conforming Uses. Development of a B-5P zone in accordance with the provisions of this Article shall include the removal of any non-conforming use located on the property involved.
- (c) Parking. No minimum requirements. (See Articles 16 and 18 for additional parking regulations).

~~Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~

- (d) Screening. Landscaping and screening shall be provided as required in Article 18.
- (e) Lot, Yard, and Height Requirements. Lot and yard requirements shall be as for the Corridor Business (B-3) zone ~~except for the lot coverage requirement~~. There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.
- (f) Minimum open space. See Article 20 for additional open space regulations.

Sec. 11-8. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6, ~~herein above, and in addition, as follows:~~

~~(a) Preliminary Development Plan Required. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 hereinbelow~~

~~(b) Final Development Plans Required. Within two (2) years of approval by the Urban County Council of any B-5P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the B-5P zone to its previous zone or other appropriate zone may be filed by the Commission, as provided under Article 6 hereinabove. The final development plan shall show the information as specified by Article 21 hereinbelow. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits the development plan.~~

~~(c) Building Permit Required. No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.~~

Article 12 - COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-7. - Locational standards.

A community commercial center shall abut, front on and have its principal access to and from ~~a street designated by the Commission as~~ an arterial or collector street ~~as deemed to be appropriate by the Commission.~~ A regional commercial center shall abut, front on, and have its principal access to and from a street designated ~~by the Commission as~~ an arterial. ~~The proposed commercial center shall be at a location where congestion will be minimized by provision in the plan for proper entrances, exits, transit, bicycle, and pedestrian facilities, and by internal provisions for traffic circulation and parking.~~

Sec. 12-8. - Minimum design standards.

The following minimum standards shall be met in the design of a planned commercial center:

- (a) Height Requirement. There shall be no height limitation.
- (b) Required Setback.
 - (1) Streetfront building setbacks (Four-story buildings and below), the building setback line shall be:
 - (i.) Arterial street: Fifteen (15) feet minimum.
 - (ii.) Collector street: Fourteen (14) feet minimum.
 - (2) Streetfront building setbacks (buildings above four (4) stories), the building setback line shall be:
 - (i.) Arterial street: Eighteen (18) feet minimum.
 - (ii.) Collector street: Sixteen (16) feet minimum.
 - (3) Side and Rear yard building setback: Ten (10) feet, unless adjacent to a residential zone, then a 3:1 height-to-yard ratio.
- (c) Screening.
 - (1) No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than two hundred (200) feet from the arterial or collector street.
 - (2) Any commercial center which directly adjoins any single-family residential zone shall be required to provide a buffer yard of six (6) feet in width, with one (1) tree for every thirty (30) feet of linear boundary from Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a six-foot-high fence, wall or earth mound. The responsibility for such a buffer shall be the B-6P property, although the buffer may be shared as provided in Article 18.
 - ~~(3) Pedestrian and/or bicycle connections and programmed amenities (such as seating, canopies, pergolas, and/or patios) which integrate the commercial center with adjacent residential zones shall be incorporated into the development plan at appropriate locations along the required buffer.~~
- (d) Lot Coverage and Floor Area Requirements. The ground area occupied by all the buildings shall not exceed the maximums noted below, based upon the minimum floor area requirements. Parking structures shall not be considered as a building for the purposes of this section.
 - (1) Community Commercial Center.
 - (i.) For a proposed development that meets the following locational criteria:
 - A. Ten (10) acres or larger;

- B. Smaller than thirty (30) acres;
 - C. Contains frontage along a collector street.
- (ii.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:
 - A. The minimum F.A.R. shall be 0.30.
 - B. The maximum Lot Coverage shall be 0.35.
 - (iii.) For a proposed development that meets the following locational criteria:
 - A. Ten (10) acres or larger.
 - B. Smaller than thirty (30) acres.
 - C. Contains frontage along an arterial street.
 - (iv.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:
 - A. The minimum F.A.R. shall be 0.4.
 - B. The maximum Lot Coverage shall be 0.30.
- (2) Regional Commercial Center.
- (i.) For a proposed development that meets the following locational criteria:
 - A. Thirty (30) acres or larger.
 - B. Contains frontage along an arterial street.
 - (ii.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:
 - A. The minimum F.A.R. shall be 0.5.
 - B. The maximum Lot Coverage shall be 0.3.
- (3) Special Provisions for All Centers.
- (i.) Increases in floor area over and above the minimum shall grant an increase in the maximum lot coverage at a rate of 2 to 1.
 - (ii.) Increases in floor area for residential uses shall grant an increase in the maximum lot coverage at a rate of 1 to 1.
 - (iii.) Minimum Open Space: See Article 20 for open space regulations.
- (e) Maximum **Required** Parking. Notwithstanding any other requirements of this Zoning Ordinance:
- (1) For any commercial center that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.
 - (2) For any commercial center that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.
 - (3) For any commercial center containing residential use(s), the residential use(s) there shall be a maximum of one (1) surface parking space per dwelling unit.
 - (4) Structure parking shall not count toward any maximum parking requirement.
- (f) Loading Areas. Notwithstanding any other requirements of this Zoning Ordinance, there shall be provided one (1) off-street loading space for each twenty thousand (20,000) square feet, or fraction thereof, of aggregate floor space of all buildings in the center. At least one-third (**1/3**) of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type. Such loading facilities shall be permanently and fully screened. The exact type and nature of such screening shall be determined by Article 18.
- (g) Lighting. Exterior lighting shall be regulated by Article 30 and restricted as follows:

- (1) Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.
- (2) Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.
- (3) Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.
- (4) Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height unless specifically used to light an outdoor recreation facility such as a tennis court, ball field, or similar use.
- (5) Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, ~~and shall be shielded or equipped with cutoffs~~ and shall meet all requirements of Article 30, so as to prevent undue light spill onto adjoining properties.

~~(h) Multi-Modal Accommodation. The applicant shall, on the submitted development plan or on a separate exhibit, provide a proposed multi-modal improvement plan designed to accommodate all users for the entirety of the property, as well as connecting to any planned and/or existing public facilities. For redeveloping or infill sites, the multi-modal improvement plan shall also be a guide for future improvements as redevelopment occurs.~~

~~(h) (i)~~ Transit Facilities.

- (1) For all commercial centers located along a transit route, a minimum of one (1) transit shelter and with seating shall be provided on such route, and shall have sidewalk connections a minimum of five (5) feet in width to both the internal and perimeter pedestrian circulation systems. Such transit shelter shall not be required when an existing transit shelter is present within ¼ mile of the development along the same side of the roadway, and connected to the development with a continuous sidewalk network required and indicated clearly on the development plan to the approval of the local transit authority. Adequate pedestrian facilities to serve the required transit infrastructure, both along the right-of-way and internal to the site, shall be to the approval of the Metropolitan Planning Organization (MPO). It will be strongly encouraged that the development plan afford appropriate facilities and accommodations for additional ridesharing services.
- (2) No zoning compliance permits shall be issued for the commercial center until all approved transit infrastructure is constructed in accordance with the approved final development plan.

Sec. 12-9. - Design guidelines standards for "big-box" retail establishments.

It is in the best interest of Lexington-Fayette County to minimize the possible "blighting" effect that abandoned shopping centers and large retail establishments can have on the larger area or neighborhood in which they are located. By imposing additional standards in the form of design guidelines standards for such centers, these effects can be minimized, and future redevelopment and reuse of vacant retail buildings encouraged through proper facility design, without expenditure of public funds. ~~For~~ this reason, the Planning Commission has adopted the following design guidelines standards for commercial centers containing a single "big-box" establishment larger than eighty thousand (80,000) square feet in size (referred to as principal building below): ~~These additional standards are listed in Design Guidelines for "Big-Box" Establishments incorporated by reference, and are consistent with guidelines which have been established in other cities and counties across the United States for such facilities. These design guidelines are intended to provide professional designers and the Planning Commission with direction for improved development plans which address the following issues:~~

- (a) ~~Variation in building heights and identifiable customer service entrances and pedestrian entryways; For every hundred (100) feet of linear wall along the primary wall plane of the principal building and any additional buildings attached to the principal building, there shall be a corresponding inset, offset, projection or reveal a minimum of three (3) feet in dimension.~~
- (b) ~~Uninterrupted facades, windows, allowance for smaller stores or departments having exterior entrances, and back or side facades; Customer entrances are required along all exterior walls facing a public or private street or access easement constructed to serve as frontage. Where this involves more than two sides of a principal building, this shall only apply to two (2) sides of such building.~~
- (c) ~~Landscaping and/or screening of outdoor display of building materials or other similar bulky products, and of trash collection and loading areas; Loading docks, trash collection areas, and outdoor storage of materials shall not be located within the front yard.~~
- (d) ~~Pedestrian circulation in relation to vehicular movement and common open spaces for pedestrians Sidewalks a minimum of five (5) feet in width are required along the full length of any exterior wall featuring a customer entrance or an off-street parking lot, and along sides of the lot that abut a public or private street.~~
- (e) ~~Walkways and sidewalks must be covered with awnings or other weather protection at all customer entrances, provided at least twenty percent (20%) of the sidewalk along the exterior wall is covered in front of the entrance.~~
- (f) ~~Sidewalks a minimum of five (5) feet in width shall be provided to connect the customer entrance locations to the public or private right-of-way. A maximum of one (1) crosswalk is allowed to make the connection.~~

Sec. 12-10. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-6P zone shall be the same as provided in Article 6 hereinabove, in addition, as follows:

- (a) Preliminary Development Plan Required. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment, with the information as specified in Article 21; and, in addition, approximate total gross floor area of anticipated retail facilities; the approximate total gross floor area of anticipated office and service facilities; the approximate number of anticipated off-street parking spaces; and the stages which will be followed in the construction of the proposed commercial center.
- (b) Final Development Plan Required. The procedure for a Final Development Plan shall be the same as provided in Article 21.
 - (1) ~~Within two (2) years of final approval by the Urban County Council of any B-6P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and action; otherwise, an application to change the B-6P zone to its previous zone or other appropriate zone may be filed by the Commission as provided under Article 6 hereinabove.~~
 - (2) ~~The final development plan shall show the information as specified by Article 21, Development Plans. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits his development plan.~~
- (c) Building Permit Required. No building permit shall be issued until a final development plan has been approved ~~by the Commission~~ and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.

