

ORDINANCE NO. 43 -2022

AN ORDINANCE AMENDING SECTION 8-22(b)(4) OF THE ZONING ORDINANCE TO INCLUDE CRAFT DISTILLERIES AS A PRINCIPAL PERMITTED USE IN THE LIGHT INDUSTRIAL (I-1) ZONE. (TURNER PROPERTY 4, LLC).

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WHEREAS, Turner Property 4, LLC, has initiated a text amendment to Article 8-22(b)(4) of the Zoning Ordinance to include Craft Distilleries as a principal permitted use in the Light Industrial (I-1) zone; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 8-22(b)(4) of the Zoning Ordinance to include Craft Distilleries as a principal permitted use in the Light Industrial (I-1) zone. The Planning Commission did recommend APPROVAL of the text by a vote of 9-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

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

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

Section 1 – That Article 8-22(b)(4) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to include Craft Distilleries as a principal permitted use in the Light Industrial (I-1) zone as follows:

**Article 8-22(b)**

- (4) Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; Class B (craft) distillery as defined in KRS 243.120; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.

Section 2 – That this Ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 26, 2022

  
\_\_\_\_\_  
MAYOR

ATTEST:



\_\_\_\_\_  
CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: June 2, 2022-1t

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Recd by \_\_\_\_\_

Date: \_\_\_\_\_


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

**IN RE:** **PLN-ZOTA-22-00005: AMENDMENT TO LIGHT INDUSTRIAL (I-1) ZONE TO ALLOW CRAFT DISTILLERIES** – petition for a Zoning Ordinance text amendment to add Craft Distilleries as a principal permitted use in the Light Industrial (I-1) zone (Article 8-22). Craft Distilleries are further regulated by the Commonwealth of Kentucky as Class B Distilleries in KRS 243.

Having considered the above matter on **April 28, 2022**, at a Public Hearing and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** for this matter for the following reason:

1. Providing for craft distilleries in the I-1 zone, and by reference the I-2 zones, will permit additional opportunities to utilize land for production in support of the local economy.
2. The proposed text amendment will allow for stepdown from the most intense distillation of alcohol, and is consistent with other similar uses currently allowed in the Light Industrial (I-1) zone.
3. The inclusion of the craft distillery use in the Zoning Ordinance is in agreement with the 2018 Comprehensive Plan for the following reasons:
  - a. Craft distilleries are a growing industry that will support and showcase local assets to further the creation of jobs (Theme C, Goal #1)
  - b. The establishment of craft distilleries can attract the world's finest jobs, encourage an entrepreneurial spirit and enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community (Theme C, Goal #2).

**ATTEST:** This 13th day of May, 2022.

  
\_\_\_\_\_  
Secretary, Jim Duncan

**LARRY FORESTER**  
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Hal Baillie, Planner Senior, Division of Planning, Planning Services Section.**

**OBJECTORS**

- None
- None

**VOTES WERE AS FOLLOWS:**

**AYES:** (9) Barksdale, Davis, Forester, Meyer, Michler, Nicol, Penn, Pohl, Worth.

FINAL REPORT

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NAYS: (0)

ABSENT: (2) Bell and de Movellan.

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for Approval of PLN-ZOTA-22-00005 carried.

Enclosures: Council initiating legislation  
Staff Report  
Planning Commission Recommended Text  
Applicable excerpts of minutes of above meeting

PLN-ZOTA-22-00005

Filing Date: March 7, 2022

Filing Fee: \$500

## GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

**1. APPLICANT INFORMATION:**

**Name:** Turner Property 4, LLC

**Address:** 1387 E. New Circle Road, Ste. 130

**City, State, Zip Code:** Lexington, KY 40505

**2. ATTORNEY (Or Other Representative) INFORMATION:**

**Name:** Zach Cato, Billings Law Firm

**Address:** 145 Constitution Street

**City, State, Zip Code:** Lexington, KY 40507

**Phone Number:** 859-225-5240

**3. REQUESTED TEXT CHANGE: Date of Pre-application Conference: 2/15/2022**

**Zoning Ordinance 8-22(b)(4) Specific text change proposed:**

Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; Class B (craft) distillery as defined in KRS 243.120, including all activities permitted in KRS 243.0305 and 243.035, without limitation, sampling, souvenir package sales, retail drink sales, and bottling; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.

