Recommendations Presentation

for the

Planning and Development Approval Process Study

for the

Lexington-Fayette Urban County Government

June 27, 2023

INTRODUCTIONS

Consultant Team:

- *The Walker Collaborative: Nashville, TN*
  - Phil Walker, FAICP

- *Common Ground Urban Design + Planning:*
  Franklin, TN
  - Keith Covington, AICP, RA

- *EHI Consultants: Lexington, KY*
  - Ed Holmes, AICP
  - Adam Klier

- *PRIME AE Group: Lexington, KY*
  - Stephen Garland, PE, LSIT

- *Clarion Associates: Chapel Hill, NC*
  - Craig Richardson, ESQ
  - Geoff Green, ESQ, AICP

Key LFUCG Staff:

- *Kevin R. Atkins:* Chief Development Officer

- *Craig L Bencz, AICP:* Administrative Officer, Sr.

- *Jim Duncan, AICP:* Planning Director

PROJECT PURPOSE

"the primary purpose of the study is to make sure the local planning process remains as efficient and competitive as possible, as well as making sure it best serves those who utilize the process."

- RFP for this project

PROJECT PROCESS

✓ *Task 1.0:* Existing Process Analysis

✓ *Task 2.0:* Field Work & Stakeholder Engagement

✓ *Task 3.0:* Comparison with Other Communities

✓ *Task 4.0:* Criteria for Process Improvements

✓ *Task 5.0:* Draft Recommendations for Process Changes

Task 6.0: Meetings & Revisions to Recommendations

EXISTING LFUCG APPROVAL PROCESSES

Source: Development Handbook – pg. 1-14 – 1-15.

TYPE	Planning Staff		Committees			Decision-Making Bodies			
	Planning Services Staff	Mixed Planning Staff	Technical Review Committee (TRC)	Subdivision Committee	Zoning Committee	Board of Adjustment	Planning Commission at Subdivision Public Meeting	Planning Commission at Zoning Public Hearing	Council
Variance, Conditional Use, Administrative Appeal	Review. Provide a recommendation to the BOA.	Review. Provide a recommendation to the BOA.	---	---	---	Review. Consider recommendations and produce a decision.	---	---	---
Preliminary Subdivision Plan	Review. Provide a recommendation to the Committees and Planning Commission.	Review if associated with a Zone Change request. Provide a recommendation to the Committees and Planning Commission.	Review. Provide a recommendation to the Subdivision and/or Zoning Committees and Planning Commission.	Review. Provide a recommendation to Planning Commission.	Review. Provide a recommendation to Planning Commission.	---	Review. Consider recommendation and produce a decision.	Review if associated to a Zone Change Request. Consider recommendations and produce a decision.	---
Final Subdivision Plat	Review. Provide a recommendation to TRC, Subdivision Committee, and Planning Commission.	---	Review. Provide a recommendation to Subdivision Committee and Planning Commission.	Review if land is agricultural or waivers are requested. Provide a recommendation to Planning Commission.	---	---	Review if land is agricultural or waivers are requested. Consider recommendations and produce a decision.	---	---
Development Plan	Review. Provide a recommendation to the Committees and Planning Commission.	Review if associated to a Zone Change Request. Provide a recommendation to the Committees and Planning Commission.	Review. Provide a recommendation to the Subdivision and/or Zoning Committees and Planning Commission.	Review. Provide a recommendation to Planning Commission.	Review if associated to a Zone Change Request. Provide a recommendation to Planning Commission.	---	Review. Consider recommendations and produce a decision.	Review if associated with a Zone Change request. Consider recommendations and produce a decision.	---
Zone Change Request & ZOTA	Review. Provide a recommendation to Zoning Committee and Planning Commission.	Review. Provide a recommendation to Zoning Committee and Planning Commission.	---	---	Review. Provide a recommendation to Planning Commission.	---	---	Review. Provide a recommendation to Council.	Review. Consider recommendations and produce a decision.

Key Findings Presentation: Planning and Development Approval Process Study

PW

APPROVALS OVER THE PAST FIVE YEARS

Below is a summary of various approvals and compliance actions by type from Jan. 1, 2018 to Jan. 1, 2023 (five years). The table does not include complaint and compliance data, which makes it more relevant to this project.

The report features a series of info-graphics for each application type.

Application Type	Total Days	Total Count	Average Record Age
BOA Administrative Appeal	2956	65	45.48
BOA Application	1469	28	52.46
BOA Conditional Use	4306	88	48.93
BOA Variance	6027	104	57.95
Final Record Plat	31810	145	219.38
Major Development Plan	23199	151	153.64
Minor Development Plan	5332	93	57.33
Minor Subdivision Plat	18245	366	49.85
Preliminary Subdivision Plan	4261	14	304.36
Zone Change - (Map Amendment Request)	17116	69	248.06
Zoning Ordinance Text Amendment	1381	17	81.24

STAKEHOLDER INPUT: PROCESS

Stakeholder Kick-Off Videoconference Meeting: February 16, 2023

• Introduction of Consultant Team members and key LFUCG officials

• Description of the project intent and process

• Overview of initial findings by the Consultant Team

• Discussion

Stakeholder Focus Group Meetings (6): February 21-22, 2023

Each meeting included up to ten (10) participants and lasted 1-1.5 hours and included:

• Planners and designers (engineers, architects, etc.)