Article 15 - GENERAL REGULATIONS FOR HEIGHTS, YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES AND INFILL/REDEVELOPMENT CONSTRUCTION

Sec. 15-2. - Yards.

Except as otherwise specified herein, every lot shall have a front yard, a rear yard, and a side yard on each side, the least depths of which shall not be less than those specified for the respective zone, or as contained in the small lot provisions for each residential zone.

(a) Front Yards.

- (1) *Required Front Yard for Redevelopment of a Lot.* In any residential zone, whenever a principal structure is destroyed or demolished by any means, any subsequent principal structure on that lot shall be located within ten (10) feet of the same setback as the previous structure, except as provided in the small lot provisions established for each residential zone. Where the setback of the original structure cannot be determined, or if the lot is vacant, the setback of the new structure, including any projections, shall be within ten (10) feet of the average front yard of the principal structures on the two (2) lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two (2) lots immediately adjoining, but shall be at least ten (10) feet. In no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.
- (2) *Required Front Yard for Building Additions.* In any residential zone, whenever an addition is made to the primary wall plane of an existing principal residential structure, any addition to that structure shall be located within ten (10) feet of the average front yard of the principal structures on either side of the subject property, provided they are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two (2) lots immediately adjoining, but shall be at least ten (10) feet. If the lots on either side of the property in question are vacant, then the setback required for the specific zone shall be used to determine the front yard required for any building addition; but in no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.
- (3) *Yard on Street Side on Lot Adjoining or Facing a Residential Zone.* On a lot in any nonresidential zone sharing the same block front with a lot in any residential zone, the depth of the minimum required front yard shall equal the required front yard depth for that residential zone, or as contained in the small lot provisions for the residential zone.
- (4) *Front Yards on Through Lots.* On any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line. In residential zones, the small lot provisions will apply. In the event that one (1) of the streets is an alley, the required front yard along the alley shall be the equivalent of fifty percent (50%) of the otherwise required front yard for the zone in which it is located. Alignment of existing structures shall not be used to determine a building line along a rear alley.
- (5) *Front Yards Not Parallel to the Building.* Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the front yard required for that zone, or as contained in the small lot provisions for residential zones. No wall of a building shall encroach more than five (5) feet into the otherwise required front yard depth.

- (6) *Required Front Yard for Infill and Redevelopment of Lots in Business Zones.* On a lot in a business zone and inside the Infill and Redevelopment Area, the required front setback (minimum and maximum) of the building shall be within five (5) feet of the average front yard of the principal structures on the two (2) lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. This setback shall be considered more restrictive than the underlying zone setback when applicable.
- (b) *Side Yards.*
- (1) *Side Yards Decreased for Narrow Lot.* For each foot by which an existing lot of record at the time of enactment of this Zoning Ordinance is narrower than fifty (50) feet, and where the owner of record does not own any adjoining property, one and one-half (1½) inches may be deducted from the required least width of any side yard for buildings not exceeding two and one-half (2½) stories in height. In no case may a side yard be narrower than three (3) feet at any point. For any lot within the designated Infill and Redevelopment Area, the special provisions for the Infill and Redevelopment Area contained in Article 8 shall take precedence.
- ~~(2) *Side Yards Increased for Deep Buildings.* In any zone where a side yard is required, the least width of each side yard shall be increased by one (1) inch for each foot by which the side wall of a building adjacent to a side yard exceeds fifty (50) feet.~~
- ~~(2) (3) *Additional Yard Requirements for Certain Multifamily Structures.* In addition to other yard requirements, whenever the principal entrance to a multifamily structure, or the entrance to the individual dwelling units therein, faces on and opens directly onto the side yard portion of the building, that side yard width shall not be less than the front yard requirement, or thirty (30) feet, whichever is greater. No parking shall be permitted within the side yard space required under this provision.~~
- ~~(3) (4) *Side Street Side Yard.* On a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.~~
- ~~(4) (5) *Side Yard Exceptions for Attached Dwellings.* In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.~~
- ~~(5) (6) *Side Yards Not Parallel to the Building.* Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width. At no point shall the side yard be narrower than one-half (½) the otherwise required side yard; nor shall it be narrower than three (3) feet, in any case.~~
- ~~(6) (7) *Side Yard for an Addition to an Existing Building.* On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, if the side yard is legally non-conforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three (3) feet to the adjoining lot line. All provisions of Subsection (b)(2) of this section regarding increased side yards for deep buildings shall apply.~~
- (c) *Rear Yards.* Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard; provided, however, that such rear wall shall not at any point encroach any more than one (1) foot into the otherwise required rear yard.

Article 16 GENERAL REGULATIONS FOR VEHICULAR USE AREAS

Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in nonresidential and mixed-use zones.

- (a) Locational Standards for any P-1, B-1, B-3, B-5P, B-6P, CC, MU-1, MU-2 or MU-3, zones as well as any Supportive Uses in the ED zone:

- (1) On a corner lot, vehicular use areas shall not be in the front yard.
- (2) On all other lots a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to sixty (60) feet in depth as measured perpendicular to the street, whichever is greater, shall be permitted between the building and the street, except otherwise prohibited by a maximum setback.

- (3) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian walkways shall be provided between vehicular use areas.
- c. Where internal pedestrian walkways are required to cross a drive aisle at a distance of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of six (6) inches shall be utilized as part of the raised pedestrian crossing.
- d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- e. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

- (b) Locational Standards for any B-2, B-2A, B-2B zone:

- (1) There shall be no vehicular use areas located in the front yard or side street side yard.

- (2) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
- d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

- (c) Locational Standards for any B-4, 1-1, I-2, or ED zone:

- (1) There shall be a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to one hundred twenty (120) feet in depth as measured perpendicular to the street, whichever is greater.
- (2) Connection Standards:
 - a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. A minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
 - b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
 - c. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
 - d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

Sec. 16-7. Parking, loading and unloading areas permitted in required front or side street side yard in zones other than residential zones.

In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is a minimum of twenty-five (25) feet of depth sufficient depth between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

Sec. 16-9. Stacking area. Drive-Through Facilities and Drive-Up Windows

For any use which utilizes a drive-in or drive-through window or service area, a vehicular stacking area shall be provided for a minimum of five (5) vehicles. Such vehicular stacking area shall not include any spaces located at the windows or service areas, shall be provided wholly on the property and shall not include any right-of-way. Where menu boards or other stopping points are utilized before moving to the window or service area, the vehicular stacking area shall not include the space at the stopping point nor the spaces between that stopping point and the window or service area. The vehicular stacking area shall be subject to all yard, paving, landscaping and other requirements of a vehicular use area, as contained in Article 18.

- (a) A vehicular stacking area shall be provided for any drive-up window or drive-through facility. Such vehicular stacking area shall not include any right-of-way, shall be provided wholly on the property, and shall not interfere with the use of any parking spaces provided. The minimum number of required stacking spaces within the vehicular stacking area shall include the space at the initial point of service, including but not limited to, a window, menu board, service area or other stopping point. Each stacking space shall be twenty-two (22) feet in length. The vehicular stacking area shall not include the area between the initial point of service and any subsequent window, service area or other stopping point.

The vehicular stacking area shall be subject to all yard, paving, landscaping, and other requirements of a vehicular use area, as contained in Article 18 when vehicular traffic entering the drive-thru and traffic within an adjacent drive aisle are moving in opposite directions in order to provide separation between the drive-through lane and other drive aisles on the site.

- (1) For drive-up windows, a minimum of three (3) stacking spaces shall be provided.
- (2) For quick-service food and beverage services, accessory to a restaurant, a minimum of six (6) stacking spaces shall be provided for the first drive-through lane. For any subsequent drive-through lane a minimum of three (3) stacking spaces shall be provided.
- (3) For quick-service food and beverage services without indoor service or seating, and provision of retail products, including packaged food and beverages, a minimum of six (6) stacking spaces shall be provided per drive-through lane.
- (4) For banks, and pharmacies a minimum of three (3) stacking spaces shall be provided for the first drive-through lane, with no additional stacking spaces required for multiple lanes.
- (5) For self service car-wash facilities, a minimum of two (2) stacking spaces shall be provided per bay.
- (6) The number of required stacking spaces may only be modified or waived by the Planning Commission on a final development plan based on the recommendations of an Operational Plan if the Planning Commission makes a finding that modifying the minimum stacking requirements will not impede traffic circulation on-site, negatively impact adjoining properties or land uses, nor create a public safety hazard.
- (7) An Operational Plan shall include the following:
 - a. A site plan with an applicable tracking path simulation (e.g. AutoTURN) for the design vehicle of the drive-through facility;
 - b. The required stacking area;
 - c. The drive-through width; and
 - d. The pedestrian circulation.
- (b) General Standards for Drive-Up Windows - Drive-up windows, including the stacking area, shall be screened from any adjoining residential use or zone, public park, place of religious assembly, school, or childcare facility by a 6-foot tall, solid fence in addition to any VUA or property perimeter screening required by Article 18.
- (c) General Standards for Drive-Through Facilities shall meet the requirements established for Drive-Up Windows, in addition to the following:
 - (1) Drive-through lanes shall be a minimum of ten (10) feet and a maximum of twelve (12) feet in width.
 - (2) A minimum of one direct pedestrian walkway a minimum of five (5) feet in width shall be provided that allows pedestrians to access the building from the right-of-way without crossing drive-through lanes.
 - (3) All components of the drive-through facilities, including but not limited to menu boards, stacking lanes, ordering points, and other objects associated with the drive-through shall be located to the side or rear of the building.
 - (4) If a bail out lane for unobstructed exit capability is provided, it must be a minimum width of 10 feet and run parallel to the drive-through lane. If such bail out lane is also an interior access drive providing access to parking spaces, the bail out lane is limited to a one-way traffic pattern following the direction of the drive-through lane.
 - (5) Pedestrian walkways shall be clearly visible and emphasized by enhanced paving or markings where they intersect drive-through lanes.

