

FULL PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENT

- 1. ZOTA 2016-1: AMENDMENTS TO ARTICLES 7, 23, AND 26 FOR ENVIRONMENTALLY SENSITIVE AREAS – petition for a Zoning Ordinance text amendment to Articles 7, 23, and 26 to strengthen oversight by the Urban County Board of Adjustment for the protection of environmentally sensitive areas (ESAs) within the community.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: *COPIES OF TEXT ARE AVAILABLE UPON REQUEST*

The Zoning Committee Recommended: Referral to the full Commission.

The Subdivision Committee Recommended: Approval, for the following reasons:

- 1. The proposed text amendment will help to guide the Board of Adjustment in their review of conditional use permit applications, specifically for properties that may be environmentally sensitive and could be impacted by a future land use, and will strengthen the Board's oversight of our environmentally sensitive land in Fayette County.
- 2. The 2013 Comprehensive Plan's Goals and Objectives related to protection of environmentally sensitive land are advanced by implementing the proposed text amendments. If approved, the Board of Adjustment will be able to assist in promoting the protection of natural features and landscapes prior to development (Theme A, Goal #3c. and Theme B, Goal #3a.); reducing the community's carbon footprint (Theme B, Goal #1); encouraging environmentally sustainable uses of natural resources (Theme B, Goal #1b.); and protecting and enhancing the natural, cultural, historic, and environmental resources of the Rural Service Area and rural farmland (Theme E, Goal #2b.).
- 3. The proposed text amendment will correct outdated references to the Land Subdivision Regulations as it relates to environmentally sensitive areas and geologic hazard areas.

Staff Presentation – Ms. Wade directed the Commission's attention to a PowerPoint presentation for the proposed text amendment for environmentally sensitive areas. She said that the proposed amendment involves Articles 7, 23 and 26 of the Zoning Ordinance. She then said that the Planning Commission recently initiated a text amendment to these three sections of the Zoning Ordinance to strengthen oversight by the Urban County Board of Adjustment, specifically to protect environmentally sensitive areas in the community. She added that the proposed text amendment would relate to Article 7-6(a), which outlines the Board of Adjustment's responsibility and authority in dealing with conditional use permit applications; Article 23A-2(c), which references the Expansion Area Zoning Categories; and Article 26, which deals with the tree protection standards.

Ms. Wade said that, during the course of the Planning Commission's consideration of another text amendment for recreation and tourism, an idea was brought forward to consider that an environmental surety or bond be placed on property that could have an impact on the environmentally sensitive areas. In consideration of that proposal, an Ad Hoc Committee was established with members from the Planning Commission and the Board of Adjustment, as well as stakeholders. She said that during the course of their meetings from December 2014 to February 2015, the Ad Hoc Committee studied the idea of the environmental surety or bond and determined that that placing a surety or bond as a condition was not a viable solution. She then said that the Ad Hoc Committee had proposed the following three recommendations:

- 1. **Revise the Zoning Ordinance to require applications that impact an environmentally sensitive area (ESA) include a site plan for Board of Adjustment (BOA) consideration of a conditional use permit.** When deemed necessary to ensure the proper addressing of environmentally sensitive areas, the site plan shall be prepared by a registered engineer, or other professional qualified to assess and make recommendations for protection of the specific ESA in question. The proposed regulations should be drafted to ensure that small scale applications with minimal potential for environmental disruption are not automatically required to provide excessive levels of site plan detail or professional expertise.
- 2. **Revise the Zoning Ordinance to include language indicating that in conjunction with a conditional use permit involving an ESA, the BOA may impose a condition establishing "gateway" or "checkpoint" certifications for proceeding with exercising the conditional use permit during pre-construction, active construction and/or post construction phases of the development.** This requirement should be drafted to permit verification by either a public enforcement agency or qualified private contractor as deemed appropriate by the BOA on a case-by-case basis.
- 3. **Revise the Zoning Ordinance to indicate that within ESAs in the Rural Area, the BOA may consider a requirement that non-habitable structures and facilities, natural feature modifications and paving installed in conjunction with a conditional use permit may be required to be removed and/or restored if the conditional use ceases operation.** In such cases, the BOA should provide specific conditions as to what event(s) would constitute the cessation of the conditional use permit; specific listing of the structures or facilities subject to the condition; and the responsible party for such removal action(s).