• Land use attorneys and real estate professionals

• Land owners, developers and builders

• Neighborhood representatives

• Conservationists and historic preservationists

• Public officials

Key Person Interviews

Via telephone and/or videoconference following
the initial trip to Lexington.

The report features several pages of comments organized by subject category.

PEER COMMUNITIES

**Purpose:** <u>To learn from the experience of other communities</u>

- *There are no comparable communities* to Lexington and Fayette County considering the horse farms, the Urban Service Area, and other unique characteristics.

- *There is no single community to be emulated.* Instead, the LFUCG might consider adapting the best aspects of multiple communities, but only in a way that can work for Lexington and Fayette County.

Criteria for Selecting Peer Communities: (don't need to meet all)

- Location in the South

- MSA ranging between 500,000 and 1,500,000

- Home to a major university

- Reputation for high-quality city planning

Select Communities to Study

- Chattanooga, TN
- Columbia, SC
- Greenville, SC
- Knoxville, TN
- Louisville, KY
- Madison, WI
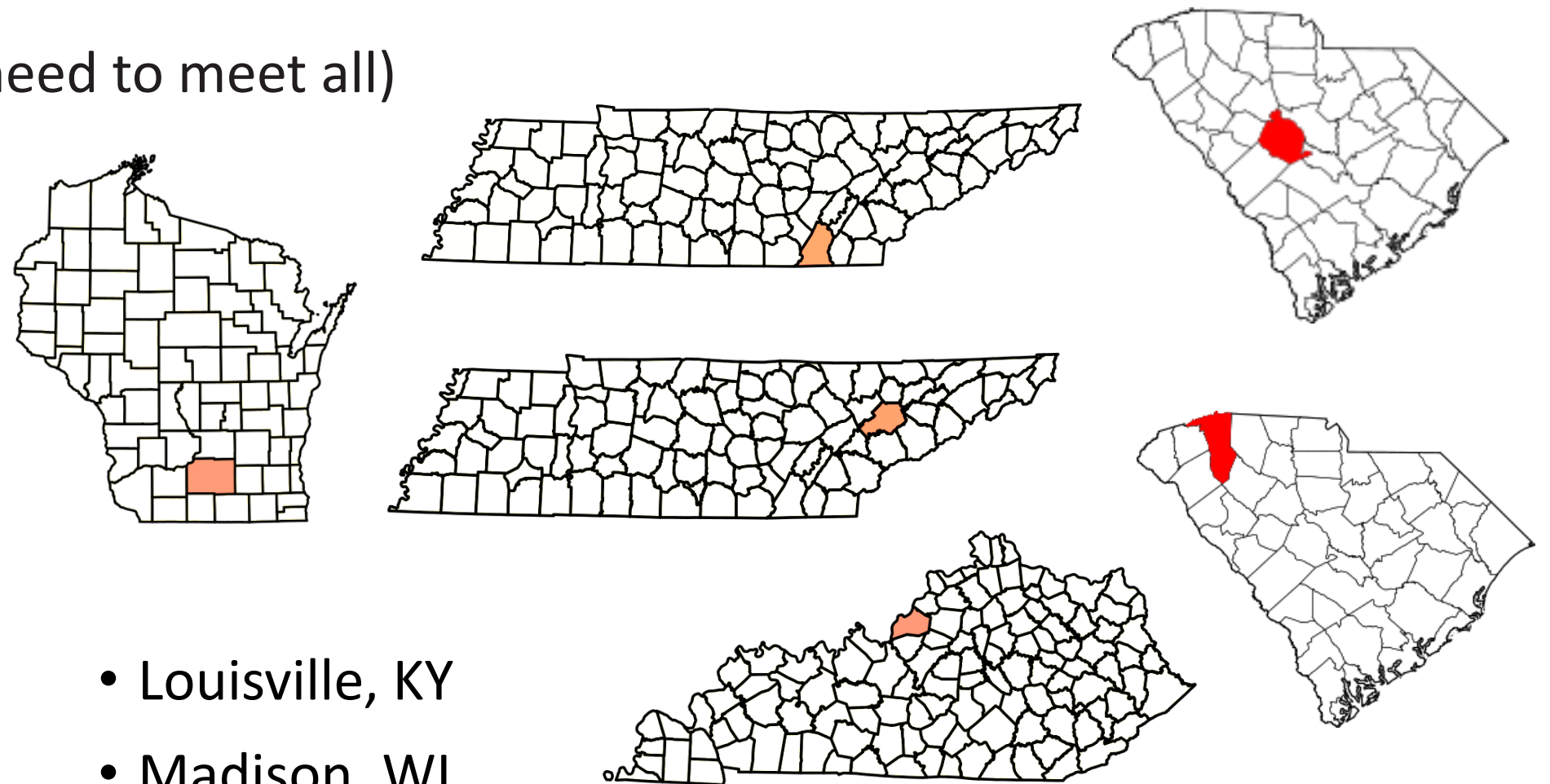
Key Stats by App. Type:

Caveats
- Some cities did not provide all of the info.
- Some app. types are "apples and oranges"

Ave. Annual Apps.
- LFUCG is low for rezonings and conditional uses

Ave. Days for Approval
- LFUCG is high for rezonings and major subdivisions (peers may be optimistic)

KEY STATISTICS FOR COMMUNITIES BY APPLICATION TYPE

APPLICATION TYPE	Lexington KY	Chattanooga TN	Columbia SC	Greenville SC	Knoxville TN	Louisville KY	Madison WI
Ordinance Text Amendments							
Average Annual Applications	3.4	2	5.7	5	7.5	6	
Average Days for Approval	81	60	90	75	90	120	
Rezonings							
Average Annual Applications	14	150	13.3	3	32.5	63	
Average Days for Approval	248	90	90	75	90	210	
Planned Unit Developments							
Average Annual Applications		5	0.2	3			
Average Days for Approval*		90	90	120			
Site Plans / Development Plan							
Average Annual Applications**	48.8		15.6			225	
Average Days for Approval*	57 / 154		40			56-120	
Subdivisions: Minor***							
Average Annual Applications	73.2	228	72	100		189	
Average Days for Approval	50	10	15	21		56	
Subdivisions: Major							
Average Annual Applications***	32	27	10	25	12.5	22	
Average Days for Approval	523	45	105	45	90	105	
Variances							
Average Annual Applications	21		16	0	80	175	
Average Days for Approval	58		30	NA	45	90	
Conditional Uses ***							
Average Annual Applications	18		28	50	40	144	
Average Days for Approval	49		30	60	45	150	
Administrative Appeals							
Average Annual Applications	13		0.2	1	4	14	
Average Days for Approval	45		30		45	60	

CRITERIA FOR PROCESS CHANGES

1) **Quality of land uses and development relative to community character**

2) **Predictability of the approval process and development outcomes**

3) **Costs to applicants**

4) **Costs to the LFUCG**

5) **Protection of natural and cultural resources**

6) **Opportunities for meaningful public engagement**

7) **Equity issues for disadvantaged stakeholders**

PLANNING PROGRAM OVERVIEW

Number, relevance, and quality of plans
Many high-quality plans/studies over past decade: 2018 Comprehensive Plan, 2021 Sustainable Growth Study, 2018 Parks & Recreation System Master Plan, 2017 Rural Land Management Plan, Small Area Plans.

Progressive nature of planning philosophy
"Smart Growth" and "New Urbanism" achieved via USA and Placebuilders.

Quality of regulations
Regs to implement plans are well written, detailed, and forward thinking. In addition to the zoning ord. and subdivision regs, there are supplemental docs: Big Box Retail Design Guidelines, Major Roadway Corridor Ordinances, Multi-Family Design Standards, Neighborhood Character Design (ND-1) Overlay Zones.

Helpful tools for relevant professionals and citizens
Development Handbook is unmatched by the "peer communities."