Sec. 16-12. - Bicycle parking and storage.

- (a) Where vehicle parking is provided, bicycle parking facilities shall be provided and shall meet the following standards:
- (1) Bicycle parking shall be provided at a rate of one (1) space for every ten (10) vehicular spaces or fraction thereof;
 - (2) Bicycle parking facilities shall be securely anchored;
 - ~~(3) Short-term bicycle parking facilities shall be located within fifty (50) feet from the entrance;~~
 - (4) Long-term bicycle parking facilities shall be constructed with at least one of the following features:
 - a. A bicycle locker or similar structure manufactured for the purpose of securing and protecting a standard size bicycle, or;
 - b. A secured and dedicated bicycle parking area provided either inside the principal building on the lot, or in a building located elsewhere on the lot.
- ~~(b) Where bicycle parking is provided externally, such parking shall be located adjacent to the building and within twenty (20) feet of a building main entrance. Bicycle parking shall be located so the bicycles do not impede the pedestrian through movement when parked.~~
- ~~(c) Where bicycle parking facilities are provided within a parking structure, the storage area shall be within ten (10) feet of one (1) or more of the following: an external pedestrian access, stairway tower, and/or an elevator tower.~~
- ~~(d) 50% or greater of the required bicycle parking for multi-family developments shall be covered and either located adjacent to the dwellings or in a secure location internal to the structure. The bicycle parking shall be divided equally by total number of units per building and then multiplied by the number of buildings in order to serve the development equally.~~
- ~~(e) Each bicycle rack shall accommodate a minimum of 2 bicycles.~~

Sec. 16-15. Commercial Access Standards.

Commercial access to a property shall be governed by the following standards and in concert with the adopted Land Subdivision Regulations. Commercial access shall defined as access for the following land uses: multi-family residential; professional services, and banks; institutional uses; schools for academic instruction; businesses for retail sales and eating and drinking establishments; places of religious assembly; commercial parking lots or structures; indoor or outdoor recreation and athletic facilities; hotels of any type; nursing homes, personal care facilities, rehabilitation homes and assisted living facilities; community centers and private clubs; light and heavy industrial; warehouses and storage; and other businesses not specifically identified above.

- (a) Proposed commercial entrances shall aligned with existing curb cuts or existing street features on the opposite side of the street. If entrance locations cannot align, then the proposed commercial entrance shall be a minimum distance away from any other entrance based upon as the following:

<u>Posted Roadway Speed</u>	<u>Distance Between Commercial Entrances</u>
<u>25 MPH</u>	<u>100 feet</u>
<u>35 MPH</u>	<u>150 feet</u>
<u>45 MPH or greater</u>	<u>200 feet</u>

- (b) Proposed commercial entrances, except for right-in/ right-out access points, shall be a minimum width of twenty (20) feet and a maximum width of thirty (30) feet, measured at the right-of-way line.

- Driveway width, apron flare and curb radius must meet all Fire Code or LFUCG Division of Fire standards.
- (c) A minimum fifteen (15) foot curb radius shall be provided for commercial entrances, shared access points and for any entrance from an arterial street. A maximum curb radius of thirty-five (35) feet shall be provided and must be supported by tracking path simulation (e.g. AutoTURN).
 - (d) Entrance spacing along frontage roads shall meet local road access spacing, with a maximum of two (2) access points.
 - (e) Proposed commercial entrances shall be a minimum of one hundred (100) feet from any at-grade railroad crossing right-of-way.
 - (f) Where a median exists in the right-of-way, entrances shall be aligned with median openings.
 - (g) Appropriate storage and taper lengths, pavement markings (including raised pavement markings) for left turn lanes and monolithic median noses shall comply with design standards established by the Traffic Engineering Manual and LFUCG Standard Drawing ###.
 - (h) No parking spaces shall be permitted to back directly into a public or private street right-of-way. Existing parking lots shall be revised to meet current standards when there is a zone change or addition made to a principal structure of more than thirty percent (30%) of the floor area.
 - (i) When a site is redeveloped, existing entrances shall be removed, replaced or relocated unless they are in compliance with LFUCG Standard Drawing 307 for entrance apron design and width.
 - (j) Commercial entrances shall be located a minimum of three (3) feet from the property line or more to allow the corresponding apron flare to remain inside the projected property line and be in compliance with LFUCG Standard Drawing 307-1 or 307-2.
 - (k) Existing damage or damage caused during construction activity to existing right-of-way shall be repaired or replaced in concert with permitted construction activities, per Article 5 of the Zoning Ordinance.
 - (l) Gated primary entrances for a private street shall be prohibited. Gates shall meet the performance and operation guidelines of the Division of Fire and Emergency Services.
 - (m) Gated access points for "exit only" or "emergency access only" shall be located a minimum of thirty (30) feet from the curb to ensure vehicles can see the gate before entering. A "do not enter" sign shall be posted on the gate.
 - (n) Any proposed modification to existing LFUCG or KYTC signaling equipment must be reviewed and approved by the Division of Traffic Engineering. Grade changes adjacent to existing LFUCG signaling equipment will require replacement to current LFUCG Traffic Engineering Standards.

Sec. 16-16. Solid Waste Access Standards.

Refuse collection is provided by the Lexington-Fayette Urban County Government in accordance with the standards and procedures of Chapter 16 of the Code of Ordinances. Dumpsters and other solid waste areas shall be located, screened and maintained in accordance with the requirements of the Chapter 16 of the Code of Ordinances.

Article 18 - LANDSCAPE AND LAND USE BUFFERS

Sec. 18-2. - Sites affected.

- (a) New Sites. No new site development, building, or structure shall hereafter be constructed or vehicular use area created or used unless landscaping is provided as required by the provisions of this Article.
- (b) Existing Sites. Any development that expands, moves, removes, or reconstructs the building, structure, or vehicular use area (VUA) by thirty (30%) percent or more of a previously approved development plan by the Planning Commission shall comply with the provisions of this Article. Changes of less than thirty (30%) percent of the site shall comply with the provision of this Article only for the portions of the site being altered or modified.
- (c) Change of Use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.
- (d) Change of Zone. No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

Sec. 18-3. - Where landscape materials required.

This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, perimeter landscaping for incompatible land use areas, and landscaping for service areas.

- (b) Interior Landscaping for Vehicular Use Areas. Any open vehicular use area containing five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.

(4) Location for Interior Landscape Areas.

- a. A maximum distance of ninety (90) feet between interior landscape areas.
- b. At the end of every row of parking there shall be an interior landscape area.
- c. Every other row of double-loaded parking requires a continuous interior landscape area of a minimum of eight (8) feet in width when trees are provided or five (5) feet when no trees are provided.

- (7) Landscaping for Service Structures. All service structures shall be fully screened except when located in an R-1, R-2, B-4, I-1 or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air-conditioning units and condensers,

electrical transformers, dumpsters, and other equipment or elements providing service to a building or a site.

(a) Location of Screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure shall be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures. Screening for dumpsters and other solid waste service areas shall be installed and maintained in accordance with Chapter 16 of the Code of Ordinances.

(b) Protection of Screening Material. Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement of the shall be provided in accordance with the requirements of Chapter 16 of the Code of Ordinances within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.

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~~(9) Innovative Design Landscape Plan. Interior landscaping requirements for vehicular use areas may be modified on a development plan without a variance in accordance with an Innovative Design Landscape Plan. An Innovative Design Landscape Plan shall be certified by a landscape architect licensed to practice in the State of Kentucky.~~

~~The plan may include, but is not limited to:~~

- ~~a. Green infrastructure elements above and beyond existing requirements;~~
- ~~b. Provisions for solar or alternative energy production;~~
- ~~c. Vegetated areas that do not meet one or more of the above regulations, but still achieve the basic objectives of these regulations.~~

~~The plan shall be reviewed and approved by the Landscape Review Committee; and a finding shall be made by the Planning Commission and noted on the Final Development Plan. Such finding shall state that the proposed interior landscaping for the vehicular use area utilizes innovative landscape design elements to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare in accordance with Article 18-1.~~

Article 21- DEVELOPMENT PLANS

Sec. 21-4. - Development plan procedures.

The following shall be the procedure for ~~Planning Commission~~ consideration of any development plan.

