

Public Comment – Dottie Bean, 1364 Deer Lake Circle, discussed her objection to proposed improvements to Athens Boonesboro Road by the Kentucky Transportation Cabinet.

George W Mankel III, 6377 Athens Boonesboro Rd, voiced his support for the zone change and his appreciation for the owners and asked the Commission to approve this zone change.

Dan Graves, 3500 N Cleveland Road, implored the Commission to look at this as an opportunity and not as a slippery slope, and voiced his support.

Mike Harrell, address not given, stated that his property wraps around the property and could not ask for better neighbors. He is in full support of the zone change.

Commission Questions – Mr. Michler commented that he knew Mr. Mankel who spoke, and his band One Lane Bridge and that his band should be allowed to play at the property.

Zoning Action – A motion was made by Mr. Michler, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-MAR-22-00011: ATHENS PROPERTY, LLC, with the four staff recommendations deleting the restriction or outdoor live entertainment of dancing.

Development Plan Action – A motion was made by Mr. Michler, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-MJDP-22-00044: ATHENS PROPERTY LLC with the seven conditions removing the “Discuss Placebuilder Criteria”

Variance Action – A motion was made by Mr. Michler, seconded by Ms. Worth and carried 8-0 (Davis, Meyer, and Penn absent) to approve the variance request to reduce the hedge requirement from two to one along the Single-Family Residential (R-1D) zone, subject to the four conditions recommended by the staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS

1. PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE – petition for a Zoning Ordinance text amendment to create a new Planned Unit Development 3 (PUD-3) zone (Article 22) to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses.

INITIATED BY: Turner Property 4, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Postponement, for the following reasons:

1. The proposed text amendment does not yet fully meet the intent and requirements established by Article 22 of the Zoning Ordinance regarding the creation of a Planned Unit Development (PUD). The site criteria, design standards, and proposed uses necessitate greater review.
2. The proposed text amendment does not provide a planning process that is conforming with Article 21 of the Zoning Ordinance.

Staff Presentation – Mr. Baillie presented and summarized the staff report and recommendations for the text amendment. Mr. Baillie began by presenting the regulations associated with the establishment of a PUD and stated that he would be going over all the steps prior to stating staff’s findings. Mr. Baillie presented a list of proposed uses in the PUD-3 zone by the applicant including restaurants, dwelling units, and parks. In addition to the proposed uses, Mr. Baillie presented accessory, conditional, and prohibited uses.

Mr. Baillie transitioned to the applicant’s site criteria noting that it started with the applicant’s proposed development off Leestown Road, but as they worked with staff and the neighborhood, they transitioned to something that could be utilized all around the Urban Service Area. The parcel would need to be directly adjacent to a major arterial or corridor roadway, be at least 10 acres, and be currently zone as a business or industrial use. Additionally, Mr. Baillie discussed the applicant’s connections to the 2018 Comprehensive Plan, including identifying areas of infill, enabling existing neighborhoods to flourish, and developing a variety of new jobs.

To conclude, Mr. Baillie stated that staff is recommending approval. Mr. Baillie said that staff saw this as a collaboration between the applicant, the neighborhood, and staff to create a zone that could be transferrable across the Urban Service Area and in agreement with the goals and objectives of the Comprehensive Plan.

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

Commission Questions – Mr. de Movellan asked if after the initial 10 acre lot size requirement, would any expanded or added parcel have to meet that 10 acre requirement as well. Mr. Baillie indicated that an expanded development would not have to meet the lot size requirement again, but it would have to be business or industrial in nature.

Mr. de Movellan additionally asked that with residential being one of the permitted uses, why is outdoor entertainment/rodeos a permitted use. Mr. Baillie responded stating that with an applicant like this could blend the residential uses with other uses in their overall plan and that developments like this PUD and the mixing of uses is in line with the Comprehensive Plan.

Mr. Michler asked about the tree canopy goals for the city and what percentage that they look for. Mr. Baillie stated that the overall goal was 30% in the urbanized area.