Ms. Wade said that all three changes included the Board of Adjustment reviewing conditional use permits. In reviewing the proposed recommendations, the staff was charged with creating the text amendment to the Zoning Ordinance. She then said that those three recommendations from the Ad Hoc Committee were presented to the full Commission in May 2015.

Ms. Wade said that the three proposed revisions would amend Article 7-6(a)(4) and would make a reference change to Articles 23 and 26 of the Zoning Ordinance. She then said that, as a group, the Planning Commission and staff had decided to focus on the Ad Hoc Committee recommendations; therefore, the Land Subdivision Regulations would not be amended at this

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time. However, should there be a need to change the Land Subdivision Regulations, other divisions of the LFUCG would be included in the review.

Ms. Wade then said that Article 6-11 of the Land Subdivision Regulations does reference environmentally sensitive areas, as well as geologic hazard areas. She noted that generally when there is a geologic hazard area, then there is also an environmentally sensitive area. She explained that an environmentally sensitive area is an area that is limited in its development due to floodplains, sinkholes and so forth; whereas, a geologic hazard area would be an area that is severely limited in its development, due to for example, an identified cave system or a cluster of sinkholes. She said that some of the environmentally sensitive areas have been mapped for Lexington, but not every type is part of the LFUCG GIS system. She then said that a map was generated and it showed at least one third of Fayette County was located in an environmentally sensitive area. This is partially due to the aquifer recharge area for the Georgetown water supply, as well as the number of areas that are impacted by floodplains and steep slopes. Ms. Wade said that these land subdivision regulations definitions are not being proposed to change and the Zoning Ordinance does refer to these terms. The following text is being proposed to address the Committee recommendations (inserted in Article 4-6(a)(4)):

When reviewing a conditional use application, the Board shall thoroughly address potential impacts to any identified environmentally sensitive area (ESA), geologic hazard area (GHA), as further regulated under the Subdivision Regulations, and/or Rural Service Area (RSA) prime soils as well as any other resources of special concern located on the property. The Board may require a more detailed site plan and more comprehensive associated information in order to assess and consider the future protection of such area and resources. Such a site plan shall be prepared by a qualified professional well suited to addressing a particular issue or concern of interest, including landscape architects, hydrologists, geologists, environmental engineers, naturalists, arborists, etc. The site plan shall show or describe protection measures, mitigation and enhancement of the ESAs and/or GHAs and their associated buffer areas when they are, or could be, impacted by an alteration, use or activity within the ESAs and/or GHAs and their buffer areas pre-construction, during construction and post-construction.

For any conditional use permit granted for a site containing any ESAs and/or GHAs the Board may impose intermediate certification and verification reviews during the pre-construction, active construction and/or post-construction phases of development in order to ensure protection of environmentally sensitive areas and environmental hazard areas during all phases of a project. Such certification or verification reviews may be conducted by either a public enforcement agency or a qualified private contractor, as deemed appropriate by the Board.

In addition, when the proposed conditional use is located within the Rural Service Area (RSA), the Board may consider a requirement that alterations to the ESA(s) and/or GHA(s), such as non-habitable structures, non-habitable facilities, natural feature modification and paving installation associated with the conditional use permit be removed, and/or restored if the conditional use were to cease operations.

Ms. Wade said that during the staff's review, it was discovered that Articles 23A-2(c) and 23A-d of the Zoning Ordinance still referenced Articles 6-7 and 6-10 of the Land Subdivision Regulations. She explained that in the early 2000s, changes were made to the Land Subdivision Regulations that reordered and moved the environmentally sensitive information under Article 6-11 of the Land Subdivision Regulations. This proposed text amendment would update references to that section.