- (a) ~~Pre-Application Meeting.~~ Prior to application for a final development plan, the owner/developer may request to meet with the appropriate staff members of the Division of Planning to discuss the proposed plan. The purpose of the pre-application meeting is to discuss the requirements, procedures and issues related to the proposed development to alleviate possible conflicts by early recognition of existing conditions, current standards, necessary infrastructure and adopted plans.
- (b) ~~On-Site Meeting.~~ Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.
- (c) ~~(b) Filing.~~ To formally request ~~Planning Commission~~ action on the development plan, the developer shall file a completed the required application information form, and submit a current deed for the subject property, copies of the plan, associated plans and studies as required by the Zoning Ordinance and pay the filing fee and copies of the plans as required by the Commission's adopted filing and fee schedules with the Division of Planning. ~~The Division of Planning shall make copies of the plan available to all other concerned agencies.~~
- (d) ~~(e) Review.~~ The Division of Planning shall facilitate the review of all development plans through the following steps:
 - (1) ~~Technical Review Committee.~~ The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Review Committee (TRC) to ~~try to ensure the plan meets all requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other adopted rules and regulations; as well as resolve all differences or conflicts.~~ Development plans that meet all ordinance requirements, manuals, regulations and rules may be approved by the Technical Review Committee and no further action by the Planning Commission will be required. The Technical Review Committee shall have a maximum of thirty (30) days to review a development plan. If the development plan meets all requirements within that timeframe, it shall be approved and certified by the Secretary of the Planning Commission in conformance with subsection (e) and (f) herein. If the development plan does not meet all requirements, it may be postponed until revisions are made to meet all requirements or the developer files a waiver request in compliance with Subsection 21-9. In the event a development plan has been postponed for a period of one (1) year from the initial application date, the plan shall become indefinitely postponed and will no longer be considered active. A development plan can be re-activated upon written notice to the Division of Planning and submission of materials in conformance with subsection (c) above.
 - (2) ~~Planning Commission Subdivision Committee.~~ Development plans may require further review by the Planning Commission's Subdivision Committee and the full Planning Commission under the following criteria and circumstances:
 - (a) ~~Additional guidance or recommendations may be required from boards and commissions as stipulated by other ordinances or agreements such as, but not limited to, the Royal Springs Aquifer Wellhead Protection Committee, or the Paris Pike Corridor Commission. Such recommendations and conditions shall be incorporated into the development plan. Relief from such recommendations and conditions may be granted by the Planning Commission at a public meeting.~~

- ~~(b) The developer requests a waiver to the requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations. Allowable waivers are further regulated by Subsection 21-9.~~
- ~~(c) The Division of Planning refers a development plan because a strict application of the requirements established by the Zoning Ordinance or other adopted rules and regulations would pose a specific threat to public health, safety or welfare in the affected area.~~
- ~~(d) The development plan filed in conjunction with a map amendment request that requires further evaluation relative to the adopted Comprehensive Plan or a Small Area Plan.~~
- ~~(e) The preliminary development plan associated with a map amendment request has expired and a new plan is necessary.~~

The Subdivision Committee will review all recommendations, and then forward their recommendations to the full Planning Commission for final action. These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.

- ~~1. The Subdivision Committee shall have the authority to require an applicant to prepare a traffic impact study for significant developments per Article 6-1(a).~~
- ~~2. The Subdivision Committee shall have the authority to require an applicant to prepare a Parking Demand Mitigation Study for significant developments per Article 16-14.~~

~~(e)~~ ~~(d)~~ *Commission Action.*

No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by the Subdivision Committee ~~unless this requirement is waived by the Commission under its adopted late filing procedures~~. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed ~~for Commission action~~ with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property or affected area. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e) hereinbelow. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

- (1) *Approval*. Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

- (2) *Conditional Approval*. Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
- (3) *Postponement*. Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
- (4) *Disapproval*. Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Subsection (b) of this section.

~~(f)~~ ~~(e)~~ *Certification of Approval*. Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Technical Review Committee or Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the ~~Commission's~~ approval becomes null and void:

- (1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owner's certification to the Division of Planning;
- (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension of no greater than one (1) year or reapproval of an expired plan, the Commission may require changes in the development plan ~~when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or~~ when applicable ordinances and regulations have been changed.

~~(g)~~ ~~(f)~~ *Timing Restrictions*. The following timing restrictions shall be applicable to development plans:

- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan, otherwise, the preliminary development plan shall be deemed as disapproved ~~by the Commission. A new preliminary development plan shall be required to be submitted and reviewed by the Planning Commission.~~
- (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of ~~Commission~~ action on the development plan, ~~otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission. Once expired, a new final development plan filing shall be required.~~

Sec. 21-5. - Types of development plans.

There shall be a preliminary development plan and a final development plan, defined as follows:

(a) *Preliminary Development Plans*. A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan.

(b) *Final Development Plan.* A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

Sec. 21-6. - Contents and format of development plans.

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding one (1) inch equals one hundred (100) feet) which enables clear presentation of required information. Required plan information shall be as follows:

- (a) Contents of preliminary development plan. A preliminary development plan shall contain the following information at a minimum:
- (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer; ~~and~~ written and graphic scale.
 - (2) The boundary of the subject property denoted with a solid line and bearings and distances, and its record plan designation (if available); ~~and the~~ record plan name or owner's name of all adjacent adjoining property. The boundary of all adjacent property shall be denoted with dashed lines.
 - (3) A vicinity sketch, oriented in the same direction as the design scheme, at a scale of one (1) inch equals two thousand (2,000) feet, labeled with roadways and identifying the subject property.
 - (4) Topography with contour intervals not greater than five (5) feet.
 - (5) Location, arrangement, and ~~approximate~~ dimensions of existing and proposed driveways, walkways, pedestrian crossings, parking areas and arrangement of spaces (including reserved parking, display areas, and compact spaces), point of ingress and egress (including all gates restricting vehicular access), traffic calming elements, access points for construction vehicles, and other vehicular and pedestrian rights-of-way or easements (as required by Article 16).
 - (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property, access points for all adjacent land, and stub connections that adjoin any portion of the subject property (both vehicular and pedestrian).
 - (7) Location, arrangement, and dimensions of existing and proposed ~~S~~screening, landscaping and buffering, (as required by Article 18), recreational and other open space areas (as required by Article 20).
 - (8) ~~Approximate size, location,~~ size, height, floor area, area arrangement and use of proposed and existing buildings, walls over three feet in height, fences, and canopies over drive aisles and signs.
 - (9) Storm drainage areas, floodplains, alluvial soils, conceptual drainage controls and stormwater retention and any other designated environmentally sensitive or geologic hazard area.
 - (10) ~~Proposed and Existing~~ easements for utilities or other purposes, including dimensions and labels.
 - (11) A tree inventory map and notes as required by Article 26.

- (12) Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
 - (13) A statistical summary of all pertinent site data, including site area in square feet and acres, zoning, building coverage and floor area, parking quantities, open space by type (total, common, usable and vegetative, tree canopy etc. Additional site statistics may be required based on the requirements of the zoning category. Statistical summary table shall meet the standards of the Division of Planning.
 - (14) Proposed and existing addresses for each lot, building and/or unit, and front yard and exterior building line(s).
 - (15) The approved conditional zoning, variances, waivers, conditional use permits or other binding restrictions for the subject property.
 - ~~(14) A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.~~
 - ~~(15) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."~~
- (b) Preliminary Development Plans shall contain the following general notes stating the following: A note stating that no
- ~~(1) No grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.~~
 - ~~(2) No building permits shall be issued unless and until a final development plan is certified by the Secretary of the Planning Commission.~~
 - ~~(3) All buildings, paving, signs, fences, walls and retaining walls that are depicted, described or required on this Development Plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.~~
 - ~~(4) The location of the fire hydrants, fire department or fire service features, if required, shall be approved by the Division of Fire, Water Control Office.~~
 - ~~(5) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."~~
 - ~~(6) (16) A Commission's certification to be signed by the Secretary of the Commission's Secretary if and when the plan is fully approved by the Planning Commission, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."~~
 - ~~(7) An alternative Commission's certification shall be used when the plan meets all requirements of the Zoning Ordinance and has not been acted on by the Planning~~

Commission, as follows: "I do hereby certify that this development plan complies with all provisions of the Zoning Ordinance."

~~(17) — A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~

~~(c) (b)~~ Contents of final development plan. All information required for preliminary development plans as required under Subsections (a) and (b) 1 through 17 of this section, above; except that that the plan information shall be of an exact nature, rather than approximate or general. In addition, the following information shall be required:

(1) Environmentally sensitive and geologic hazard areas, as defined in Article 1-11, shall also be depicted on a supplemental environmental plan sheet;

(2) Contour intervals shall be two (2) feet;

(3); A tree protection plan, data block, and tree protection areas as required by Article 26;

(4) A lighting plan as required by Article 30; and

(5) Proposed easements for utilities or other purposes, including dimensions and labels.

~~(4) shall be required and that the plan information shall be of an exact nature, rather than approximate or general.~~

Sec. 21-7. - Amendments to development plans.

Amendments to an approved development plans shall follow the steps established below. All development plan amendments shall meet the requirements established by the adopted Zoning Ordinance, the Land Subdivision Regulations, -and other applicable adopted rules and regulations.

~~can be made only by official Planning Commission action in a public hearing. However,~~

Aamendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

(a) Minor Amendments Defined. Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments:

- (1) Shall not decrease the overall land area in yards, or other open spaces;
- (2) Shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units;
- (3) Shall not increase the number or size of signs;
- (4) Shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation will not have a negative effect on traffic safety and movement.

