

V. **ZONING ITEMS** – The Zoning Committee met on May 2, 2024, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Robin Michler, Zach Davis, William Wilson, and Graham Pohl. Staff members present were Autumn Goderwis, Daniel Crum, James Mills, and Bill Sheehy, and Tracy Jones, Department of Law.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- *The staff has recommended approval of the zone change petition and related plan(s),
- *The petitioner concurs with the staff recommendations,
- *Petitioner waives oral presentation, but may submit written evidence for the record,
- *There are no objections to the petition.

B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** - Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- *Staff Reports (30 minute maximum)
- *Petitioner’s report(s) (30 minute maximum)
- * Citizen Comments
 - (a) Proponents (10 minute maximum OR 3 minutes each)
 - (b) Objectors (30 minute maximum) (3 minutes each)
- *Rebuttal & Closing Statements
 - (a) Petitioner’s comments (5 minute maximum)
 - (b) Citizen objectors (5 minute maximum)
 - (c) Staff comments (5 minute maximum)
- *Hearing closed and Commission votes on zone change petition and related plan(s).

C. **PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS**

a. **PLN-ZOTA-24-00002: REGULATION OF MEDICINAL CANNABIS BUSINESSES** – a text amendment to define and allow for medical cannabis-based businesses in the Zoning Ordinance.

INITIATED BY: LFUCG Planning Commission
PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended, Approval, of the staff alternative text, changing the proposed principal and accessory uses in the Agricultural zones to conditional uses only.

The Staff Recommends: Approval of the Staff Alternative Text, for the following reason:

1. The proposed Zoning Ordinance updates will ensure clear definition and regulation of the new medicinal cannabis businesses now possible due to the adoption of KRS 218B by the Kentucky General Assembly in 2023. The proposed text amendment will categorize the new agricultural and business uses in a consistent manner to other such uses in the Zoning Ordinance.

Staff Presentation – Ms. Wade presented the Zoning Ordinance text amendment to the Planning Commission. She briefly reiterated the history of KRS 218B that allowed for the production and sales of medical cannabis. She stated that, according to the new state law, local governments were able to regulate “the time, place, and manner of cannabis business operations”. She listed the types of cannabis businesses that would be receiving permits from the state, and also listed the cannabis related definitions that needed to be added to the Zoning Ordinance. Ms. Wade further listed and explained the land uses by zones that would be included in the cannabis related businesses. She displayed the staff recommended zones and uses for cultivators, processors, producers, safety compliance facilities, and dispensaries. She added that the Zoning Committee had recommended

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restrictions on the agricultural zones, as suggested by the Rural Land Management Board, to require conditional use permits for all cultivators in the agricultural zones.

Commission Questions – Mr. Nicol asked for clarification on “no undue hardship” in reference to wording from the state law. Ms. Wade replied that the law allowed for several options by local government, including opting out completely, or regulating the uses by “time, place, and manner”, while not imposing undue burden on the cannabis businesses. Mr. Nicol asked if changes to the proposed text would cause an undue burden, specifically addressing a conditional use for any business in the agricultural zones. Ms. Wade opined that the Board of Adjustment would hear the requests on a case-by-case basis, and that process would not cause an undue burden to a cannabis business.

Mr. Nicol asked why staff was recommending approval of their own text rather than making a recommendation on the changes made by the Zoning Committee. Ms. Wade replied that staff did not typically adopt changes made by a committee in their recommendation. She added that the same finding could be used for the Zoning Committee changes.

Ms. Meyer stated that she was in favor of a conditional use requirement across the board in the agricultural areas. She suggested an acreage limitation for cultivator tiers to protect the rural areas. She expressed concern that the structures could include additional square footage beside the growth area, and that could create very large buildings on smaller tracts.

Ms. Worth asked for clarification on the square footage of Tier III and Tier IV in the A-R Zone. Ms. Wade replied that there are 8 conditional uses that are not restricted to the 10,000 square feet currently. She further explained that they recommended that cultivators not be restricted to the 10,000 square feet so they would be consistent with other agricultural uses. She said that the square foot limitations were put in place for non-agricultural uses such as recreational facilities, places of worship, daycares, etc., so as to limit their impact on the surrounding areas.

Ms. Worth mentioned her concern over structures being too large for the agricultural zones. Ms. Wade stated that making the cultivators a conditional use would serve as a deterrent for large buildings in the rural areas because the business could potentially be in an industrial zone without a conditional use permit.

Mr. Owens asked if the recommended square feet was just growing area or did it also count the additional office space, storage, etc. Ms. Wade confirmed that was just considering growing area, because that is what the state had limited. Ms. Wade reminded the Planning Commission that the grow area could be stacked, to decrease structure size.

Mr. Nicol asked if there was any allowance for outdoor cultivation. Ms. Wade replied that cultivators would need to use secured indoor facilities.

Mr. Zach Davis told the Commission that he had recommended the across-the-board conditional uses in the agricultural zones because of the extra security and lighting that would be required.

Citizen Comments – Brittany Rothemeier, Fayette Alliance, stated that she felt that Tier III cultivators should be a conditional use in the agricultural zones, and that Tier IV Cultivators should be completely prohibited in the agricultural zones.

Commission Comments – Mr. Owens stated that he supported cultivator businesses being conditional uses only in the agricultural zones. He suggested that, because the cannabis could be stacked in layers, the buildings would not have to be as large. He said he would like the city to proceed with caution because of the unknowns, and was in favor of acreage limitations.

Ms. Meyer made some acreage suggestions as follows: Tier I shall have a 10-acre lot size minimum, and Tier II shall have a 40-acre lot size minimum in the agricultural zones. She agreed with other members that the Tier IV should not be allowed in any of the agricultural zones at the present time.

Mr. Zach Davis agreed with Ms. Meyers' acreage suggestions and also supported taking Tier IV out of the agricultural zones as well.

There was some Commission discussion on the protection of the soils in the agricultural zones and the potential harm of the large structures that could be built.

There was also discussion among the members about current farms potentially adding a cannabis growing structure to the buildings that were already in place.

Mr. Zach Davis suggested added lighting restrictions to the language of the ZOTA. Mr. Horn, Planning and Preservation Commissioner, cautioned the members because they would not be able to decrease the lighting requirements that the state had imposed. The Commission had more discussion about lighting regarding security, solar power, and the health and safety of livestock. Ms. Wade advised the Planning Commission that a comprehensive lighting text amendment had been initiated by the Urban County Council and that could be an opportunity to address some of the lighting concerns that had been discussed.

Action – Mr. Pohl made a motion, seconded by Mr. Johnathon Davis, and carried 7-1 (Michler, Barksdale, and Wilson absent, Nicol opposed) to approve the Staff alternate text of **PLN-ZOTA-24-00002: REGULATION OF MEDICINAL CANNABIS BUSINESSES**, changing the proposed principal and accessory uses in all of the agricultural zones to conditional uses only, prohibiting Tier IV Cultivators in the agricultural zones, and adding the acreage limitations to the Cultivator Tiers as follows: Tier I - 10 acre minimum, Tier II – 40 acre minimum, Tier III - 100 acre minimum.

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