After Mr. Baillie's response, Mr. Michler asked why this PUD-3 is only asking for 15%. Mr. Baillie responded saying that each zone's canopy requirement is different. This specific requirement is more in line with an I-1 zone, which asks for 10% tree canopy coverage.

Mr. Nicol asked that if this text amendment passes, could it be used throughout the Urban Service Area and if it is fair to summarize that this plan will allow dwelling units in quasi industrial space. Mr. Baillie indicated that it can be used throughout the Urban Service Area if approved and that this approach is similar to the adaptive reuse projects and encourages a redevelopment of industrial space.

Applicant Presentation – Mr. Nathan Billings, attorney for the applicant, began his presentation by answering questions asked by Mr. Nicol and Mr. Michler about the mixing of different uses and the tree canopy requirements. Mr. Billings stated in the affirmative that they were trying to mix seemingly conflicting uses because they have a property that drove this ZOTA request, but they were not asking for a zone change at this time. There are other properties around Lexington, where this potential ZOTA could be applicable, which gives the Planning Commission the ability to control what types of uses go into the PUD-3 zone.

Mr. Billings indicated that this was not something that they came up with in a month, they have had months of discussion with staff and the neighborhood throughout the process. Mr. Billings gave the reasons for asking for a PUD stating that the applicant owns a unique I-1 zoned property and wants to revitalize historically used tobacco warehouses, but the I-1 zone regulations are prohibitive. Additionally the other mixed-use zones would have had limitations that would restrict what the applicant wants to do with the property.

After discussion with the Planning staff, Mr Billings indicated that the applicant wanted to create their own zone to allow for the continued I-1 uses, with the flexibility of the other mixed-uses. Mr. Billings presented pictures of the subject property off Leestown Road and discussed a few areas of concern that the Meadowthorpe Neighborhood had and what types of uses they were concerned about. Due to these concerns from the neighborhood, the applicant has agreed to not have adult day cares, rehab centers, community centers, or a child-care center on the subject property.

Mr. Billings concluded, once again highlighting the months of work and communication with Planning staff and the neighborhood and offered to answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked about the buffer requirement for railroad tracks, being that there are tracks along the edge of the property, and if the tracks were owned by the applicant. Mr. Billings consulted Ms. Wade, and Ms. Wade indicated that the buffer was 15 feet with a fence. Additionally Mr. Billings stated that the railroad tracks were not owned by the applicant.

Mr. Michler asked why there was so little tree canopy for this property, especially if you can plant trees in parking lots. Mr. Billings stated that he thought they were increasing the canopy from the current 10% to 15%.

Mr. Michler also asked if there could be a variance to reduce the tree canopy. Ms. Wade responded saying that applicants can ask for a waiver to the tree canopy standards, but there are some guidelines for that occurring. Ms. Wade also stated that she did not think that we were going to reach the 30% via industrial land, it will most likely come from residential. Additionally, Ms. Wade stated that if a residential development was proposed as part of a PUD-3, the Planning Commission could require 30% tree canopy coverage on the land.

Citizen Comment – Rock Daniels, 1519 Old Leestown Road, president of the Meadowthorpe Neighborhood Association, stated that the applicant and staff had all been very helpful during these discussions. He stated he was hopeful the development would be an asset to Lexington and the neighborhood.

Blake Hall, 36 Richmond Ave, stated he was in support because it allows a transitional zone for varied developments, but did want to see drive-thrus moved from an accessory use to a conditional use.

Walt Gaffield, 2001 Bamboo Road, stated that if the Meadowthorpe Neighborhood Association was for the development, so was he.

Gabe Hensley, 301 Pelican Lane, stated that he was not against the development, but had some concerns about the principal primary and accessory uses being located so close to the neighborhood.

Staff Rebuttal – Mr. Baillie wanted to clarify that this meeting was not the appropriate time to designate certain conditional zoning restrictions that would be placed on a property.