Ms. Wade then said that Article 26 of the Zoning Ordinance regulates tree protection standards. She noted that there are a few generic references to environmentally sensitive lands, and the staff felt it would be necessary to place the terms "environmentally sensitive areas" and "geologic hazard area" from the Land Subdivision Regulations into Article 26. The staff recommends adding the following in Article 26 of the Zoning Ordinance:

- Article 26-2: Update "Tree Protection Plan (TPP)" definition to include geologic hazard area;
- Article 26-3: Update the reference to Article 6-11 of the Land Subdivision Regulations; and
- Article 26-4(b): Update Preliminary Development Plan requirements to include geologic hazard area;

Ms. Wade said that, however, text amendments are not legally required to make a finding that they be consistent with the Comprehensive Plan; the Zoning Ordinance is the primary mechanism by which the Planning Commission and the Council implement the Plan through the Goals and Objectives. Due to the importance of protecting the environmentally sensitive lands, the staff made their recommendation with findings using a number of Goals and Objectives which directly relate, including the following:

- (1) promoting the protection of natural features and landscapes prior to development (Theme A, Goal #3c. and Theme B, Goal #3a.);
- (2) reducing the community's carbon footprint (Theme B, Goal #1);
- (3) encouraging environmentally sustainable uses of natural resources (Theme B, Goal #1b.); and
- (4) protecting and enhancing the natural, cultural, historic, and environmental resources of the Rural Service Area and rural farmland (Theme E, Goal #2b.).

Ms. Wade said that in reviewing the proposed text amendment, the staff is recommending approval, for the following reasons:

1. The proposed text amendment will help to guide the Board of Adjustment in their review of conditional use permit applications, specifically for properties that may be environmentally sensitive and could be impacted by a future land use, and strengthen the Board's oversight of our environmentally sensitive land in Fayette County.

2. The 2013 Comprehensive Plan's Goals and Objectives related to protection of environmentally sensitive land are advanced by implementing the proposed text amendments. If approved, the Board of Adjustment will be able to assist in promoting the protection of natural features and landscapes prior to development (Theme A, Goal #3c. and Theme B, Goal #3a.); reducing the community's carbon footprint (Theme B, Goal #1); encouraging environmentally sustainable uses of natural resources (Theme B, Goal #1b.); and protecting and enhancing the natural, cultural, historic, and environmental resources of the Rural Service Area and rural farmland (Theme E, Goal #2b.).
3. The proposed text amendment will correct outdated references to the Land Subdivision Regulations as it relates to environmentally sensitive areas and geologic hazard areas.

Ms. Wade said that before the Planning Commission makes a decision on a plan, that plan has been fully vetted by their Technical Committee, which consists of up to 25 people who have expertise in their field. The Board of Adjustment does not have this advantage. The proposed text amendment would help the Board in their review of conditional use applications, and should an application need additional review, the staff would present that application to the Technical Committee. She indicated that there is no requirement for a BOA application to be presented to the Technical Committee; it is only when the staff deems it necessary.

Ms. Wade said that the 2013 Comprehensive Plan will be furthered by the implementation of this text amendment, and the proposed text amendment would correct the outdated references in the Zoning Ordinance. She then said that she would try to answer any questions regarding the proposed text amendment listed on today's agenda.

Commission Questions – Mr. Penn said that he appreciated that the Technical Committee reviews the applications before Planning Commission, and asked if the proposed text amendment would require a better development plan to be submitted that identifies the environmentally sensitive areas. Ms. Wade replied affirmatively, and said that the staff may need to help an applicant identify whether or not the land has environmentally sensitive areas before they apply for the conditional use permit. She explained that once an application is submitted, the Board of Adjustment's deadline is much shorter than the Planning Commission's deadline. She said that the applicant does have the option to postpone the request, but it would be the staff's responsibility to help them identify those areas before they apply for the permit. This would also help the applicant find the appropriate professional to assist. Mr. Penn said that he hopes that is the reason because some of the things that this community has gotten are the direct result of the development plan not showing or identifying correct information.

Mr. Drake said that there is no doubt that the intent of this text amendment is very noble; but he indicated that he was not sure of its "mechanics." He asked if a floodplain was an environmentally sensitive area. Ms. Wade replied affirmatively. Mr. Drake then asked if that floodplain was altered and fill used, if this text amendment would allow the Board of Adjustment to require that fill to be removed if that business were to fail. Ms. Wade said that that could be an option for the Board; but since fill in a floodplain is required to be engineered and approved by FEMA, the Division of Water and the local regulations, that fill would not necessarily be removed. Mr. Drake noted that that troubled him.