**4. DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)**

See attached letter of justification.

**BILLINGS LAW FIRM<sup>PLLC</sup>**  
COUNSELORS-AT-LAW

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ZACHARY G. CATO, ESQ.  
[zach.cato@blfky.com](mailto:zach.cato@blfky.com)

145 Constitution Street  
Lexington, Kentucky 40507  
(o) (859) 225-5240  
(f) (859) 225-5241

March 7, 2022

LFUCG Planning Commission  
200 E. Main Street  
Lexington, KY 40507

**Re: Zone Ordinance Text Amendment – Craft Distillery in I-1 Zones**

Dear Planning Commission:

My firm is pleased to represent Turner Property 4, LLC (the “Applicant”) in its application for a zone text amendment to allow craft distilleries as a principal use in Light Industrial (I-1) zones. The proposed amendment would adopt the existing statutory definition of a “craft distillery” from KRS 243.120(2)(c) which applies to small-scale distillers producing less than fifty thousand (50,000) gallons of distilled spirits per calendar year. The I-1 zone already permits a “micro-brewery as regulated by KRS 243.157 and KRS 243.150.” This text amendment would allow similar small-scale operations for distilled spirits, including our world-famous Kentucky bourbon, unlocking new potential for local tourism, entertainment, and entrepreneurship.

**GOALS AND OBJECTIVES**

The application agrees with the following Goals and Objectives of the 2018 Comprehensive Plan:

- **Theme A: Growing Successful Neighborhoods**
  - **Goal 2: Support infill & redevelopment throughout the Urban Service Area as a strategic component of growth.**
    - **Objective a:** Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development.
    - **Objective d:** Implement innovative programs, such as the public infrastructure fund and land bank programs, to facilitate sustainable development, including, but not limited to, housing, affordable at all income levels, and commercial and economic activity.

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The proposed text amendment expands the permissible uses in existing I-1 zones, allowing for more flexibility and opportunity. This flexibility allows underutilized I-1 parcels to be redeveloped or better utilized without requiring a zone change or expansion of the Urban Service Area. I-1 zones are appropriate for craft distillery use because those zones already permit micro-breweries and many higher-intensity commercial uses, meaning there will not be a significant increase in the overall intensity of typical I-1 uses. In other words, the craft distilleries will be in a zone that can handle any added intensity or activity without materially changing the character of the zone. This kind of flexibility and redevelopment allows for more robust use of existing structures and zones, encouraging further infill and redevelopment projects.

- Theme C: Creating Jobs & Prosperity.
  - Goal 1: Support & showcase local assets to further the creation of a variety of jobs.
    - Objective d: Encourage development that promotes and enhances tourism.
  - Goal 2: Attract the world's finest jobs, encourage an entrepreneurial spirit, & enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.
    - Objective d: Provide entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington.

It is no secret that Fayette County is at the heart of "Bourbon Country".<sup>1</sup> Lexington is a growing segment of the Kentucky Bourbon Trail, drawing visitors from across North America. This text amendment will encourage new entertainment and quality of life opportunities for visitors and residents alike. The existing flexibility of the I-1 zone will be enhanced with the ability to open not only micro-breweries but craft distilleries, creating new opportunities for visitors of the Kentucky Bourbon Trail, as well as Lexingtonians looking for something new to do around town.

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<sup>1</sup> See: <https://www.visitlex.com/things-to-do/bourbon/> ("The best place in America to grab a drink: BOURBON COUNTRY").

