

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. **PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES** – a petition for a Zoning Ordinance text amendment to allow athletic fields with lighting and loud speakers in the Agricultural Buffer (A-B) zone as a conditional use and to increase the allowable structure size from 10,000 sq ft to two percent of the lot.

INITIATED BY: SAYRE SCHOOL

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval of the staff alternative.**

The Staff Recommends: **Approval of the staff alternative,** for the following reasons.

1. The proposed amendment is reflective of the intent of the Agricultural Buffer (A-B) zone and allows for greater conformity with the allowable conditional uses within the Agricultural Rural (A-R) zone. Conditional uses near Blue Sky would have less impact because of development in existence along the Interstate interchange.
2. This text amendment is very limited in scope, and will not threaten the agricultural economy in the Rural Services Area.
3. The proposed amendment promotes the retention of larger lots within the Agricultural Buffer (A-B) zone, which would allow for an easier transition back to a traditional agricultural land used should a conditional use no longer be active.

Staff Text Amendment Presentation – Mr. Hal Baillie presented and summarized the staff report and recommendations for this text amendment. Mr. Baillie indicated that the applicant wanted to amend three aspects of the A-B zone, including increase the allowable square footage for conditional uses in the A-B zone, allow commercial indoor and outdoor recreational facilities adjacent to the Blue Sky Rural Activity Center(RAC), and allow lighting, loudspeakers and limited concessions adjacent to the Blue Sky RAC.

Mr. Baillie gave more context about the A-B zone, stating that it was created in 1999 with the an intent to preserve the rural character of the agricultural service area by establishing land that can serve as buffer areas between urban and agricultural land. Mr. Baillie presented a map and showed the seven areas of potential A-B zoning in our community, as well as the 22 currently zoned A-B properties, and noted the various acreages of the buffer areas. Mr. Baillie continued giving examples of the various principle and conditional uses in the A-B zone.

Mr. Baillie reviewed the proposed language by the applicant and stated that Staff thought this was an adequate increase in a buffer area between urbanized zones and adjacent agricultural land. Additionally, Mr. Baillie indicated that for the allowable amount of square footage for certain conditional uses, in the A-B zone, Staff recommends slightly different language than the applicant's. Stating staff recommends that a total of 2% of the square footage of the property, or 10,000 square feet, whichever is greater, shall be the maximum allowable for all structures proposed in the A-B zone. This allows for properties less than 11 acres to meet the current regulations.

Mr. Baillie concluded by stating that Staff is recommending approval of the Staff alternative text and could answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked about the calculation for the allowable square footage and if the softball fields and tennis courts are considered part of the calculation or is it indoor facilities as well. Mr. Baillie indicated that the square footage has to do with structures, and outdoor fields are not considered structures and do not count into that 10,000 square feet.

Mr. Davis asked for a refresher on if the applicant was nonconforming on their property without this text amendment and how large the parcel was. Mr. Baillie stated that the applicant had gone through the process of getting a conditional use for the non-commercial recreational facility, and indicated that the applicant had built more than they were allowed to on site and that the total site was 50 acres.

Mr. Davis also asked about the third justification in the staff report about the land returning to a “traditional agricultural land use should a conditional use no longer be active. Mr. Baillie responded that conditional uses are reviewed annually and should a property’s conditional use be taken away or cease operation, the property would return to the principal primary uses for the zone. By promoting and maintaining large lots, the property could be more easily returned to agricultural land uses.

Mr. Nicol asked if this change in language would allow for better usage of the smaller vacant sites that are in the A-B zone. Mr. Baillie stated that he did not think any of these areas would be considered vacant or underutilized land. He said that this language would only impact larger lots.

Mr. Bell asked how worried Mr. Baillie was about the precedent this sets. Mr. Baillie indicated that this change allows for a little more use of the A-B zone exclusively and does not change anything in the A-R zone.

Ms. Worth asked if there was conversation from staff on putting in restrictions on the amount of hours for the lighting and loudspeakers and if that is anything the Planning Commission could do. Mr. Baillie responded that the Commission could add some restrictions when it comes to specific properties if it comes to the Board of Adjustment and/or Planning Commission, but that a text amendment was not the place to do that.

Mr. Michler asked if currently lighting and loudspeakers are allowed in the A-B zone and Mr. Baillie stated that they were not.

Applicant Presentation – Nick Nicholson, attorney for the applicant, stated that this application was not for a specific site, instead this is to add a use to the A-B zone that is already allowed in what should be a more restrictive A-R zone. Mr. Nicholson explained that the applicant wants to build a training facility that allows Sayre School to have a facility. Mr. Nicholson noted the location of the proposed facility on the property and wanted to make sure the Planning Commission was comfortable with what they are proposing on this site.