Ms. Mundy indicated that her property has steep slopes where the water flows over the palisades to the river. She said that under Article 6-11 of the Land Subdivision Regulations, it lists aquifer recharge areas, and asked about the area where the water flows to the river. Ms. Wade said that the steep slope area, as well as the floodplain language would cover palisades. Ms. Mundy said that the palisades are above the floodplain. Ms. Wade said that palisades would be part of the floodplain. She then said that generally every piece of land in Fayette County flows toward a river, but not all of that land is located in an environmentally sensitive area. Ms. Mundy said that most of the area behind her house has over 15 percent slope. Ms. Wade said that if a slope is over 15 percent, it would fall under environmentally sensitive area; but if that percentage is under 15 percent, it would not. Ms. Mundy said that in her mind this is a river recharge, not an aquifer recharge. Ms. Wade said that, in terms of the Engineering Manuals, there are other ways to control the runoff on a site that regulate water quality and water quantity runoff. Ms. Mundy said that the Engineering Manuals would protect those areas with a runoff over 15 percent.

Mr. Berkley indicted his support of the Committee's recommendations of not having a surety or bond. He said that the staff had stated that the Board of Adjustment could require the fill to be removed, and asked how they would require that to be done. Ms. Wade indicated that there are still logistical issues in having fill removed from a site; but during their meetings, the staff had spoken with Commissioner Paulsen, who is involved with Code Enforcement, about the possible enforcement issue that is associated with the Board of Adjustment. Should they make a ruling saying that a conditional use ceases to exist and now you, as the property owner, must return the land back to its pre-development condition. She then said that there would be some cost to that action. When an applicant applies to the Board for a conditional use permit and a condition is put in place, they are agreeing to those terms. She added that there is a contract between the applicant, the Board of Adjustment and the Lexington-Fayette Urban County Government to ensure that conditions are met, if it were to occur. The City would not require the applicant to set money aside in the beginning; but afterwards, the City would have the authority to follow up on that conditional use; and if needed, ask the applicant to begin the process of returning the land back to its pre-development conditions. Otherwise, the City could fine the applicant for not complying with conditions imposed by the Board of Adjustment's action.

Mr. Berkley asked if Code Enforcement would be handling these types of cases. Ms. Wade said that Zoning Enforcement would handle any follow-ups, as well as any required annual reviews for the Board of Adjustment.

Mr. Drake asked how the conditional use requests within an environmentally sensitive areas were handled prior to this proposed text amendment; and if there has been a great deal of abuse. Mr. Sallee said that, with the exception of two more recent cases, there have not been a great number of these cases in the past. He explained that one of the cases was off Georgetown Road, and that the operation that was approved to remove the top soil was in part of the aquifer recharge area. He said that during the excavation of the site, the workers had removed much more than the top soil. This in turn, became an issue with State regulations, in addition to the conditional use permit. He then said that, since this was in an aquifer recharge area, it was located within environmentally sensitive area. He then said that a number of property owners, as well as local organizations that became interested in this location. Mr. Sallee added that the more recent case was the property down by the Kentucky River at the opposite end of Fayette County, and said that parts of that property have steep slopes and a floodplain area.

Mr. Sallee said that there have been a few conditional uses that have been located in the floodplain; and, in those circumstances, the section of the Zoning Ordinance that references floodplains (in existence since the 1980s) has also been applicable in the Board of Adjustment's review. He said that those cases, in his mind, do not stand out as anything out of the ordinary. They only involved an additional section of the Zoning Ordinance that is not typically reviewed with the average conditional use permit, such as a home occupation permit, or a school or church in a residential zone, which are more typical types of development.

Mr. Sallee said that the actual review of the text amendment and the issue studied by the Sub-Committee is probably more of a result of two of the Board's more recent cases. He then said that, from his experience being on the staff, these types of contentious cases often lead to the need or the desire for text amendments either by the Planning Commission or, in some cases, as recommended by the Board of Adjustment.