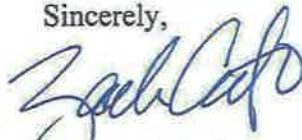
Billings Law Firm, PLLC

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March 7, 2022  
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**CONCLUSION**

The Applicant respectfully requests that the Commission recommend approval of the proposed zone text amendment, as it agrees with the Goals and Objectives of the Comprehensive Plan. Thank you for your time and consideration.

Sincerely,



ZACHARY G. CATO

ENCL.



**Zoning Ordinance Text Amendment**  
***Craft Distillery in Light Industrial (I-1) Zone***

Sec. 8-22(b) ("Principal Uses"):

4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; *Class B (craft) distillery as defined in KRS 243.120, including all activities permitted in KRS 243.0305 and 243.035, without limitation, sampling, souvenir package sales, retail drink sales, and bottling;* dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.

**Urban Planning Commission  
Division of Planning – Planning Services Section  
200 East Main Street  
Lexington, KY 40507**

March 7, 2022

Re: Requested Zoning Ordinance Text Amendment

Dear Neighborhood Association Representative:

This letter is to inform you of a request for a Zoning Ordinance text amendment. This request was proposed by Turner Property 4, LLC and is scheduled to be considered by the Planning Commission at their public hearing on Thursday, April 28, 2022.

The purpose of this text amendment is to allow craft distilleries as a principal use in Light Industrial (I-1) zones.

Additional information about this application and the proposed text change can be reviewed at the following website: [www.lexingtonky.gov/plans](http://www.lexingtonky.gov/plans).

The agenda for the above meeting will be posted to the [www.lexingtonky.gov/calendar](http://www.lexingtonky.gov/calendar) for one week prior to the public hearing. The agenda will include specific information for this meeting necessary to join the hearing.

For persons with a disability who need assistance to participate in the above meeting, for assistance navigating the website, or if you have any questions, please contact the Division of Planning at [planningmailbox@lexingtonky.gov](mailto:planningmailbox@lexingtonky.gov) or call 859-258-3160.

Sincerely,

Urban County Planning Commission  
LFUCG Division of Planning  
Planning Services Section









**LEXINGTON**

MAYOR LINDA GORTON

JIM DUNCAN  
DIRECTOR  
PLANNING

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT**

**PLN-ZOTA-22-00005: AMENDMENT TO LIGHT INDUSTRIAL (I-1) ZONE  
TO ALLOW CRAFT DISTILLERIES**

APPLICANT: TURNER PROPERTY 4, LLC

PROPOSED TEXT: (Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

**ARTICLE 8-22 LIGHT INDUSTRIAL (I-1) ZONE**

(b) Principal Uses.

4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; Class B (craft) distillery as defined in KRS 243.120, including all activities permitted in KRS 243.0305 and 243.035, without limitation, sampling, souvenir package sales, retail drink sales, and bottling; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.

**STAFF REVIEW:**

The petitioner, Turner Property 4, LLC, is requesting a text amendment to the Zoning Ordinance to add Craft Distillery as a principally permitted use in the Light Industrial (I-1) zone (Article 8-22(b)(4)). The applicant opines that this text amendment will encourage new entertainment and quality of life opportunities for visitors and residents alike. The applicant further states that the flexibility of the I-1 zone will be enhanced with the ability to open not only micro-breweries, but craft distilleries, creating new opportunities for visitors of the Kentucky Bourbon Trail, as well as Lexingtonians looking for something new to do around town.

The state of Kentucky regulates the distillation of alcohol utilizing two levels of licensing: Class A and Class B. A Class A license allows distillers to produce greater than fifty thousand (50,000) gallons of distilled spirits per calendar year at the premises, and a Class B license, which is also referred to as a "craft distillery", allows distillers that produce less than fifty thousand (50,000) gallons of distilled spirits per calendar year (KRS 243.120(2)(b and c)). In either case, there is a base level of required production of six hundred (600) gallons of distilled spirits per calendar year (KRS 243.120(2)(a)). The



differentiation of the two licenses is meant to allow for smaller establishments to operate without the same level of taxation and broader impact than larger distillers. Within the Zoning Ordinance, as currently constructed, there is no differentiation between the levels of production of a distillery. The distillation of alcohol is only allowable within the Heavy Industrial (I-2) and Economic Development (ED) zones.