Commission Questions – Mr. Pohl asked Mr. Baillie to address the concern about the drive-thru's being an accessory use that Mr. Hall brought up. Mr. Baillie stated that drive-thru facilities were requested as an accessory use because this development is seen as a more intense land use. Additionally, Mr. Baillie mentioned that with a B-1 zone it is a conditional use, or shown on the development plan and the Planning Commission has the ability to decide if a drive-thru is or is not appropriate for a location.

Applicant Rebuttal – Mr. Billings stated that he spoke with the applicant, and they are willing to move drive-thrus to a conditional use.

Staff Comment – Tracy Jones, Department of Law, told the Planning Commission that if drive-thrus are a conditional use in the text amendment, the Commission would not see it on the development plan. It would have to go to the Board of Adjustment instead.

Commission Questions and Comments – Mr. Nicol commented that over and over again things get approved by the Board of Adjustment, then by the Urban Council, and eventually come back to the Planning Commission.

Mr. Pohl stated that he really likes this text amendment and thinks it's a good move for the city and the location.

Ms. Worth commented that she knows that Meadowthorpe has a long history of working with developers, and looks forward to what they do with this project.

Mr. de Movellan asked for staff's recommendations on the drive-thru use. Mr. Baillie responded saying that the Planning Commission has many options on this, but staff has recommended approval as an accessory use.

Action – A motion was made by Mr. Pohl, seconded by Ms. Barksdale and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE for reasons provided by staff

2. **PLN-ZOTA-22-00011: AMENDMENT TO ARTICLE 8-1(d) TO ADD SMALL FARM MICRO-DISTILLERIES AS A CONDITIONAL USE IN THE AGRICULTURAL RURAL (A-R) ZONE** – a petition for a Zoning Ordinance text amendment to create a new conditional use, in the Agricultural Rural (A-R) zone. The proposed conditional use will allow for the distillation of 1,000 gallons in association with an established agricultural use.

INITIATED BY: SILVER SPRINGS FARM EQWINE AND VINEYARD, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval of the Staff Alternative text.

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

1. Micro-distilleries distilleries have extensive historical connections to agricultural uses within Lexington, as well as the Commonwealth of Kentucky as a whole.
2. Providing for small farm micro-distilleries in the Agricultural Rural (A-R) zone will permit additional opportunities to utilize existing agricultural resources for value-added products and tourism in support of the local economy.
3. The conditional use process and distillate production limits will ensure that the use operates at a scale that is compatible with the associated active farm or agricultural operation.
4. The inclusion of small farm micro-distillery to the possible conditional uses within the A-R zone is in agreement with the 2018 Comprehensive Plan for the following reasons:
 - a. The additional revenue stream for the agricultural uses that is derived from distillery operations will help strengthen the agricultural economy (Theme C, Goal #1.b).
 - b. The tasting and touring activities associated with small farm micro-distilleries will help promote agricultural tourism (Theme C, Goal #1, Policy D).
 - c. By limiting the scale of production to no more than 1,000 gallons of distilled spirit, the use would promote context-sensitive agritourism in the Rural Service Area (Theme B, Protection Policy 6). The potential to utilize locally grown materials and agricultural byproducts in the operation of the use promotes environmental sustainability (Theme E, Goal #1, Policy D).

Staff Presentation – Mr. Crum presented and summarized the staff report and recommendations for the text amendment. To begin, Mr. Crum discussed the current zoning used by the Commonwealth of Kentucky for different distilleries. A distillery with a Class A license has greater than 50,000 gallons produced annually in the I-2 and ED zones, and a distillery with a Class B license produces less than 50,000 gallons annually.