Mr. Cravens said that he was alright with the Committee's recommendations; but in reviewing the details of the text amendment, he is not in support of it. He said that the text amendment states that such a site plan shall be prepared and asked if a site plan would need to be submitted with each application. Ms. Wade said that in every conditional use case a site plan is prepared; it's not required by law, but administratively it is required. Mr. Cravens said that it was the staff's testimony that the site plan shall be prepared by a qualified professional, such as a landscape architect, hydrologist, geologist, environmental engineer, naturalist, arborist, etc. The Chair said that it is not mandated; but if the Board of Adjustment deems it necessary to have a site plan submitted, they have the ability to request the applicant to have one prepared by one of the qualified professions listed in the staff report. Mr. Cravens replied that the language indicated "shall" be prepared. The Chair said that the site plan shall be prepared by that individual. Ms. Wade said that, in looking at the entire paragraph, the section that is bolded reads: "The Board may require a more detailed site plan." Mr. Cravens asked if this can be done with the proposed Ordinance change. Ms. Wade responded that it would not be without delay, and explained that when the applicant files their application, the Board would not see the application until their first meeting, which is a month later. She said that, at that time, the Board could request a more detailed plan to be submitted, delaying the applicant 30 days. Mr. Cravens said that the Commission delays/postpones applications until the plan is fixed. Ms. Wade said that the Board has 60 days to review applications, whereas, the Commission has 90 days.

Mr. Cravens asked if a house being built in an environmentally sensitive area is covered under this text amendment. Ms. Wade said that if you are asking to build a house in the floodplain, then it might. Mr. Cravens then asked what if someone wanted to build a California style house on a steep slope looking out over the river. Ms. Wade said that the Board could ask for a site plan and the applicant would need to hire the appropriate professional. Mr. Cravens asked if a house would need to be reviewed by the Board of Adjustment. Ms. Wade responded only if a variance is needed, but a house is not a conditional use, it is a principal uses in most zones.

Mr. Cravens said that when a house is built the different divisions come on site to review the construction, and asked who would be reviewing the different phases of construction. Ms. Wade said that there are no site visits with a Board of Adjustment case, and this is a difference between regular activity for a subdivision development and conditional use applications in the environmentally sensitive areas, typically in a rural area. Mr. Cravens said that if a site plan is filed with the staff, then that would trigger the Division of Engineering to perform a site visit even without the text amendment. Mr. Sallee said that the Division of Engineering's review would be associated with a land disturbance permit, and some conditional uses obviously on a larger scale would require a land disturbance permit. He then said that the staff is not sure if a review would happen if it wasn't required; for example, a conditional use for a church in a rural area or even an urban area. He added that if it was not within an environmentally sensitive area, the staff is not sure if that would trigger anything more than the building permit type of review by the Division of Engineering.

Mr. Cravens said that it seems that the text amendment is "doubling down" on the same restrictions. Ms. Wade said that the text amendment would ensure that the Board of Adjustment cases receive the same review as the Planning Commission cases. Mr. Cravens commented that he is not satisfied nor is he hearing answers that he likes. Ms. Wade responded that the staff is doing their best.

Mr. Cravens asked if an applicant poured a nice driveway, and the use goes away, if this text amendment would force the driveway to be removed. Ms. Wade said that the Board of Adjustment would make that determination.

Discussion - The Chair said that in each one of the staff's recommendations it states that the Board "may" require something; it does not say they have to mandate it. He then said that the intent of the zone says we shall protect environmentally sensitive areas. These recommendations are making things proactive rather than reactive. He said that 10 years ago Adventure Tourism was not even heard of in this area. This type of tourism includes such items as rock climbing. He said that new things are happening more and more; and even though there has only been one Agricultural Natural Areas (A-N) zone change request, he believes that the Commission will see these more in the future. He then said that there should be ways to allow this type of tourism; this is a proactive approach to allow more uses to occur in the environmentally sensitive areas, while at the same time protecting these areas.

Mr. Wilson said that he appreciated this discussion. He said that every time there is a discussion he learns a little bit more, and the Chair had described the intent of the text amendment. He said that the text amendment would strengthen, but not overburden the Board of Adjustment's review; and among the Ad Hoc Committee members was the Chairman of the Board of Adjustment and several attorneys, who appreciated being on that Committee. Mr. Wilson indicated that he felt good about the proposed text amendment.

Ms. Richardson said that, with regard to agri-tourism, she believes this is an expensive overkill. It is her belief that this is incredibly restrictive and expensive, and she is concerned that this text amendment would keep the developers or people who want these activities from coming to Lexington. She added that most of these activities have an educational arm, but this proposal would prohibit them from coming and would force them to move to another county or another state. Ms. Richardson said that this text amendment is overly restrictive and she cannot support it.