(b) Procedures for Minor Amendments. Shall be as follows:

- (1) *Filing.* The developer shall file the following materials with the Division of Planning: a reproducible ~~tracing of the~~ plan prepared on Mylar or other material capable of ~~clear~~ reproduction ~~using ozalid print process~~; three (3) ~~blue or~~ black line prints of the ~~plan tracing; a current deed for the subject property~~; and a filing fee in the amount determined by the Commission's adopted fee schedule.
 - (2) *Review.* The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering, and others as appropriate to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, ~~or if the Division of Planning feels that shall refer the proposed amendment raises issues deserving the attention of to the Technical Review Committee or the full Commission, however, the plan shall be referred to the full Commission for action follow the process established in subsection 21-4 above.~~
 - (3) *Certification.* Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.
- (c) *Content and Format of Minor Amendments.* Minor amendments shall have the same content and format requirements as the original development plan, except that:
- (1) The title shall indicate the plan is a minor amendment;
 - (2) A note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note); and
 - (3) The following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Section 21-7 of this Zoning Ordinance."
- (d) *Content and Format of Major Amendment Requirements.* Major amendments to development plans shall have the same content and format requirements as the original development plan, except that:
- (1) The title shall indicate the plan is an amended development plan; and
 - (2) A note shall be added listing the exact nature of the requested changes.
- No plan change shall be considered in effect unless it is referenced in this note.

(e) *Major Amendment Procedures.* The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Section 21-4 above. However, in addition to the standards listed in Section 21-4(~~de~~), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, ~~or alter the essential character of the development as originally approved.~~

Sec. 21-8. - Relationship to land subdivision regulations.

The relationships between development plans and the Land Subdivision Regulations are established as follows:

- (a) *Applicability of Land Subdivision Regulations.* Although developments plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

- (b) *Development Plans Required Under Section 5-2(g) of the Land Subdivision Regulations.* Development plans required under Section 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this [Article 21](#) of this Zoning Ordinance.
- (c) *Development Plans and Preliminary Subdivision Plans May Be Combined.* It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:
- (1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.
 - (2) The plan shall show all information required for a development plan (preliminary or final as appropriate) and all information required for preliminary subdivision plans as set forth in Section 5-2 of the Land Subdivision Regulations.
 - (3) Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.
- (d) *Preliminary Subdivision Plan May Be Substituted for Development Plans Required in Conjunction with map amendment request.* It is recognized that in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivisions plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Section 21-3(c) hereinabove, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.

Sec. 21-9 - Waivers

The Planning Commission may consider waivers to modify, reduce or eliminate certain standards and minimum requirements established by the Zoning Ordinance which cannot be addressed through a dimensional variance. Use, conditional use, density, lot coverage and F.A.R. standards shall not be modified by this process. Waivers to the Land Subdivision Regulations, Engineering Manuals or other adopted regulations shall follow the specific waiver or appeal procedures established therein and shall take precedence over the procedures established in this section. Only site, building and structure design elements are subject to the waiver provisions of the Zoning Ordinance. Regulations that prohibit certain structures or activities (e.g. freestanding signs prohibited in certain zones), and other non-design related standards (e.g. limit on hours of operation) may not be waived.

- (a) Application Submission Requirements - Applications for waiver shall be submitted by the property owner or his/her agent and filed with the Division of Planning in accordance with these regulations. Applications shall be accompanied by appropriate supporting material and by the appropriate filing fee. The list of required supporting materials shall be available from the Division of Planning. Applications for waivers will not be accepted until all required materials and filing fees are submitted. At a minimum, the following materials shall be submitted with all applications for waiver:

- (1) A justification document which addresses as applicable the following items:
- a. The waiver will not compromise public health, safety, and welfare; and
 - b. The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and,
 - c. Either:
 - i. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
- (2) Unless determined by the Planning Director to be unnecessary, a site plan or development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.
- (b) Notice Requirements - Following receipt of a completed application, staff of the Commission shall provide notice of the request for modification or waiver to adjacent property owners on the proposal now under consideration for waiver. Addresses shall be obtained using current available data from the Property Valuation Administrator. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered.
- (c) Public Hearing - The Planning Commission shall hold a public hearing in order to consider a requested waiver. Requests for a waiver may extend review periods when associated with a development plan, but the waiver shall be approved or disapproved within ninety (90) days of the date it is formally filed with the Division of Planning, unless the owner or agent agrees to a longer period of time.
- (d) Findings Necessary for Granting of Waiver or Modification
- The Planning Commission may approve waivers of standards upon a finding that:
- (1) The waiver will not compromise public health, safety, and welfare; and
 - (2) The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and,
 - (3) Either:
 - a. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
 - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.
- (e) Additional Conditions - The Commission may impose additional conditions or restrictions intended to mitigate the impact of the modification or waiver. These conditions or restrictions shall be noted on the plan and are only able to be modified by the Planning Commission.

APPENDIX 23B. EXPANSION AREAS PROCEDURES AND REQUIREMENTS

Sec. 23B-4. Content and format for final development plans within the Expansion Areas.

Final development plans required pursuant to this Article shall meet, at a minimum, all information as required for a final development plan as set forth under Section 21-6. In addition, the following shall be a required part of the final development plan and shall be submitted at the time of the application:

~~(a) Comprehensive Plan Compliance Statement. This document shall set forth the developer's specific actions related to natural environment, land use, open space, housing, community design, public facilities, design features and criteria, density, and similar matters to demonstrate that the final development plan complies with the "Future Land Use" and "Community Design" Elements of the adopted Expansion Area Master Plan.~~

~~(a) (b)~~ Infrastructure Statement. This document shall set forth a project description including engineering and construction cost estimates prepared by a professional engineer for the public and/or private expenditures for system improvements that the developer proposes to construct, and for construction, or other development activity which will be in place prior to or in conjunction with the development. This document will demonstrate that the proposal complies with the "Infrastructure Element" of the adopted Expansion Area Master Plan. Any proposed or executed development agreement that is required or anticipated by the developer as set forth under Section 23C-7 hereinbelow shall also be a part of this statement. At the time of the application, the developer shall distribute copies of the Infrastructure Statement to the Chief Administrative Officer, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services. Such officials shall review the proposed statement and provide their comments to the Division of Planning during the review process. Planning Commission action.

~~(b) (e)~~ Other Information on the Final Plan. The final development plan shall indicate the developer's restrictions for lot sizes (minimum and, where appropriate, maximum); yard and setback restrictions; coverage restrictions; height limitations; floor area ratios; project lighting; or similar restrictive techniques to be established within the development or defined areas within it so as to achieve the purposes of the Expansion Area Master Plan and to prevent or minimize potential adverse effects upon properties within and in the vicinity of the proposed development.

~~(c) (d)~~ DTR Related Information. For any final development plan which proposes units permitted under a DTR, a copy of the Certificate of DTR shall be filed as a part of the application.

Sec. 23B-5. Review procedures.

Final development plans required under this Article shall follow the development plan procedures as set forth in Section 21-4, except that an Infrastructure Plan shall be required. Approval of the development plan will require staff certification that the plan is in compliance with the Infrastructure Element of the Expansion Area Master Plan as specifically modified herein.

~~(a) Staff Report on Compliance with Expansion Area Master Plan and Infrastructure. In addition to all other reports and recommendations from staff and review committees provided to the Commission, the Division of Planning shall prepare and submit for Commission review a report reviewing the final development plan's compliance with the Expansion Area Master Plan. The report shall review the statements and information provided by the developer under Sections 23B-4(a) through (d) above, and may make specific recommendations on design changes needed to establish compliance with the Expansion Area Master Plan. The Division shall include comments from all applicable Departments involved with public facilities within~~

the development, including the physical extent of the proposed project improvements, excavations, related capital improvements financing, regulations, and similar matters.

(b) Commission Hearing and Action. The Planning Commission shall advertise and conduct at least one (1) public hearing and shall approve, conditionally approve with conditions noted, or disapprove any request for action on a final development plan within one hundred twenty (120) days of its filing unless the applicant agrees to an extension of time beyond such period. The minimum notice shall include a newspaper notice placed not more than twenty-one (21) days, nor less than seven (7) days, in advance of the hearing, and the posting by the applicant of a sign in a conspicuous location on the property. The sign shall be constructed of durable material; shall not be less than four (4) feet by four (4) feet; shall state "development plan" in bold letters not less than three (3) inches in height; shall state the time, date, and location of the hearing and the phone number of the Division of Planning in letters at least one (1) inch in height, and shall be posted on the property at a location which is visible from the highest traffic volume roadway abutting the property not more than fourteen (14) days after the filing of the plan and maintained until the hearing date. The applicant shall provide an affidavit to the Planning Commission at the hearing, stating that the sign was posted as required and has been maintained on the property during the notice period to the best of the applicant's knowledge and ability.

(c) Commission Action. No development plan shall be considered for action by the Commission until it has been reviewed by, and recommendations made by, the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. The Commission will review all staff and committee recommendations, comments made in the public hearing, and shall then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify through conditional approval or disapproval the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations; or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property which cannot be properly mitigated.

(1) Further, approval of the development plan will require a finding on the part of the Planning Commission that the plan is in compliance with the Infrastructure, Future Land Use, and Community Design Elements of the Expansion Area Master Plan, and the Commission may disapprove or require modifications to the development plan to ensure such compliance, and the need to prevent or minimize adverse effects upon properties within or in the vicinity of the development. The Commission shall impose conditions regarding construction of required infrastructure and the proposed development to ensure that development is supported by infrastructure consistent with the Expansion Area Master Plan and any development agreement. The Commission shall permit the construction and bonding of required infrastructure pursuant to the provisions of Section 4-7 of the Land Subdivision Regulations.

(2) In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e). Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

(1) Approval means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

(2) Conditional Approval means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.

(3) Postponement means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.

(4) Disapproval means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required

~~herein. For any action of disapproval, the Planning Commission shall be required to make specific findings to support such action.~~

~~(d) Certification of Approval. Within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:~~

~~(1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan, including the signed owners' certification, to the Division of Planning;~~

~~(2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense.~~

~~In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.~~

Sec. 23B-6. Subdivision of land.