A similar text amendment was adopted in 1995 for the allowance of "micro-breweries" to operate as principal permitted uses in the Light Industrial (I-1) zone. At the time, the applicant (Lexington Brewing Company) contended that the micro-brewery, due to its limited size and scale, would not create the same nuisances that larger breweries create, like those found in Milwaukee and St. Louis. The applicant stressed that the limitations on the quantity of brewing would also mean that less canning/bottling and storage would occur onsite, and there would be a lower amount of heavy truck traffic. A sentiment that was also made within this application.

The applicant has indicated that this proposed text amendment would support and showcase local assets to further the creation of jobs (Theme C, Goal #1) and attract the world's finest jobs, encourage an entrepreneurial spirit and enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community (Theme C, Goal #2). Staff found that between 2010 and 2016, it is estimated that employment at distilleries in the United States has doubled, suggesting that established large distilleries have grown and new businesses are entering the market (US Bureau of Labor and Statistics). The growth of small distillery operations (less than 20 employees) saw a dramatic increase between 2008 and 2017 jumping from 317 businesses to approximately 3,157 businesses (US BLS), a tenfold increase. This expansion in production is similar to the micro-brewery trend, which saw operations jump from just over 200 in 1996, to 7,346 in 2018.

Staff agrees that the inclusion of craft distilleries in the I-1 zone can be appropriate, as it provides a step down from the highest intensity production permitted in the ED and I-2 zones, similar to micro-breweries. However, staff does have a concern with some of the added language provided by the applicant stating "including all activities permitted in KRS 243.0305 and 243.035, without limitation, sampling, souvenir package sales, retail drink sales, and bottling." Staff thinks that this addition is redundant and unnecessary to the text of the Zoning Ordinance. The staff recommends alternative language that conforms with the adopted language associated with micro-breweries and reduces redundancies as follows:

4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; Class B (craft) distillery as defined in KRS 243.120; dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.



**The Staff Recommends: Approval of the staff alternative** text amendment to the Zoning Ordinance, for the following reasons:

1. Providing for craft distilleries in the I-1 zone, and by reference the I-2 zones, will permit additional opportunities to utilize land for production in support of the local economy.
2. The proposed text amendment will allow for stepdown from the most intense distillation of alcohol, and is consistent with other similar uses currently allowed in the Light Industrial (I-1) zone.
3. The inclusion of the craft distillery use in the Zoning Ordinance is in agreement with the 2018 Comprehensive Plan for the following reasons:
  - a. Craft distilleries are a growing industry that will support and showcase local assets to further the creation of jobs (Theme C, Goal #1)
  - b. The establishment of craft distilleries can attract the world's finest jobs, encourage an entrepreneurial spirit and enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community (Theme C, Goal #2)

HB/TLW

4/5/22

Planning Services/Staff Reports/ZOTA/2022/PLN-ZOTA-22-00005 Staff Report.doc





**Zoning Ordinance Text Amendment**  
***Craft Distillery in Light Industrial (I-1) Zone***

Sec. 8-22(b) ("Principal Uses"):

4. Other industrial and manufacturing uses, such as auto parts rebuilding; battery manufacturing; beverage manufacturing; micro-brewery as regulated by KRS 243.157 and KRS 243.150; *Class B (craft) distillery as defined in KRS 243.120, including all activities permitted in KRS 243.0305 and 243.035, without limitation, sampling, souvenir package sales, retail drink sales, and bottling;* dairy and non-dairy and food and non-food product bottling plants; box and crate assembly; building materials sales; rental storage yard; bag, carpet and rug cleaning and dyeing; cabinet shop; cannery; cooperage; columbariums and crematories; dextrine and starch manufacturing; enameling, lacquering, and japanning; felt manufacturing; electric foundry; furniture manufacturing; heating equipment manufacturing; inflammable underground liquid storage; iron works (ornamental), and wire drawing; parcel delivery stations; phonograph record manufacturing; public utility service yard; radium extraction; railway or truck terminal; stone monument works; tool manufacturing; vehicle storage yards for which occupancy permits were issued prior to May 1, 1985; welding, and other metal working shops.

