

**SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT
& LAND SUBDIVISION REGULATIONS TEXT AMENDMENT**

ZOTA 2013-1 & SRA 2013-1: AMENDMENTS RELATED TO THE CAPACITY ASSURANCE PROGRAM

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Available on original Staff Report and on Planning Commission agenda

STAFF REVIEW:

A team of staff members in the Urban County Government's Divisions of Water Quality and Planning, and the Department of Law have been meeting in a collaborative fashion for about the past two months – working on a comprehensive ordinance to fully implement the Capacity Assurance Program. This new program is an essential component of the Consent Decree approved by the Kentucky Division of Water and the United States Environmental Protection Agency (EPA).

The larger ordinance has been reviewed by several stakeholders in the community, along with the four changes proposed (two each) to the Zoning Ordinance and to the Land Subdivision Regulations. One set of review comments identified a potential conflict in one set of plans that are subject to review by the Planning Commission. The conflict would have been on the rare, but not unprecedented plans that are *both* a Preliminary Subdivision Plan (PSP) *and* a Final Development Plan (DP). Under the Subdivision Regulations, the PSP could be approved by the Commission without capacity assurance or a reservation for capacity. However, under the proposed draft change to Article 21-4(b), the Final DP could not be filed without one of these determinations.

In order to resolve the conflict, the staff now recommends that the proposed change to Article 21-4(b) not be adopted. This may result in more development plans being requested for one-year extensions or for reapproval (perhaps because capacity will not be available) for those locations. However, it is hoped that that will not be the case.

The Staff Recommends: Approval of the changes to Art. 5-2 of the Zoning Ordinance, and to Sec. 4-5(a) & 6-2(a) of the Land Subdivision Regulations, for the following reasons:

1. These text amendments will put the Zoning Ordinance and Land Subdivision Regulations into better alignment with the provisions of the Capacity Assurance Program – an integral part of the Consent Decree with the EPA.
2. These changes will eliminate the need for the Commission to spend their time reviewing final subdivision plans, or otherwise reapproving such plans, that have not originally qualified for sanitary sewer service or treatment capacity.