Mr. Penn said that the problem needs to be identified before facilities are built and not try to prohibit them afterwards. He then said that historically the Board of Adjustment has not seen a good enough development plan to really know what environmental problems are, then suddenly the project is found to be not up to standard. He said that changing something on a piece of paper is a lot cheaper than getting into an afterthought situation, because the Board does not have a Technical Committee Review like the Commission does for development plans.

Mr. Penn asked if the reason for not using the surety or bonds was due to the expense. Mr. Wilson said that the Committee looked at whether or not a surety or bond could be legally imposed, as well as the cost of that surety or bond. Ms. Wade said that the Committee had an individual from a bond company in the group, and he indicated that the only way a bond company would support something like this was if it was one-for-one up front. She then said that their concern was how the Committee would enumerate that and how much it would cost to put something back to its natural state.

Ms. Plumlee thanked the staff and the Ad Hoc Committee for putting the text amendment together. She said that she would like to see more strength by using the word "shall" in the text amendment, particularly for the Rural Service Area. She then said that a surety or bond should be used in the rural areas because if the surety is too expensive to post, then perhaps the land shouldn't be developed in the first place - especially if it cannot be returned to its original use.

Mr. Cravens asked if the surety or bonds would be required if the project was not completed. Mr. Sallee said that the Board, theoretically, has that power; but it is not practical to require a bond for reclamation for conditional uses. Mr. Cravens asked what happens to the bonds that the Commission attaches to a development plan if the project goes unfinished. Mr. Sallee said that the bonds that the Commission considers are not reclamation. Ms. Wade said that the bonds that the Commission considers are infrastructure bonds and those are used for the right-of-way construction, which is City property. She then said that there is a known dollar amount that can be used for projects that have not been completed. Mr. Cravens asked if that is on City property, to which Ms. Wade replied affirmatively.

Mr. Brewer said that the recommendations made by the Ad Hoc Committee strike a good medium point between too much regulation or too much expense and with the right amount of investment in protecting the environmentally sensitive areas. He then said that this is a good compromise for both sides, and this text amendment should move forward.

Ms. Richardson indicated that in serving on many Committees; there has been a lot of discussion concerning the Bylaws and the Zoning Ordinance. She said that any time a body is given authority to do something, that body does it. She added that they begin to feel like it's their responsibility, and this is one of the reasons she believes this text amendment is overkill and too restrictive in the language that is being proposed. She said that she has been involved in too many things where people love the word "may" and they feel that they are empowered to do that and proceed forward. She then said that she doesn't want the word "shall" either; and in this situation, she doesn't believe it will make much difference. She believes that they will consider it a part of their authority and will most likely do it.

Mr. Penn said that he understood Ms. Richardson's concern, and he is not a big government person either. However, when the vegetation, the grass and the weeds are removed from a steep slope, replacing it is very hard due to soil erosion. A body can review the development plan very carefully, but not the business plan. He said that there is no way for the Board of Adjustment or the Commission to predict whether or not a business can make it. They are not in the business to determine which business is viable. Mr. Penn said that what they can do is say if nature's protection against erosion is removed, that business does not grow then it needs to put the land back to its original state. He then said that you can't just walk away from the situation and let the soil wash into the body of water. There needs to be a balance between those two points and that is what he is trying to consider today. He said that he does not want to make it where

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everyone just gets a permit for everything, but neither does he want the vegetation removed that has been there for hundreds of years for something that may or may not work. If the business doesn't work, that area becomes a rut and a mess. It's a two-way street.

The Chair said that the Committee, which included attorneys and Board and Commission members, put a lot of work into this text amendment. He then said that the Commission discussed this issue at many of their work sessions, and the consensus was to allow the staff to draft the text amendment. He then said that the Commission has seen this draft before, and there is still discussion on this topic. At this point, he said that he would call for a vote and asked for a motion.

Mr. Wilson said that he appreciated the discussion on this topic. He also appreciated the staff's input during this process, because the Committee was driving everyone crazy with questions about definitions, rules and regulations, and was requesting maps. He then said that he would also like to publicly thank all the people who served on that Committee, as well as the people who participated.

Action - A motion was made by Mr. Wilson, seconded by Ms. Plumlee and carried 8-3 (Cravens, Richardson and Drake opposed) to approve ZOTA 2016-1: AMENDMENTS TO ARTICLES 7, 23, AND 26 FOR ENVIRONMENTALLY SENSITIVE AREAS, as presented for the reasons presented by staff.