Motion – A motion was made by Ms. Meyer, seconded by Mr. Pohl, and carried 9-0 (Bell and de Movellan absent) to approve PLN-ZOTA-22-00004: AMENDMENT TO PROFESSIONAL OFFICE (P-1) ZONE TO MODIFY RESTRICTIONS ON BEAUTY SHOPS AND BARBER SHOPS for the reason provided by the staff.

- 3. PLN-ZOTA-22-00005: AMENDMENT TO LIGHT INDUSTRIAL (I-1) ZONE TO ALLOW CRAFT DISTILLERIES – petition for a Zoning Ordinance text amendment to add Craft Distilleries as a principal permitted use in the Light Industrial (I-1) zone (Article 8-22). Craft Distilleries are further regulated by the Commonwealth of Kentucky as Class B Distilleries in KRS 243.

INITIATED BY: Turner Property 4, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval of the staff alternative text, for the reasons provided by the staff.

The Staff Recommends: Approval of the staff alternative, for the following reason:

- 1. Providing for craft distilleries in the I-1 zone, and by reference the I-2 zones, will permit additional opportunities to utilize land for production in support of the local economy.
- 2. The proposed text amendment will allow for stepdown from the most intense distillation of alcohol, and is consistent with other similar uses currently allowed in the Light Industrial (I-1) zone.
- 3. The inclusion of the craft distillery use in the Zoning Ordinance is in agreement with the 2018 Comprehensive Plan for the following reasons:
  - a. Craft distilleries are a growing industry that will support and showcase local assets to further the creation of jobs (Theme C, Goal #1)
  - b. The establishment of craft distilleries can attract the world’s finest jobs, encourage an entrepreneurial spirit and enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community (Theme C, Goal #2).

Staff Text Amendment Presentation – Mr. Hal Baillie presented and summarized the staff report and recommendations for this text amendment. Mr. Baillie discussed a similar text amendment passed in 1996 regarding microbreweries, mentioning how that has progressed over the past 20 years. Mr. Baillie went on to describe the differences between a distillery and a craft distillery, stating that it comes down to the amount distilled spirits produced. For a Class A, or a distillery, they can produce more than 50,000 gallons of distillate and a Class B, or craft distillery, can produce up to 50,000 gallons of distillate. There is a base level of 600 gallons required to recoup tax costs.

Mr. Baillie stated that the applicant’s original proposal was too wordy, but ended his presentation saying that staff has recommended approval of the staff alternative.

Commission Question – Mr. Penn asked if the applicant was ok with the staff’s alternative and Mr. Zach Cato, representative of the applicant, stated he was.

Citizen Comment – None.

Motion – A motion was made by Mr. Penn, seconded by Ms. Worth and carried 9-0 (Bell and de Movellan absent) to approve the staff alternative text of PLN-ZOTA-22-00005: AMENDMENT TO LIGHT INDUSTRIAL (I-1) ZONE TO ALLOW CRAFT DISTILLERIES, for the reasons provided by the staff.

- 4. PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY) – petition for a Zoning Ordinance text amendment to Article 17: Signage Regulations to allow digital (electronic message display) marquee signs in the Lexington Center Business (B-2B) Zone.

INITIATED BY: Big Picture Ventures, LLC

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:

- 2. The proposed staff alternative text amendment allows for the expansion of the use of electronic message display systems within the Lexington Center Business (B-2B) zone to allow an increase in signage opportunity, while also complementing the surrounding land use and can help promote the surrounding attractions.