Robust public engagement processes
Numerous opportunities for engagement, as well as resources such as the *Public Engagement Toolkit* and the non-profit CivicLex.
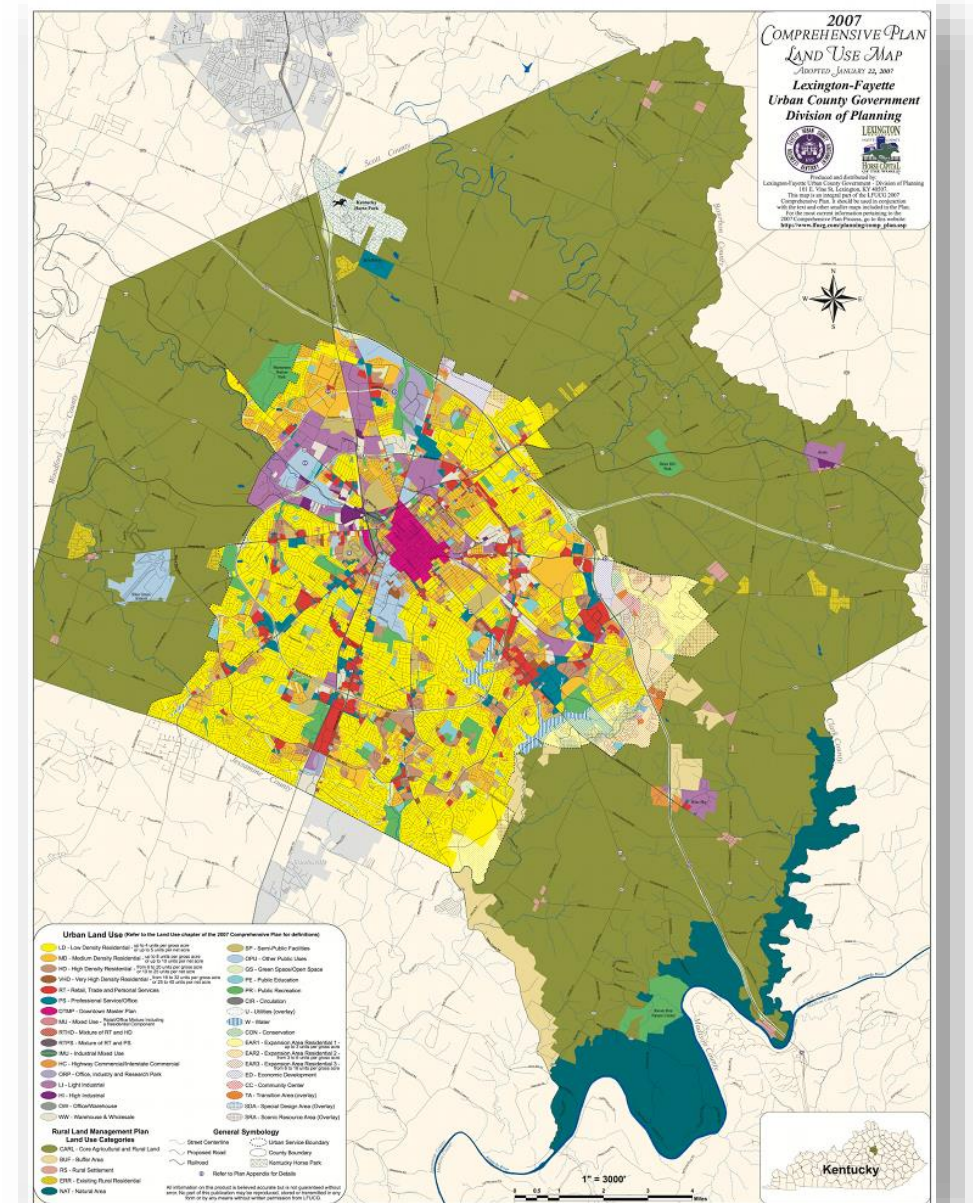
RECOMMENDATIONS

1. **Propose future land uses in the Comprehensive Plan.**

   Background: Most communities include a proposed land use (or "place types") plan map in their comprehensive plan, but the LFUCG eliminated that from its comprehensive plan in 2013.

   Challenges with Placebuilder: Placebuilder, a tool introduced in the 2018 comprehensive plan, is now used to help determine rezonings, but it lacks clarity and predictability and makes rezonings lengthy and costly.

   Potential Solutions:

   A. Create a place types map

   B. Create an "ideal" place types map

   C. Expand small area planning

   D. Prioritize Placebuilder policies


2007 Comprehensive Plan

RECOMMENDATIONS

2. **Limit Placebuilder's use to supplementing the codes.**

    Background: Although Placebuilders is intended to be limited to rezonings and to be superseded by development regulations, it is reportedly used to exact requirements over and above the regulations.

    Potential Solution:

    - Development regulations should be the gauge when reviewing all applications.

    - If any regulations fall substantially short in meeting the aspirations of Placebuilder, those regulations should be updated.

