

- V. **ZONING ITEMS** – The Zoning Committee met on April 3, 2024, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Larry Forester, Zach Davis, William Wilson, Robin Michler, Molly Davis, Bruce Nicol, and Johnathon Davis. Staff members present were Traci Wade, Daniel Crum, Jeremy Young, Chris Chaney, Chris Taylor, and Bill Sheehy; as well as Tracy Jones and Will Rasor, Department of Law.

A. **PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS**

1. **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** – an amendment to Articles 1, 6, 9, 11, 12, 15, 16, 18, 21, 23, and 28 to update the Development Plan review process, and create objective standards for plan review.

INITIATED BY: URBAN COUNTY PLANNING COMMISSION
PROPOSED TEXT: Copies are available from the staff.

Note: The Planning Commission held a public hearing on March 27, 2025 and continued this item at that time.

The Zoning Committee Recommended: **Postponement.**

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

1. The proposed text amendment makes the necessary change to existing Zoning Ordinance provisions to allow them to be administered ministerially, in line with the requirements of House Bill 443.
2. The proposed language provides for pathways for review and consideration by the Planning Commission in instances where a development plan cannot meet the objective criteria, or if the proposal would result in a threat to the public health, safety, or welfare.

Commission Question – Vice Chair Davis asked Ms. Jones what the parameters were regarding this continuance, and Ms. Jones replied that Chair Forester did not close the public comment portion of the hearing on March 27th, so the Commission could hear additional comment. She suggested that the comments be limited to new information.

Staff Presentation – Mr. Crum presented the Commission with the newly revised text. He briefly described the edits to the ZOTA that had been made since the last hearing. They included several clarity edits, and changes in the sections describing drive-through standards, private streets, and the waiver process. He also stated that when the concept of “health, safety, and welfare” was mentioned, the word welfare had been unintentionally omitted, but that it would be added back into the text.

Commission Questions – Ms. Davis asked if the heading of Page 41 should read “Article 23b” rather than “Appendix 23b.” Mr. Duncan stated that there was some nuance to this and requested that Ms. Wade explain. Ms. Wade stated that Article 23 had 3 appendices, and this was one of them.

Mr. Michler asked about the impact of removing discretion for private streets, specifically regarding the addition of gates. Mr. Crum replied that the provision could be modified, and would get back with the Commission regarding the correct language.

Mr. Michler asked why the appeals process had been removed. Ms. Jones explained that the process was not an appeal of a Planning Commission action, but rather a process that included the Technical Review Committee and Subdivision Committee reviewing a plan and making recommendations to the applicant. The Committees are an opportunity for the applicant to revise their plan, not appeal the previous committee's decision. This current process will not be in agreement with KRS, which has an existing mechanism to address such an appeal.

Mr. Michler shared his concern about the public input and Planning Commission being removed from the process. He inquired if the hearings should continue until there was another path for the Planning

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Commission and the public to inform Staff of health, safety, and welfare concerns. Mr. Crum replied that the public would be able to share their concerns with Staff anytime from the filing of the plan to the Technical Review Committee. He added that internal staff engagement with the public would be important so that specific threats to public health, safety, and welfare could be identified by staff.

Citizen Comments – Patty Draus, 608 Allen Court, spoke on behalf of the Joyland Neighborhood Association Board. She submitted suggestions regarding the conditional use of mining, minimum design standards, energy efficiency, and more vigorous neighborhood notification.

Attorney Nick Nicholson briefly described his submitted suggestions. He said that his suggestion was a smaller version of staff's alternative language. He said that there are too many standards that need to be more closely scrutinized in a future ZOTA because they will cause confusion.

Attorney Dick Murphy said that he appreciated the changes that staff has made to the ZOTA, but felt that some issues such as drive-throughs needed more time and scrutiny. He asked the Commission to consider Mr. Nicholson's shorter version of the text amendment.

Amy Clark, 628 Kastle Road, stated that she was disappointed with how the ZOTA had evolved. She felt that not all stakeholders had been consulted. She was concerned about the Technical Review Committee not being well defined or members being appointed. She said that it was inconceivable that there would be no appeals process.

Note - At this time, Vice Chair Davis closed the public comment portion of the hearing.

Commission Comments – Mr. Michler asked staff to address some of the citizen comments, particularly regarding the change in a sidewalk width as discussed in a development plan earlier. Mr. Crum replied that the current system allows for discussion regarding a context sensitive situation like the sidewalk, but the new system will require specific standards to be codified.