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

3. The proposed staff alternative text amendment provides greater limitations that prevent the creation of influences adverse or would negatively impact the overall health, safety, and welfare of the Lexington community and visitors to the Urban County.

Staff Text Amendment Presentation – Mr. Hal Baillie presented and summarized the staff report and recommendations for this text amendment. Mr. Baillie stated that staff has recommended significant changes, keeping some of what the applicant has requested, while providing more context and connection with the current Ordinance. Mr. Baillie stated that staff's recommendation is consistent with the current sign regulations, adds new language that would allow for the use of new technologies, and protects of the safety and welfare of the community.

Mr. Baillie went on to discuss the definition of a marquee sign and where one is allowed, showing the Commission examples of different types of marquees. From there, Mr. Baillie gave a list of the current regulations of Electronic Message Display Systems, as well as mentioning that our Zoning Ordinance is a living document. Mr. Baillie continued by showing where Electronic Message Display Systems can currently be utilized and in what specific zones they can appear. Additionally, Mr. Baillie gave examples of digital signs currently in Lexington that are not under LFUCG jurisdiction, including the marquee at the Opera House, or the large sign on the corner of South Limestone and Avenue of Champions operated by the University of Kentucky. These signs are exempt from the Zoning Ordinance because of their connection to a government related agency/activity.

Mr. Baillie went on to discuss some of staff's concerns regarding the duration that the images could stay on the sign, recommending a duration of 45 seconds between images. This time span is intended to lower the amount of distractions that drivers will see as they are driving downtown. Mr. Baillie stated that during staff's research they found that the amount of changeover in the images should be related to the speed at which cars are traveling. Mr. Baillie continued the staff presentation discussing size of marquees, luminance, and presenting justification for the 45 seconds between images, and a condition on what times of the day the images can be displayed.

Mr. Baillie ended by stating that the staff is recommending approval of the Staff alternative language.

Commission Question – Mr. Nicol asked if he could propose adding the Mixed-Use Zones 1, 2, and 3 along with the B-3, B-2, B-2A, and B-2B zones. Mr. Baillie responded that Mr. Nicol's proposal would be an expansion of the staff review. He went on to state that if that request was something the Planning Commission wanted staff to broadly consider, they can look at a later date.

Applicant Presentation – Mr. Dick Murphy, attorney for the applicant, introduced himself, Mr. Harold Tate and Mr. George Krikorian. Mr. Murphy provided background on Mr. Krikorian and why he loves this community and how important the theater was to the community and Mr. Krikorian. He continued discussing the many amenities of the theater and the varied types of people that come to LexLive. He ended by saying they need the digital signage so that people know what's going on at LexLive.

Mr. Murphy went on to give examples of locations in Lexington that have the types of digital signs that they are looking to add to the theater, and mentioned that they do not meet the parameters that the staff is mentioning. Mr. Murphy continued to explain the differences between on-premises signs and off-premises signs, as well as a Supreme Court decision recently that is potentially relevant to this case. With the help of Mr. Tate, Mr. Murphy showed slides that would depict the proportions of a sign and how it would relate to the theater, and said he thought these proportions were in line with what should be acceptable for a digital sign. Mr. Murphy contends that sites close to LexLive, like Rupp Arena, have large signs because they need large signs, and so does the applicant's building. Mr. Murphy directed the Commission to look at the handout he brought with him and guided them through examples of digital signage throughout the state and country and how they compare to what the applicant wants to do.

Mr. Murphy ended by saying that the applicant needs this text amendment so that people know what is going on at LexLive.

Citizen Comment – Ms. Amy Clark had some questions about when a sign becomes a sign and how digital signs are different than regular signs. Ms. Clark also had some concerns that this type of signage would affect greenspaces and people's enjoyment of Lexington's wonderful outdoor amenities. Ms. Clark provided alternative language.