Mr. Crum went on to discuss the applicant, who owns a small farm winery who wishes to use the by-products from his operation to distill in the Agricultural Rural zone. Currently you cannot have a micro-distillery in the A-R zone, so Mr. Carter is here asking to make that a permissible use. Mr. Crum explained the proposed language, stating that a Small Farm Micro Distillery, would be defined as a distillery associated with an established agricultural use and produces less than 1,000 gallons of distilled spirit annually. In their letter of justification, the applicant makes the case that the value added process of making their own spirits, is appropriate in the agricultural zones because of the ties between distilleries and agriculture historically. Staff agreed with this assertion and found examples dating back to the 1700s a small distillery operation could be found on small farms.

Mr. Crum highlighted the conditional use process if the text amendment were to be passed today, including that the Board could ask such questions as how the distillery will be operating, how many hours a day would it be operating, where the buildings will be, etc. Planning staff would have to review the information given on an annual basis, and if they are not up to the standards, the conditional use can be revoked.

Mr. Crum indicated that the staff was supportive of the proposed language on the whole, but made some tweaks in the staff alternative language to be more in line with other ordinance requirements. Mr. Crum also indicated that this text amendment does touch on many of the goals of the Comprehensive Plan including supporting existing agricultural uses, providing additional opportunities to financially thrive, increasing value-added products, and promoting sustainability and agri-tourism.

Mr. Crum mentioned some concern from the Zoning Committee about the 1,000 gallon limit. They requested additional information about the proposed limit. In staff's research, they ran into issues finding one uniform definition for small farm micro distilleries and found that each state's definition was different. Instead staff focused on some permitted small farm distilleries in Kentucky and presented them to the Commission. After reviewing the research, the staff still contends that the 1,000 gallon limit is appropriate. Mr. Crum stated that the greater amount of distilled spirit, the greater impact there is on the land. According to Mr. Crum, for every barrel of distilled spirit you can expect 800-1000 pounds of produce involved in its production, along with 600 gallons of water.

Mr. Crum concluded saying that staff is recommending approval of staff alternative language.

Commission Questions – Mr. Nicol asked if there is any way that what we are discussing here can be considered urban development. Mr. Crum responded that he thought that what is being proposed is within the intent of the A-R zone.

Mr. de Movellan asked if there is any requirement that the natural resources discussed in the staff report, have to come from the property itself and what constitutes an "active farm." Mr. Crum stated that it did not have to at this time and that "active farm" is a term that the Zoning Ordinance uses evaluating agri-tourism and that determination would be made by the Board of Adjustment.

Mr. Michler asked if Planning staff was able to find examples of businesses that have been successful under that 1,000 gallon limit. Mr. Crum indicated that there just are not a lot of micro-distilleries in the United States and only about a dozen total and based on his research the micro-distillery on a small farm was not a principal use, it was an additional added value. Based on Mr. Michler's question, Mr. Crum indicated that he could not find a successful example because there are so few, and the Bourbon County ordinance was so new.

Mr. Nicol asked why staff did not use the language that Bourbon County used in Mr. Crum's previous slide about natural resources. Mr. Crum said that it was something that staff looked at, but thought it was too specific and too burdensome.

Applicant Presentation – Allen Carter, applicant and owner of Silver Springs Farm Eqwine & Vineyard, LLC, gave a small presentation on his business and why he is pursuing the text amendment. Mr. Carter stated that he thinks that he has checked all the boxes for a small farm micro-distillery and highlighted different management practices on his farm and his wine operation, as well as what he plans to do if this text amendment passes.

He ended his presentation thanking the Planning Commission for their consideration and asking for approval.

Commission Questions – Mr. Pohl asked how big a barrel house would be and if Mr. Carter would build one. Mr. Carter indicated that his plan is to build a barrel house at some point, but not immediately. Mr. Carter explained the research he had done in Europe and that he was going to be using a container to hold the barrels to start.

Mr. Pohl also asked if Mr. Carter would have a problem with a requirement that a certain amount of agricultural product used in the distillate had to come from his farm. Mr. Carter indicated that he was already making the distillate at his farm to make wine, and he wants that to make brandy so he would not have an issue.