Mr. Michler asked about the proposed changes made to the commercial entrance access standards. Mr. Filiatreau said that they have already been requesting commercial accesses to be aligned with existing access across the street.

Ms. Worth asked Mr. Filiatreau to address a citizen comment suggesting a distance requirement for direct access to be at least 200 feet from an arterial roadway to a collector street in the B-5P zone. Mr. Filiatreau stated that they do try to keep the driveways far away from the arterial roadway, but sometimes the side street isn't long enough for such a requirement.

Ms. Davis asked for clarification regarding the current notification area and the possibility of expanding it. Mr. Crum briefly described the requirements for zone change notification and the proposal for waiver notification. He added that there is no current requirement for development plan notification.

Ms. Davis asked what the Commission typically did with the citizen comments that they had received. Mr. Nicol replied that it was now their job to use all of the information that they had received from all the stakeholders, including citizen comments, and come to a decision. He felt that the Planning Commission would be able to initiate new ZOTAs in the future to address any issues that came up if this ZOTA moved forward.

Ms. Davis suggested that the citizen comments that had been received be shared with the Council.

Mr. Owens asked Mr. Nicol if he believed that citizens were considered stakeholders. Mr. Nicol stated that the property owners, nearby property owners, and the Comprehensive Plan are the stakeholders that he was referring to previously.

Mr. Penn stated that he has struggled with this decision, and did not believe that eliminating public comments was the intention of the Kentucky House, Senate, or Governor.

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Action – Mr. Penn made a motion, seconded by Ms. Davis, to approve the staff alternative text of **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** with a Council approval of opportunities for public citizen comments of subdivision and development plans.

Commission Discussion – Mr. Wilson and Mr. Owens made comments in support of the motion.

Mr. Michler was in support of the motion, but was unsure how the process would work if the hearing was removed, but the public comment remained.

Mr. Penn said that there were ministerial hearings for cell towers and public facilities that allowed public comment. He suggested the Council decide how the citizen comments should be handled similarly.

Motion Amendment - Mr. Michler made a motion, seconded by Ms. Worth, to amend the motion to include the word “welfare” in all the instances where “public health and safety” were mentioned. He also requested to amend the motion to include no gates to be allowed on private streets. Mr. Penn agreed to those amendments.

Ms. Davis recommended that the area of notification be increased to 800 feet. There was discussion among the Commission and Ms. Jones about what the exact amendment would be regarding the area of notification. Ms. Jones clarified that the only notification being suggested now was when an applicant seeks a waiver. Mr. Penn stated that he did not want to add that amendment to his motion.

Ms. Barksdale interjected that there were too many things being added to the motion, and the most important part included a request to the Council for inclusion of some type of public comment. Several Commission members agreed.

There was discussion among the Commission and Mr. Duncan to make sure that everyone knew what the motion was exactly. Mr. Duncan understood the motion to mean that the Planning Commission was putting the Council on notice that the Commission is very interested in the public comment issue, and wished for them to put it in the final legislation. Ms. Jones told the Planning Commission that there would be a separate statement to the Council regarding public comment, but not an actual change to the document.

Mr. Duncan stated that the Commission has made a clear statement regarding the need for public comment. He committed that staff would communicate this statement to the Council. He described how and when the information would be sent to the Council. More discussion about the motion took place.

Action – The Planning Commission carried on the motion made by Mr. Michler 9-1 (Nicol opposed, Forester absent), to amend the original motion to include the word “welfare” in the instances where “public health and safety” were mentioned, and to include no gates allowed when private streets were being granted.

Mr. Michler stated that he was against the original motion because, while he agreed with the sentiment to allow public comment, it was not in the actual text.

Mr. Duncan reminded the Planning Commission that the ZOTA was not taking away public comment, but the state legislature did.

Ms. Jones re-read House Bill 443 and reminded the Commission that they were doing what was asked of them - codifying objective standards. She added that there was no intent of the staff or Planning Commission to eliminate public comment.

Mr. Penn agreed and stated that was why he worded his motion the way he did, and that it would be up to the Council to decide how and if public comment should happen.

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Ms. Barksdale asked if this meant that there should be no public comment at all or that public comment cannot be the basis for approval or disapproval. She suggested a meeting of discovery to see if citizens had comments that could relate to health, safety, and welfare. Ms. Jones feared that it could become subjective, and the decisions could be overturned.

Mr. Wilson called for the previous question.

Action – The Planning Commission voted 8-2 (Nicol and Michler opposed, Forester absent) to approve the staff alternative text of **PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS** with a Council approval of opportunity for public citizen comments of subdivision and development plans.