    - If regulations are updated, it is preferable to do that as part of a holistic project rather than doing so piecemeal over time.
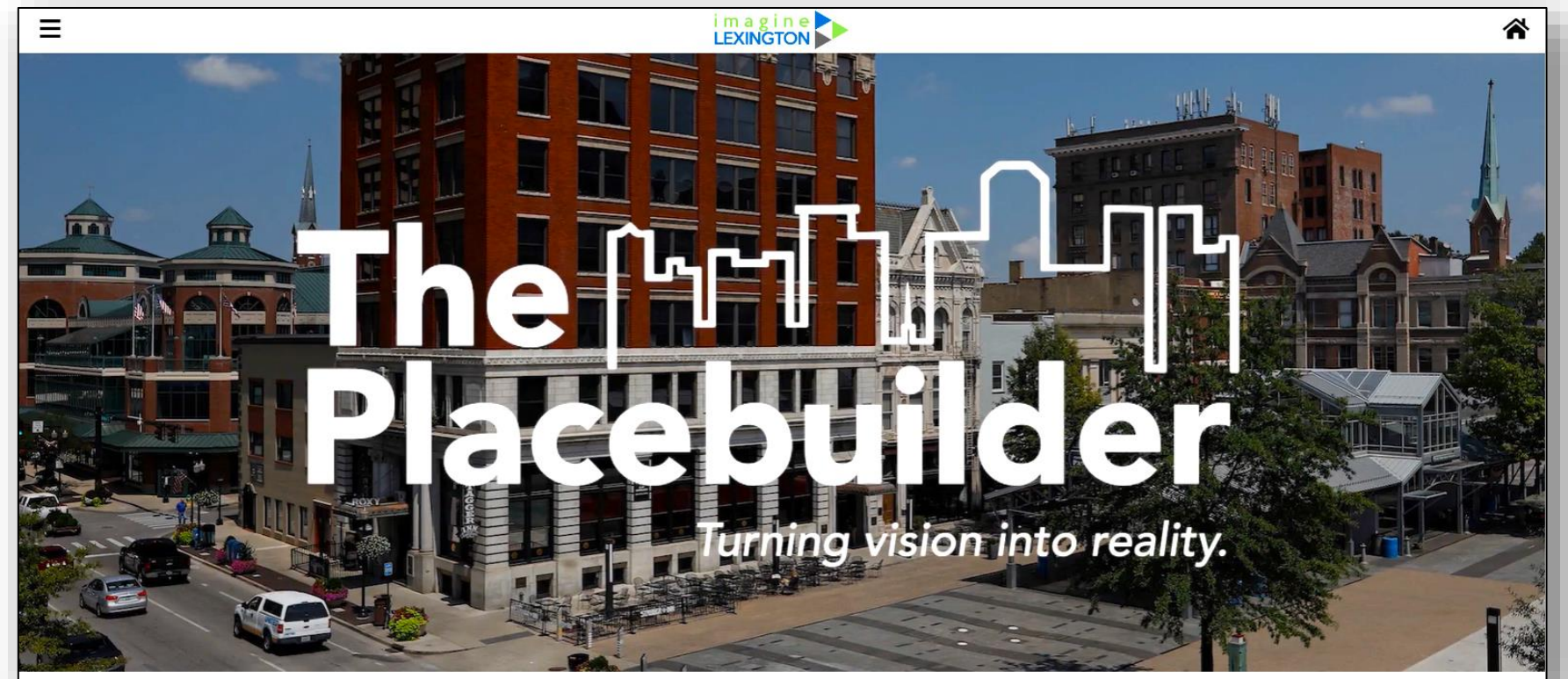
RECOMMENDATIONS

3. **Establish a streamlined process for infill approval.**

    Background: Because of the limited amount of developable land in Lexington-Fayette County and the relatively tight financial margins for small infill developments, the pathway to approval should be quicker and easier than it is currently.

    Potential Solutions:
    One or more of the following options might be followed:

    A. Encourage and expand mixed-housing districts

    B. Prioritize Placebuilder policies

    C. Utilize the group residential project tool to the fullest extent

   D. Consider administrative approvals for infill projects (or TRC approvals)

RECOMMENDATIONS

4. Reduce the workload of the Subcommittees.

Background: Relative to most communities, the LFUCG has more committees involved in the approval processes, adding complexity and time to approvals. The Zoning and Subdivision Subcommittees may be the best avenue to reduce timelines.

Potential Solutions:

A. Reduce the number of applications that go before the Zoning & Subdivision Subcommittees.

B. Give the Zoning & Subdivision Subcommittees limited approval authority.

One additional option for future consideration might be the elimination the Subcommittees by creating PC-appointed seats on the TRC.
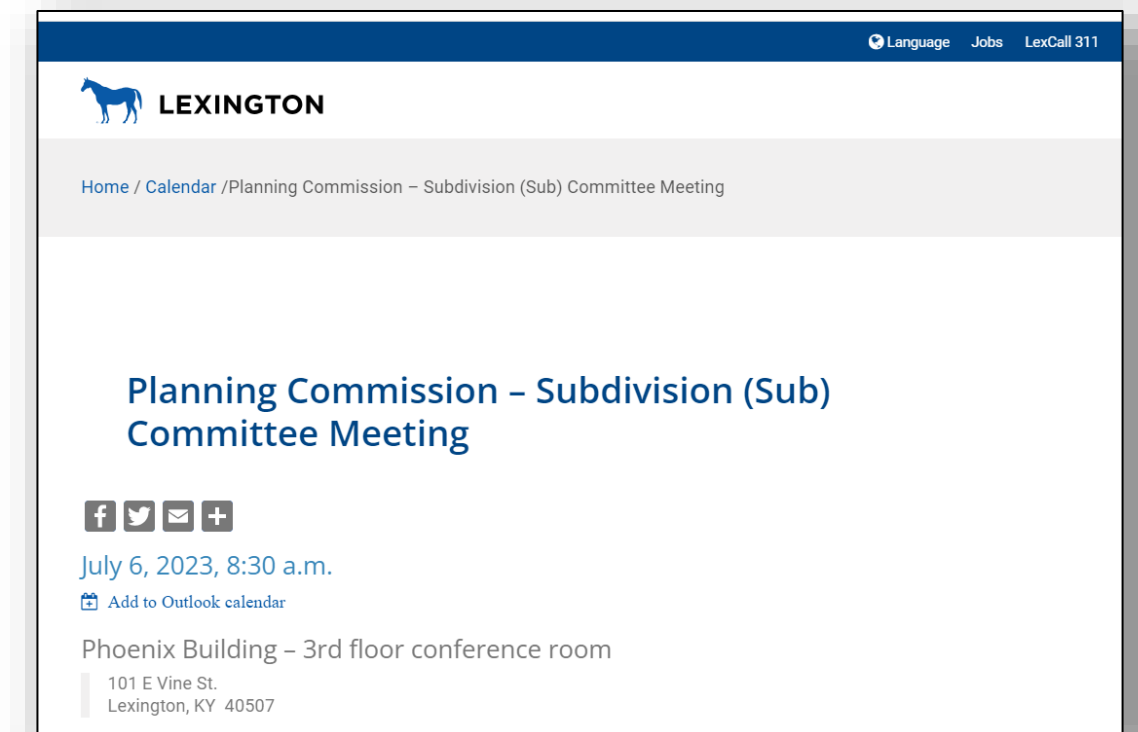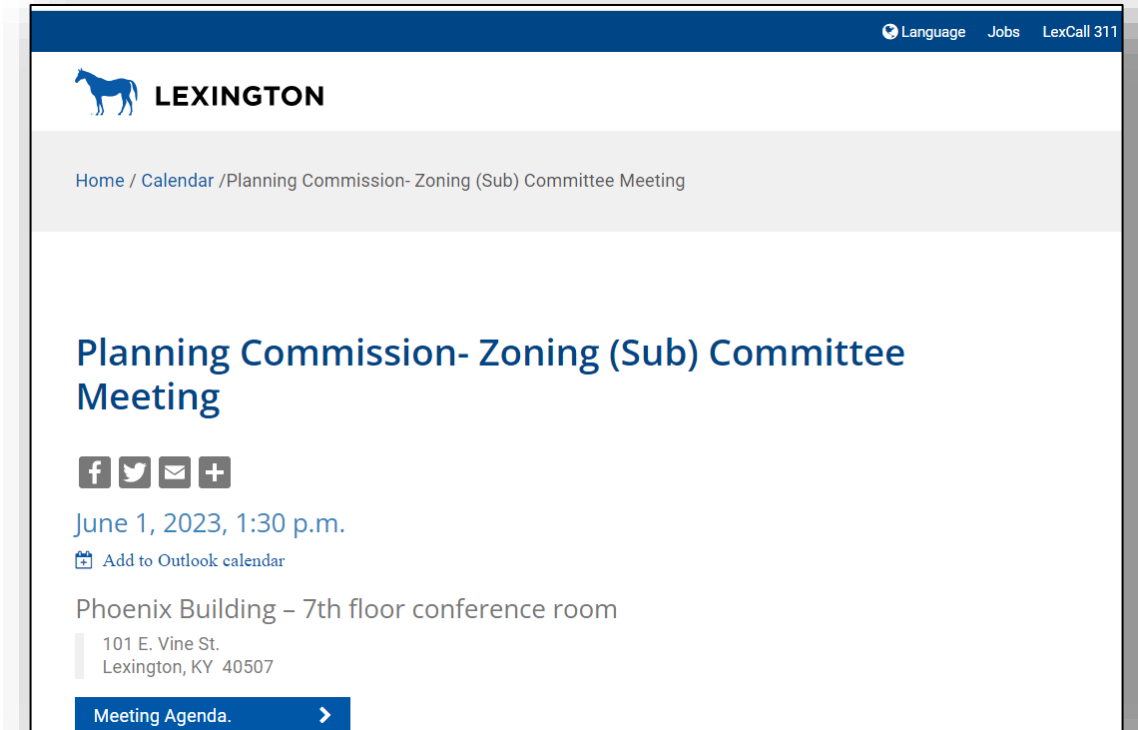
RECOMMENDATIONS

5. Utilize videoconferencing and record meetings.

Background: Public hearings for applications are currently televised. However, remote observation (such as television or virtual broadcasting) is not required for work sessions. Some stakeholders believe that situation discourages transparency.