The following provisions shall apply to subdivision of land within the Expansion Area:

- (a) Applicability to Subdivisions. Except as expressly specified in this Article, all subdivision of land within the Expansion Area shall be required to comply with all procedures, requirements and standards of the Land Subdivision Regulations for major or minor subdivisions as applicable to the nature of the proposed subdivision.
- (b) Applicability to Development Plans. Where any development plan under this Article indicates a need or intent to subdivide property, all design and improvement standards contained in the Land Subdivision Regulations shall be applicable to the development plan.
- (c) Development Plan and Preliminary Subdivision Plan May Be Combined. The required development plan and preliminary subdivision plan may be combined as set forth in Section 21-8(c).

Sec. 23B-7. Amendments.

Amendments to development plans under this Article shall be as provided in Section 21-7 of this Zoning Ordinance, except as modified hereinabove.

Article 28 - MIXED USE ZONING CATEGORIES

Sec. 28-3. - Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:

1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half ($\frac{1}{2}$) acre.
3. ~~The parcel must be designated in a Medium, High, or Very High Density Residential, or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use.~~

(b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-1 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.

(c) *Accessory Uses.* The following shall be considered accessory uses in the MU-1 zone:

1. The accessory uses permitted in the P-1 and B-1 zone except for drive-through facilities.

(d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:

1. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

(e) *Prohibited Uses.* The following uses shall be prohibited in an MU-1 zone:

1. The following principal uses, in the B-1 zone: automobile service stations; parking ~~lots and~~ structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
2. The following accessory use in the B-1 zone: drive-through facilities, ~~the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.~~
3. All B-1 conditional uses.
4. All uses listed as prohibited in the B-1 zone.

(f) *Lot, Yard, and Height Requirements:* Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 1.0.
2. Height: Thirty-five (35) feet Maximum.

3. Front Yard: No limitation for first or second story; any third floor shall be set back at least fifteen (15) feet; also see Subsection (h)(5) of this section, below.
4. Each Side Yard:

For one- and two-story structures, ten (10) feet.

For three-story structures, twenty (20) feet.
5. Rear Yard: Ten (10) feet or thirty percent (30%) of lot depth, whichever is greater.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: No limitation.

~~(g) Off-Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g)~~ ~~(h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses.
2. Only one (1) principal structure shall be permitted per MU-1 site.
3. All residential uses shall be required to be in the same structure as nonresidential uses.
4. Within the Infill and Redevelopment Area, at least sixty percent (60%) of the front building wall shall be required to be built at the zero-foot setback line. When ~~the Planning Commission requires~~ additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement.
5. Signage shall be as permitted and restricted under Section 17-11(e) ~~for a P-1 zone~~.

Sec. 28-4. - Mixed use 2: Neighborhood Corridor Zone (MU-2).

Mixed use 2: "Neighborhood Corridor Zone (MU-2)" is hereby created and regulated as follows:

(a) Location Criteria. MU-2 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Boundary and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least one-half ($\frac{1}{2}$) acre and may not exceed a maximum area of four (4) acres.

~~3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.~~

(b) Principal Permitted Uses. The following shall be principal permitted uses in the MU-2 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zone except as specifically prohibited herein below.

(c) Accessory Uses. The following shall be accessory uses in the MU-2 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

(d) Conditional Uses: The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities, ~~as an adjunct to a permitted use as permitted in Article 8-16(d)5.~~
2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

(e) Prohibited Uses. Prohibited uses shall be as for the MU-1 zone, except for drive-through facilities which are permitted as a conditional use.

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Fifty-five (55) feet.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; also see Subsection ~~(h)~~(g)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum seventy-five percent (75%).

~~(g) Off Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g) (h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen

percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-2 project has reached ten thousand (10,000) square feet of commercial use, additional commercial square footage will not be required.

- ~~2. For any MU-2 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-2 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above.~~

- ~~2.~~ 3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. ~~Where the Planning Commission requires~~ When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

- ~~3.~~ 4. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11 (n) of this Zoning Ordinance.

Sec. 28-5. - Mixed use 3: Mixed use Community Zone (MU-3).

Mixed use 3: "Mixed use Community Zone (MU-3)" is hereby created and regulated as follows:

- (a) *Location Criteria.* MU-3 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Area and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.

2. The parcel must contain at least three (3) acres.

- ~~3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.~~

- (b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-3 zone:

1. Dwelling units.

2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.

(c) Accessory Uses. The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.

(d) Conditional Uses. The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.

(e) Prohibited Uses. The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: ~~parking lots~~; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.

~~2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle, 28-foot maximum overall length), trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abut a residential zone.~~

~~2. 3. The following B-1 conditional uses; self-service car washes; animal hospitals or clinics, except as permitted herein; the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.~~

~~3. 4. All uses listed as prohibited in the B-1 zone, except as permitted herein.~~

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Eighty (80) feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street: seventy (70) feet for all other buildings.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; see also Subsection ~~(h)~~(g)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum fifty percent (50%).

~~(g) Off-Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g) (h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen

percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-3 project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

~~2. For any MU-3 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-3 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above. Renumber as needed~~

~~2.~~ 3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. ~~Where the Planning Commission requires~~ When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

~~3.~~ 4. Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.

~~4.~~ 5. An Entertainment Mixed use Project may be permitted only by the Planning Commission for a tract of land with a minimum of ten (10) acres, ~~and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use~~, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:

(a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
3. For the overall project area, open space shall be governed by Article 20. Open space may be clustered across multiple lots to facilitate the common use of the land.

(b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.

(c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:

1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the

project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.
- (d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.
- (e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:
 1. As Principal Permitted Uses:
 - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
 - b. Motels, hotels, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Section 3-13.
 - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 2. As Accessory (clearly incidental and subordinate) Uses:
 - a. Outdoor patios, when accessory to any permitted restaurant.
 - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
 3. As Conditional Uses:
 - a. Self-service car washes.
 - ~~b. Gasoline pumps available to the public without an employee on site.~~

Sec. 28-6. - Provisions applicable to all mixed use zones.

Provisions applicable to all mixed use zones shall be as follows:

- (a) *Development Plan Required.* All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure

for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, ~~the developments within these zones shall comply with provisions Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed use zone shall require a finding that the development plan complies with the provisions~~ of Subsections (b) through (g) of this section, below.

(b) *Pedestrian Accommodation.* Pedestrian accommodation shall be as follows:

- (1) At least one (1) primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one (1) location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two (2) or more buildings are proposed, they shall be arranged in a manner that provides a centralized open space area, such as a plaza, courtyard or similar feature.
- (4) ~~Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas. Sidewalks shall be provided along each road frontage, with connections provided to each principal structure, parking area, and open space area.~~
- (5) A six-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. ~~Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.~~
- (6) For any development within the Downtown Streetscape Master Plan Area, the development shall adhere to the provisions of that plan.

(c) *Building Features.* Shall be as follows:

(1) For every primary wall plane:

- a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every eighty (80) feet of length or fraction thereof; or
- b. Implementation of a minimum of three (3) of the following for every sixty (60) feet of length or fraction thereof:
 1. A change of at least one (1) foot in depth for at least one (1) story;
 2. A change in wall height of at least two (2) feet;
 3. A change in exterior material type, style, or finish for at least one (1) story;
 4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.

(2) For every side or rear wall plane:

- a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every one hundred (100) feet in length; or
- b. Implementation of a minimum of three (3) of the following for every eighty (80) feet of length or fraction thereof:
 1. A change of at least one (1) foot in depth for at least one (1) story;
 2. A change in wall height of at least two (2) feet;

3. A change in exterior material type, style, or finish for at least one (1) story;
 4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.
- (3) The primary wall plane shall provide at least one (1) of the following features at ground level:
- a. A balcony at least four (4) feet by five (5) feet.
 - b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
 - c. A covered entrance at least three (3) feet by three (3) feet.
 - d. A porch at least four (4) feet by six (6) feet, with a floor at least twelve (12) inches above grade.
 - e. A recessed entrance at least three (3) feet by five (5) feet.
- (4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.
- (d) *Location and Assignment of Provided Off-Street Parking.* At least fifty percent (50%) of provided parking spaces shall be located so as to not project between any front building face and any adjoining street, except an alley. The Planning Commission may require designation of certain spaces for use of residents only on the development plan.
- (e) *Accessory Structures.* Shall be regulated as follows:
1. The sides of any parking structure shall include one (1) or more of the following features:
 - a. First floor retail or office uses.
 - b. Murals or public art on at least fifteen percent (15%) of the building face.
 - c. Display cases on at least ten percent (10%) of the building face.
 - d. Landscaping in an area of at least five (5) feet in width, with plantings as specified in Article 18 for edges of vehicular use areas.
 2. Any garage doors shall meet one (1) of the following criteria:
 - a. The garage door shall face perpendicular to or away from any adjoining street.
 - b. The garage door shall be offset at least four (4) feet behind the primary wall plane.
 - c. If flush with the primary wall plane, the garage door shall not cover more than thirty percent (30%) of the surface area of the wall plane.
- (f) *Parking for Bicycles.* For projects with three (3) or more dwelling units, four (4) bicycle rack spaces shall be provided per every three (3) units, with a maximum requirement of twelve (12) spaces.