Applicant Comments - George Krikorian, owner of LexLive, spoke about the reasons that LexLive needs this type of signage, and how they are not asking for anything dissimilar to other places in town.

Applicant Rebuttal - Mr. Murphy returned and said they have agreed to more restrictions than other places in Lexington, and said that what they are proposing is reasonable. Mr. Murphy asserted that no data that they have seen proves that whatever time interval is more or less likely to cause an accident, and this text amendment is much needed.

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

Commission Questions - Mr. Nicol mentioned that proportionality is important and that the kind of examples that Mr. Murphy showed the Commission excited him and thinks it will help lead to a vibrant downtown.

Citizen Rebuttal - Ms. Amy Clark said that while it was important to have a tourist center as it relates to the convention center, it's also important that we are keeping the heart of Lexington for the people of Lexington. Ms. Clark stated that the proposed text is too much.

Staff Rebuttal - Mr. Baillie began his rebuttal discussing proportionality and the amount of messages this specific text amendment would allow their digital signage to display in a day. According to Mr. Baillie, with the staff proposed time limit of 45 seconds, LexLive would get over 1,200 messages via the sign every day. Mr. Baillie indicated that there is a fair amount of data that is really tied to downtown signage and small screens and how they can impact a driver's behavior. Mr. Baillie stated that he recognizes that the applicant wants to maximize the use of the screen and advertise at a greater rate, but the 8 seconds, as requested by the applicant is based on billboard signage in a zone where people are driving faster and are less likely to be distracted by a message moving that quickly.

Commission Questions - Mr. Penn asked Mr. Baillie if he was more concerned with the size of the sign or how often the sign changes. Mr. Baillie stated that they go in concert and there is not one the staff is more worried about than the other.  
Motion - A motion was made by Mr. Penn, seconded by Mr. Pohl, and carried 9-0 (Bell and de Movellan absent) to continue discussions on PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY), to the Planning Commission Public Hearing on May 26<sup>th</sup>.

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

VII. **STAFF ITEMS** - The staff will report at the meeting.

A. **LONG RANGE PLANNING ACTIVITY REPORT**

Imagine Lexington

During the month of March, Long-Range Planning staff continued to move forward with a number of implementation items related to the 2018 Comprehensive Plan.

Staff continued discussion on the upcoming update to *Imagine Lexington* which will be finalized in 2023. Continued discussions focused on the public outreach efforts that will be done in support of providing input to the planning process, specifically "On the Table," which will be done in collaboration with local non-profit Civic Lex. Staff hosted several "Community Organizational Input Meetings" throughout the month of March.

In partnership with Lex TV, Staff developed a video for the public audience that explains the purpose of *Imagine Lexington* and the importance of public input during the long-range planning process. The video features interviews with a variety of community members in Lexington who provide their perspective on topics and experiences related to the five themes within *Imagine Lexington* - Neighborhoods, Environment, Jobs & Prosperity, Community, and Balance.

Mornings with Planning

LRP staff continued the Uncommon Commons webinar series "Mornings with Planning." March's topic was titled "Directors Roundtable" and took place on March 2, 2022. Three of the panelists for this discussion were planning experts from across the nation, with representatives from the cities of Greensboro, NC, Knoxville, TN and Louisville, KY. Planning Director Jim Duncan participated as a panelist for that discussion as well, to provide a Lexington perspective.

Imagine Lexington Website & Social Media

Staff continued with maintenance and updates to imaginelexington.com in March. Staff has continued to expand the site's project pages that feature information related to the various Zoning Ordinance Text Amendments and Subdivision Regulation Amendments, which have been set in motion by the recommendations within *Imagine Lexington*.

Staff also continues to maintain the Imagine Lexington Facebook, Twitter, and Instagram social media accounts. In addition, staff has been keeping in touch with our public audience through the use of Mail Chimp, a tool allowing for the creation and distribution of email campaigns to an audience of subscribers.