Potential Solutions:

- Provide virtual broadcasting for all public meetings and work sessions

- Record all public meetings and work sessions

- Provide clear instructions for the public on how to access both virtual broadcasting and recorded meetings

RECOMMENDATIONS

6. **Change the time for Planning Commission meetings.**

   Background: Meetings currently occur on the second and fourth Thursday of each month at 1:30 PM. While that works well for professionals attending as part of their job, it can be difficult for many citizens. Most communities hold such meetings in the late-afternoon or early-evening.

   Potential Solutions:

   - Move meetings to late-afternoon or early-evenings (5:00 or 6:00 PM)

   - Consider moving committee meetings and work sessions to a similar time.

   It is recognized that meeting space limitations may be the biggest hurdle to this recommendation.
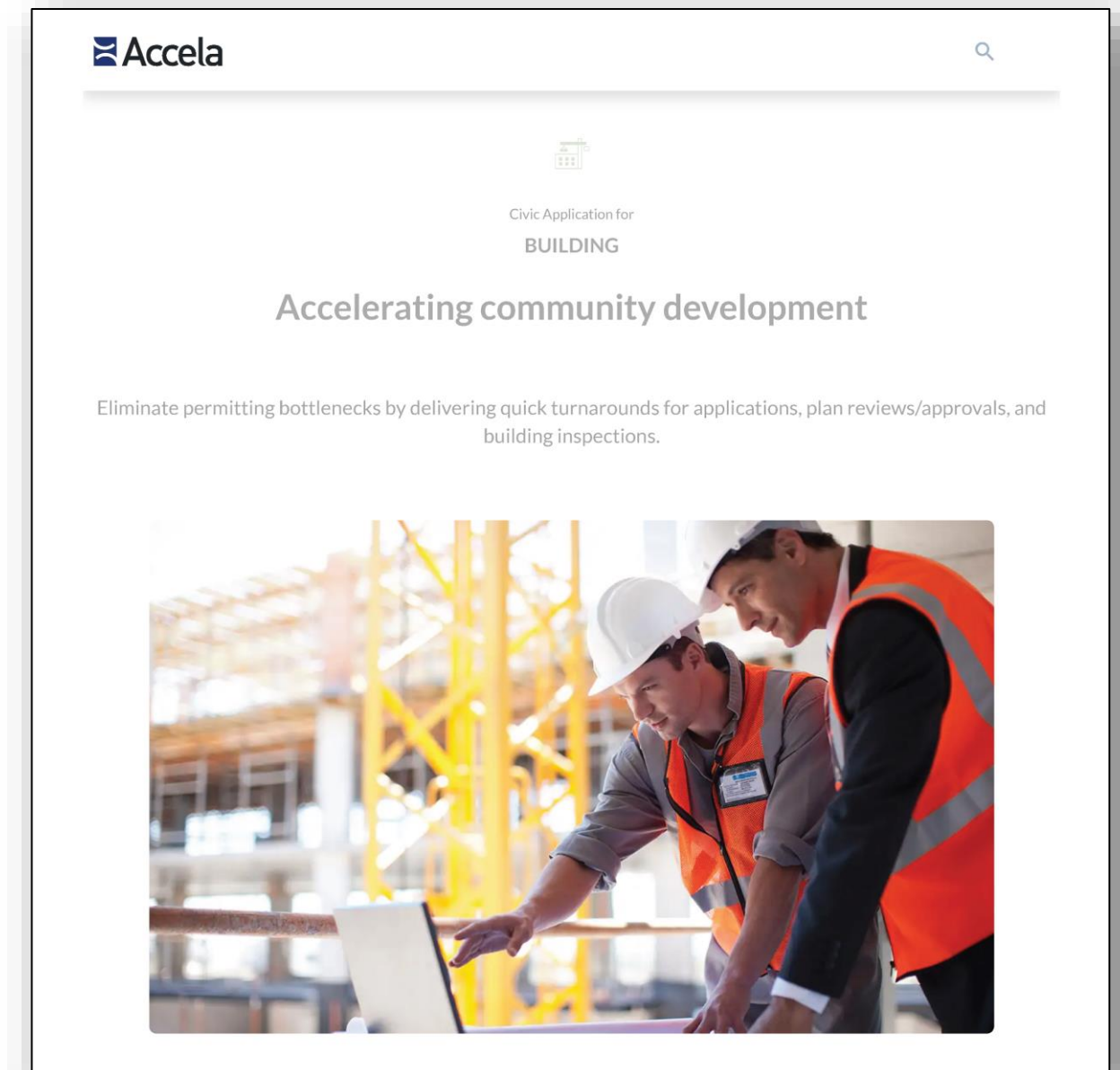
RECOMMENDATIONS

7. **Utilize the Accela portal in a more effective manner.**

    Background: Accela is an online portal that allows LFUCG staff, Applicants, and the public to track the progress of land use and development applications. There are various levels of access permitted, and the information on applications is periodically updated. Many developers have complained that there is no reliable mechanism to alert them of all staff requirements tied to their application.