~~(g) Site Lighting. Site lighting shall be restricted as follows:~~

- ~~1. Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.~~
- ~~2. Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.~~

- ~~3. Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.~~
 - ~~4. Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height, unless specifically used to light an outdoor recreation facility, such as a tennis court, ball field, or similar use.~~
 - ~~5. Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, and shall be shielded or equipped with cutoffs so as to prevent undue light spill onto adjoining properties.~~
- ~~(g) (h) Increased Setback for Building Height Differences. In cases where the proposed mixed use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, the Commission may require the establishment of a minimum 1:1 height-to-yard ratio for the adjoining side yard shall be provided, additional screening, or other mitigating measures as deemed appropriate to address compatibility of mixed use structures to the surrounding residential structures.~~
- ~~(i) On-Street Parking. The number of on-street parking spaces, calculated at one (1) space for every twenty-two (22) feet of curb length or the number of marked spaces, may reduce the number of off-street parking spaces required, as long as the reduction otherwise complies with Section 16-10 of this Zoning Ordinance.~~

~~Sec. 28-7. Effect of historic zoning.~~

~~In the event any Mixed use zone is created within an Historic District (H-1), the Board of Architectural Review shall perform its normal duties in the approval of a Certificate of Appropriateness. This shall include approval of specific details designed to accommodate the requirements of Sections 28-6(b), (c), (e), and (g), above.~~

2. **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** – an amendment to Articles 1, 6, 9, 11, 12, 15, 16, 18, 21, 23, and 28 to update the Development Plan review process, and create objective standards for plan review.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION
PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval of the Staff Alternative Text, for the following reasons:

1. The proposed text amendment makes the necessary change to existing Zoning Ordinance provisions to allow them to be administered ministerially, in line with the requirements of House Bill 443.
2. The proposed language provides for pathways for review and consideration by the Planning Commission in instances where a development plan cannot meet the objective criteria, or if the proposal would result in a threat to the public health, safety, or welfare.

Staff Presentation – Mr. Daniel Crum presented the staff report and revised recommendation for the proposed text amendment. Mr. Crum indicated that House Bill 443 in the Kentucky Legislature created a new section of KRS that required ordinances dealing with subdivision plats and development plans to set out objective standards and be applied ministerially. Mr. Crum noted under a ministerial process, that there is no longer an avenue for discretion, except with waivers. Mr. Crum stated that the updates to the Zoning Ordinance would be in compliance with HB 443 and would set out objective standards and rework how the Zoning Ordinance functions. Mr. Crum emphasized that no matter what happens with this process, HB 443 will go into effect on July 1 of this year and to ensure there are no gaps in Planning Staff's ability to plan out our community, these updates are essential.

Mr. Crum explained the meaning of the concepts of objective standards and ministerial processes, stating that objective standards must be measurable, specific, unbiased, and equitable, while applied ministerially is an administrative act carried out in a prescribed manner not allowing personal discretion. Mr. Crum indicated that the Planning Commission still had the ability to apply their discretion when evaluating waivers. Additionally, Mr. Crum indicated the three necessary changes that would need to be adopted. The need to update the process to reflect ministerial review, reviewing current criteria for subjectivity, replacing the them with objective criteria, and creating standards in the Zoning Ordinance for items that were traditionally part of the other Division's sign-off processes.

Mr. Crum stated that these changes would not change the process for preliminary development plans, but the final development plan portion would be ministerial, only needing the Planning Commission's input if there was a waiver or deviation of the standards, or if a requirement would pose a specific threat to public health safety, and welfare. Mr. Crum indicated that one of the biggest changes relative to the current process is the removal of the public comment in the final development plan process, but noted that there are other avenues for public comment to be heard. Those include the plan-making stage, text amendment stage, during the preliminary development plan stage, waiver review, or during the review of a project forwarded due to a health, safety, or welfare threat.

Mr. Crum gave an overview of changes through each appropriate article of the Zoning Ordinance. Those changes included updating definitions for clarity, clarifying the Council process for reviewing Conditional Zoning restrictions, eliminating required Planning Commission hearings, updating the review process, removing discretionary review of open space, and removing minimum lot coverage in the B-5P zone. Additionally, Mr. Crum stated that the new regulations will codify Big Box Design guidelines, remove discretionary location standards, and would incorporate drive through standards, commercial access management standards, and solid waste standards in Article 16. Mr. Crum distributed a packet of all the changes to the Ordinance to the Planning Commission.

Mr. Crum concluded by stating that he could answer any questions from the Planning Commission with the printed text in front of them.

Commission Comments and Questions – Ms. Molly Davis asked what the tree preservation plan that the Planning Commission was adopting and would this get rid of Planning Commission's ability to ask for a tree protection plan. Ms. Wade stated that Article 26 is already in place and it may need some amendments, but

the Division of Environmental Service is already working on a text amendment to deal with more concrete criteria for what Ms. Davis was asking.

Ms. Davis also asked for clarity of when there will or will not be public comment and how the public would know when it was their time to discuss potential new development plans. Mr. Crum stated that public comment is not going away, it just will be earlier in the process and not be able to be heard at the time of the final development plan. Mr. Crum also emphasized that he thought this was speaking to the crucial efforts from Long Range Planning and Strategic Planning, and other initiatives moving forward to make sure that the Division of Planning is engaging with the community and hearing their input at the appropriate time. Mr. Duncan stated that the plan making process still remains and that the public will still have a voice in these matters, even if it will be earlier on. Mr. Duncan stated that he thought this was what the legislature wanted and to speed up the process and that is what the Planning Commission and Staff are complying with.

Mr. Michler cited a recent development plan where the public questioned a shadow that would be on 11 homes 24 hours a day during the winter, a concern that was not on the Staff report. Mr. Michler stated that he had concerns about citizens and Staff citing a public health, safety, or welfare concern if it is not on the Staff report. Mr. Crum stated he thought it was a good point, but that Staff had the ability to bring up those issues during the process and that Staff gets calls everyday stating their concerns about a project. Additionally, the members of the Planning Commission can bring up an issue at any time.

Ms. Tracy Jones stated that the law says that it can be elevated to the Planning Commission to consider based on substantial evidence that approving a plan ministerially would pose a specific threat to health, safety, and welfare. She said the Planning Commission will have to take things as they come through and consider the law and what substantial evidence means.

Mr. Bruce Nicol stated that he understood that this text amendment was to update the ordinance to comply with HB 443 and that we are in a tight spot to hit the July 1st deadline. However, Mr. Nicol asked how the Planning Commission was going to deal with any unintended consequences that could arise and would that be through new text amendments. Mr. Crum stated that he thought that the waiver process would be the safety release valve to help address these concerns, but he did not rule out using a text amendment to alleviate any issues that might come up.

Mr. Nicol also stated that this had been a monumental task to address and he thanked Staff for their work.

Mr. Michler asked for clarity on the waiver process and the list of items that Planning had determined to be variable or waivable and what if one of the intended consequences was not on the list mentioned. Mr. Crum stated that the waiver process is meant for things that are not dimensional and do not have another appeal process outlined elsewhere.

Mr. Penn stated that he thought that a lot of the new bills coming out of Frankfort were the legislature telling a city what they can and cannot do and that he thought doing that was a slippery slope. Additionally, Mr. Penn stated that the current text amendment was a living breathing document and it will be changed as we go.

Public Comment – Walt Gaffield, 2001 Bamboo Drive, gave a letter to the Commission and stated that he thought that the Planning Commission should look at adding more factors than just health and safety into the waiver process.

Branden Gross, attorney, stated that he thought this was five text amendments wrapped into one and that this was done too quickly. He took issue with the proposed 100 foot minimum access separation from railroad crossings, and updating existing parking lots.

Dick Murphy, attorney, stated that he had concerns with the new drive-through standards and the new commercial entrance standards. He thought those issues specifically should go through a more strenuous process.

Brittany Rothmeyer, Fayette Alliance, stated that she appreciated Staff's work in compiling a response to HB 443 and listening to robust feedback from the community on this. She stated that they would encourage people with concerns with public comment and participation to talk with their legislature about the matter.

Amy Clark, 628 Kastle Road, stated her concern about how this text amendment would affect the public comment portion of the development plan process and suggested adding testimony to a specific public health or safety issue during the consent agenda process.

Nick Nicholson, attorney, stated that this text amendment covered a lot of territory and stated that he thought there was a way to get in compliance with HB 443 while looking at the finer details at a different time. He had concerns with how this would affect planning but not zoning.

Patty Draus, 608 Allen Court, stated that she had concerns about this text amendment and she did not think that ministerially meant to block public comment.

Rolanda Woolfork, stated her opposition and assertion that she spoke with the legislator that co-sponsored HB 443 and he stated that he did not understand why public comment was taken out of the final development stage. Ms. Woolfork stated that she thought neighborhood's voices were being silenced.

Staff Comment – Mr. Jim Duncan stated that if this was approved today it would go to the Urban County Council in about a month and then they would have to make a decision if they wanted more information from Staff and the Planning Commission. Mr. Duncan stated that it is Staff's recommendation that the Planning Commission give the Urban County Council the opportunity to decide if they want to receive more information on this and move from there with a public hearing or not. Mr. Duncan noted that Staff thought it was imperative that this go through so that there was continuity in what Planning Staff has been doing for years.

Public Rebuttal – Amy Clark, stated her opposition and pleaded with the Planning Commission to fix the issues with the text amendment before they sent it to the Urban County Council.

Commission Comments and Questions – Mr. Zach Davis stated that he appreciated all the public comment and that he agreed with many of the comments stating that he thought taking more time on this text amendment would be for the best.

Ms. Molly Davis stated that she agreed with Mr. Zach Davis's assessment and that she agreed with a lot of the public comments. She wondered if it was possible to do a specific public meeting to hammer out all the issues that the public has discussed.

Mr. Bill Wilson stated he also agreed with Mr. Davis and wondered if there was a timeline specific issue so that he could digest the text and comments and suggested a continuance might be for the best. Mr. Wilson stated that he agreed with Mr. Nicholson's assessment that the Planning Commission could make a text amendment to ensure they are in compliance with HB 443 and then go from there and fix the finer details.

Mr. Owens stated he thought that a continuance was the best course of action at this time and that public comment was a fundamental part of this process and should not be taken away.

Mr. Forester asked about the possibility of continuing this item and if there was a busy schedule over the next month or so. Mr. Duncan indicated that any delay cuts the Urban County Council's time to look at the item, but if the continuance was what the Planning Commission wanted, they could do so. Mr. Duncan stated that there was a project on the April 10th meeting that Staff did not know if it was going to go and that there was a big zone change on the April 24th meeting. Additionally, on the April 24th meeting, Council also meets and a long meeting would mean moving from Council Chambers to the Phoenix Building.

Mr. Penn asked if we would rather Council get into the weeds on this, or Planning Staff and the Commission that have vast knowledge on this subject. Mr. Penn indicated he would rather the Planning Commission and Staff work on it and then send it to Council.

Action – A motion was made by Mr. Wilson and seconded by Mr. J. Davis and carried 11-0 to continue PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS to the April 10th public hearing.

- V. **ZONING ITEMS** – The Zoning Committee met on April 3, 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, Zach Davis, William Wilson, Robin Michler, Molly Davis, Bruce Nicol, and Johnathon Davis. Staff members present were Traci Wade, Daniel Crum, Jeremy Young, Chris Chaney, Chris Taylor, and Bill Sheehy; as well as Tracy Jones and Will Rasor, Department of Law.

A. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** – an amendment to Articles 1, 6, 9, 11, 12, 15, 16, 18, 21, 23, and 28 to update the Development Plan review process, and create objective standards for plan review.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

Note: The Planning Commission held a public hearing on March 27, 2025 and continued this item at that time.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Approval of the Staff Alternative Text, for the following reasons:

1. The proposed text amendment makes the necessary change to existing Zoning Ordinance provisions to allow them to be administered ministerially, in line with the requirements of House Bill 443.
2. The proposed language provides for pathways for review and consideration by the Planning Commission in instances where a development plan cannot meet the objective criteria, or if the proposal would result in a threat to the public health, safety, or welfare.

Commission Question – Vice Chair Davis asked Ms. Jones what the parameters were regarding this continuance, and Ms. Jones replied that Chair Forester did not close the public comment portion of the hearing on March 27th, so the Commission could hear additional comment. She suggested that the comments be limited to new information.

Staff Presentation – Mr. Crum presented the Commission with the newly revised text. He briefly described the edits to the ZOTA that had been made since the last hearing. They included several clarity edits, and changes in the sections describing drive-through standards, private streets, and the waiver process. He also stated that when the concept of "health, safety, and welfare" was mentioned, the word welfare had been unintentionally omitted, but that it would be added back into the text.

Commission Questions – Ms. Davis asked if the heading of Page 41 should read "Article 23b" rather than "Appendix 23b." Mr. Duncan stated that there was some nuance to this and requested that Ms. Wade explain. Ms. Wade stated that Article 23 had 3 appendices, and this was one of them.

Mr. Michler asked about the impact of removing discretion for private streets, specifically regarding the addition of gates. Mr. Crum replied that the provision could be modified, and would get back with the Commission regarding the correct language.

Mr. Michler asked why the appeals process had been removed. Ms. Jones explained that the process was not an appeal of a Planning Commission action, but rather a process that included the Technical Review Committee and Subdivision Committee reviewing a plan and making recommendations to the applicant. The Committees are an opportunity for the applicant to revise their plan, not appeal the previous committee's decision. This current process will not be in agreement with KRS, which has an existing mechanism to address such an appeal.

Mr. Michler shared his concern about the public input and Planning Commission being removed from the process. He inquired if the hearings should continue until there was another path for the Planning

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Commission and the public to inform Staff of health, safety, and welfare concerns. Mr. Crum replied that the public would be able to share their concerns with Staff anytime from the filing of the plan to the Technical Review Committee. He added that internal staff engagement with the public would be important so that specific threats to public health, safety, and welfare could be identified by staff.

Citizen Comments – Patty Draus, 608 Allen Court, spoke on behalf of the Joyland Neighborhood Association Board. She submitted suggestions regarding the conditional use of mining, minimum design standards, energy efficiency, and more vigorous neighborhood notification.

Attorney Nick Nicholson briefly described his submitted suggestions. He said that his suggestion was a smaller version of staff's alternative language. He said that there are too many standards that need to be more closely scrutinized in a future ZOTA because they will cause confusion.

Attorney Dick Murphy said that he appreciated the changes that staff has made to the ZOTA, but felt that some issues such as drive-throughs needed more time and scrutiny. He asked the Commission to consider Mr. Nicholson's shorter version of the text amendment.

Amy Clark, 628 Kastle Road, stated that she was disappointed with how the ZOTA had evolved. She felt that not all stakeholders had been consulted. She was concerned about the Technical Review Committee not being well defined or members being appointed. She said that it was inconceivable that there would be no appeals process.

Note - At this time, Vice Chair Davis closed the public comment portion of the hearing.

Commission Comments – Mr. Michler asked staff to address some of the citizen comments, particularly regarding the change in a sidewalk width as discussed in a development plan earlier. Mr. Crum replied that the current system allows for discussion regarding a context sensitive situation like the sidewalk, but the new system will require specific standards to be codified.

Mr. Michler asked about the proposed changes made to the commercial entrance access standards. Mr. Filiatreau said that they have already been requesting commercial accesses to be aligned with existing access across the street.

Ms. Worth asked Mr. Filiatreau to address a citizen comment suggesting a distance requirement for direct access to be at least 200 feet from an arterial roadway to a collector street in the B-5P zone. Mr. Filiatreau stated that they do try to keep the driveways far away from the arterial roadway, but sometimes the side street isn't long enough for such a requirement.

Ms. Davis asked for clarification regarding the current notification area and the possibility of expanding it. Mr. Crum briefly described the requirements for zone change notification and the proposal for waiver notification. He added that there is no current requirement for development plan notification.

Ms. Davis asked what the Commission typically did with the citizen comments that they had received. Mr. Nicol replied that it was now their job to use all of the information that they had received from all the stakeholders, including citizen comments, and come to a decision. He felt that the Planning Commission would be able to initiate new ZOTAs in the future to address any issues that came up if this ZOTA moved forward.

Ms. Davis suggested that the citizen comments that had been received be shared with the Council.

Mr. Owens asked Mr. Nicol if he believed that citizens were considered stakeholders. Mr. Nicol stated that the property owners, nearby property owners, and the Comprehensive Plan are the stakeholders that he was referring to previously.

Mr. Penn stated that he has struggled with this decision, and did not believe that eliminating public comments was the intention of the Kentucky House, Senate, or Governor.

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Action – Mr. Penn made a motion, seconded by Ms. Davis, to approve the staff alternative text of **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** with a Council approval of opportunities for public citizen comments of subdivision and development plans.

Commission Discussion – Mr. Wilson and Mr. Owens made comments in support of the motion.

Mr. Michler was in support of the motion, but was unsure how the process would work if the hearing was removed, but the public comment remained.

Mr. Penn said that there were ministerial hearings for cell towers and public facilities that allowed public comment. He suggested the Council decide how the citizen comments should be handled similarly.

Motion Amendment - Mr. Michler made a motion, seconded by Ms. Worth, to amend the motion to include the word "welfare" in all the instances where "public health and safety" were mentioned. He also requested to amend the motion to include no gates to be allowed on private streets. Mr. Penn agreed to those amendments.

Ms. Davis recommended that the area of notification be increased to 800 feet. There was discussion among the Commission and Ms. Jones about what the exact amendment would be regarding the area of notification. Ms. Jones clarified that the only notification being suggested now was when an applicant seeks a waiver. Mr. Penn stated that he did not want to add that amendment to his motion.

Ms. Barksdale interjected that there were too many things being added to the motion, and the most important part included a request to the Council for inclusion of some type of public comment. Several Commission members agreed.

There was discussion among the Commission and Mr. Duncan to make sure that everyone knew what the motion was exactly. Mr. Duncan understood the motion to mean that the Planning Commission was putting the Council on notice that the Commission is very interested in the public comment issue, and wished for them to put it in the final legislation. Ms. Jones told the Planning Commission that there would be a separate statement to the Council regarding public comment, but not an actual change to the document.

Mr. Duncan stated that the Commission has made a clear statement regarding the need for public comment. He committed that staff would communicate this statement to the Council. He described how and when the information would be sent to the Council. More discussion about the motion took place.

Action – The Planning Commission carried on the motion made by Mr. Michler 9-1 (Nicol opposed, Forester absent), to amend the original motion to include the word "welfare" in the instances where "public health and safety" were mentioned, and to include no gates allowed when private streets were being granted.

Mr. Michler stated that he was against the original motion because, while he agreed with the sentiment to allow public comment, it was not in the actual text.

Mr. Duncan reminded the Planning Commission that the ZOTA was not taking away public comment, but the state legislature did.

Ms. Jones re-read House Bill 443 and reminded the Commission that they were doing what was asked of them - codifying objective standards. She added that there was no intent of the staff or Planning Commission to eliminate public comment.

Mr. Penn agreed and stated that was why he worded his motion the way he did, and that it would be up to the Council to decide how and if public comment should happen.

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Ms. Barksdale asked if this meant that there should be no public comment at all or that public comment cannot be the basis for approval or disapproval. She suggested a meeting of discovery to see if citizens had comments that could relate to health, safety, and welfare. Ms. Jones feared that it could become subjective, and the decisions could be overturned.

Mr. Wilson called for the previous question.

Action – The Planning Commission voted 8-2 (Nicol and Michler opposed, Forester absent) to approve the staff alternative text of **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** with a Council approval of opportunity for public citizen comments of subdivision and development plans.