    Potential Solutions:

    Louisville uses Accela and their approach to it may be worth emulating, including:

    - Generation of weekly reports

    - Dedication of more staffing to Accela

RECOMMENDATIONS

8. **Tighten Certification to lock in the requirements.**

   Background: After applications receive formal approval, the process of finalizing the details is referred to as Certification. During that process, LFUCG staff sometimes increases the requirements relative to the approval (wider sidewalks, etc.). The only alternative is for the Applicant to return to the approving body. A now conducted, Certification can add time, increased costs and decrease predictability to approvals.

   Potential Solutions:

   • Limit staff members who are on the "sign off" list to those whose expertise is clearly relevant.
   • Require TRC meeting attendance by at least one rep. of all departments that will be reviewing plans.
   • Prohibit new issues from being raised by staff after a plan is revised per the TRC meeting.
   • Limit conditions for approvals to quantifiable specifics (five-foot wide sidewalk, etc.) rather than open-ended conditions, such as satisfying the requirements of a staff member.
   • Adopt a policy that prohibits increasing requirements after an application has been approved.
   • Allow Applicants to get administrative approval for minor modifications to specific requirements.

RECOMMENDATIONS

9. **Adopt a new policy for ex parte communications.**

   Background: The LFUCG has taken a position that ex parte communications between the public and Council members are prohibited prior to voting. This position is based on several decisions of Kentucky appellate courts. Consequently, the public is frustrated at not being able to convey their concerns regarding proposed text amendments and rezonings prior to public hearings. A review of relevant laws and court decisions in Kentucky suggests that ex parte communications is acceptable under certain conditions.

   Potential Solutions: (all below should be made part of the hearing records)
   - Elected officials should be able to meet with the public so long as the meeting focuses on the merits of the application. Time limits might be placed on the meeting (e.g., 30 or 45 minutes).
   - The meeting should take place at a specific location.
   - Each ex parte meeting should be documented in writing (location, duration, materials provided, etc.).
   - A list should be made of any ex parte meetings requested by members of the public that were denied by the elected official, and the reason why it was not held should be stated.
   - Each elected official should identify any potential conflict of interest that they might have.
   - A procedure should be established for the public to submit comments about the application.

RECOMMENDATIONS

10. **Establish a Development Liaison position.**

    Background: The LFUCG currently lacks a "Development Liaison" position, which is established by some local governments. The purpose would be to help Applicants walk their applications through the approval process. The goal would be for applications to be less time consuming and less costly for both the Applicant and the LFUCG. This approach has worked well for one of the peer communities studied for this project – Columbia, SC.

    Potential Solutions:
    Specific duties for this position might include the following:

    - Meet with Applicants and their professionals to educate them on the review process and their options.
    - Offer Applicants suggestions about the most appropriate types of applications to meet their needs.
    - Assist Applicants in completing their application forms and submitting required information.
    - Function as a liaison between the Applicant and LFUCG staff, and moving apps. through the process.
    - Inform the development community on any changes in the review process or regulations.
    - Respond to any questions or concerns members of the development community may have.
    - Attend the monthly meetings of the local chapter of the Building Industry Association (BIA).

APPLYING CRITERIA FOR PROCESS CHANGES TO RECOMMENDATIONS

- **All ten recommendations were evaluated per the criteria – below is one example and all are in the report.**
- **None scored with a "very negative impact," and few scored with "somewhat negative impacts."**

Rec. #1: Propose future land uses in the Comprehensive Plan.	Very Negative Impact	Somewhat Negative Impact	Neutral Impact	Somewhat Positive Impact	Very Positive Impact	Total Score
	1	2	3	4	5	
Criterion #1: Quality of land uses and development	0	0	3	0	0	3
Criterion #2: Predictability of the process and outcomes	0	0	0	0	5	5
Criterion #3: Costs to applicants	0	0	0	0	5	5
Criterion #4: Costs to the LFUCG	0	0	0	0	5	5
Criterion #5: Protection of natural and cultural resources	0	0	3	0	0	3
Criterion #6: Opportunities for meaningful public engagement	0	0	3	0	0	3
Criterion #7: Equity issues for disadvantaged stakeholders	0	0	0	4	0	4
Total Score	0	0	9	4	15	28

DISCUSSION

1. Propose future land uses in the Comprehensive Plan.

2. Limit Placebuilder's use to supplementing the codes.

3. Establish a streamlined process for infill approval.

4. Reduce the workload of the Subcommittees.

5. Utilize videoconferencing and record meetings.

6. Change the time for Planning Commission meetings.

7. Utilize the Accela portal in a more effective manner.

8. Tighten Certification to lock in the requirements.

9. Adopt a new policy for ex parte communications.

10. Establish a Development Liaison position.