Mr. Nicholson emphasized the collaboration between Staff, stakeholders, and others involved to get this right, and have heard the criticism that the A-R zone is under attack by a so called “death by 1,000 ZOTA’s,” but that is not what is happening here. Mr. Nicholson stated that Sayre took the hardest, and most protective way to protect an agricultural zone. Mr. Nicholson stated that there are only four areas in Fayette County that this text amendment would effect. Mr. Nicholson said that the applicant understands the sensitivity of this text amendment, but what you are not seeing is a lot of neighbors coming out to complain. In fact, the applicant has letters of support from the neighbors for this text amendment.

Mr. Nicholson concluded his presentation stating that he agrees with the Staff’s alternative text and could answer any questions.

Commission Questions – Ms. Worth inquired as to the meaning of the text on proposed use #21. Mr. Nicholson stated he wanted to make sure that text was specifically connected to the sports fields and used the established language from the A-R zone.

Mr. Davis asked what percentage of the Fayette County this would affect and Mr. Nicholson stated it was about 0.01%. Additionally, Mr. Davis stated he was having issues with this because 2% of 50 acres is a significant number to him. Mr. Nicholson noted that the Planning Commission or Board of Adjustment can evaluate each application and determine the allowable square footage..

Mr. Nicol stated that he thought it was not logical that the A-B zone is more restrictive than the A-R zone when the A-B zone is supposed to be a buffer.

Mr. Michler asked what the background was for conditional use permits and massive agricultural buildings here. Mr. Nicholson stated that once you have established a conditional use, the language applies to the area zone and it came 24 years ago when the A-B zone was created. This would allow for a new conditional use that would be reviewed.

Mr. de Movellan asked about the reference to retail shop in the proposed language and where that came from. Mr. Nicholson indicated that they listened to people who had complaints and concerns and did not want any “evildoers” to bring a Wal-Mart to the A-B zone. This would allow very limited sales for hot dogs at sporting events or other concession type food.

Mr. Davis asked why the applicant did not just divide the parcel into tracts and build what they want. Mr. Nicholson stated that they looked at that possibility, but with that you start drawing lot lines around already existing athletic fields and that did not make sense.

Mr. Davis also asked about the justification for the 2% figure and Mr. Nicholson reiterated that if the 2% number is too much, the Planning Commission or Board of Adjustment can determine the appropriate amount within that 2% during a public hearing.

Public Comment – Emily Coles, Sayre School Chairman of the Board of Trustees, no address given, stated that they are very proud of the Sayre Athletic complex or “SAC” and asked the Planning Commission to approve the text amendment.

Britany Rothemeier, Fayette Alliance Director, no address given, stated that she was sympathetic to Sayre’s issues, but that this text amendment opens the door to a dangerous precedent in the agricultural area.

Applicant Rebuttal – Mr. Nicholson started his rebuttal by stating that you could say that this is opening the door to a dangerous precedent, but thankfully the Planning Commission are the bouncers and could stop any bad actors. Additionally, Mr. Nicholson stated that the language relating to the Blue Sky Industrial Park would stop any increases in uses and that Sayre owns the land already, so that would not be a concern. Finally, Mr. Nicholson conveyed that the square footage takes into account all structures on the property that are subjected to conditional use permits.

Staff Rebuttal – Mr. Baillie stated that the Planning Commission can review a conditional use during a zone change application, but that does not need to happen should the applicant want to go to the Board of Adjustment. However, the Planning Commission could recommend conditional zoning restrictions on an application. Mr. Baillie also indicated that the barn on the subject property is not being used for an agricultural use, but it is storage tied to the conditional use. Additionally, Mr. Baillie stated that Staff is aware that this is adding a conditional use to the A-B zone, but that the proposed conditional use is currently allowable in the A-R zone and this same use is appropriate in the A-B zone.

Commission Questions – Mr. Michler asked if Staff thought that the current Ordinance would limit agricultural structures to 10,000 feet. Mr. Baillie indicated that it would not limit an agricultural structure that is not associated with a conditional use.

Ms. Meyer asked if indoor recreational facility is allowed in the A-R zone and Mr. Baillie indicated that it was not.

Mr. Davis asked when fields and lights became allowable in the A-R zone. Mr. Baillie stated that the ZOTA was proposed in 2005 by the current applicant.

Commission Comments – Ms. Meyer stated that she has concerns because the uses being proposed here are not allowable in the A-R zone and about the intensification of uses on this property.

Mr. de Movellan asked Staff if the ZOTA was to change the A-B zone and if the applicant wanted to do something on their land, they would need to ask the Planning Commission for a zone change. Mr. Baillie indicated that was correct, and that all A-B zoned land was subdivided into 10-11 acres in size currently.

Mr. Nicol wanted to voice his desire to intensify the A-B zone so it can be a true buffer zone.

Mr. Bell stated that he relies on Staff and then tries to apply logic to the process and he was satisfied that this was not precedent setting.

Mr. Davis stated that he was sympathetic to the applicant, but is hesitant to support something that has county-wide implications to accommodate what today seems like a perfectly logical use. Mr. Davis stated that he was concerned about what it would mean for the future, and that there is another way to accommodate the applicant’s request.

Ms. Barksdale asked about the amount of square footage with the new facility and Mr. Nicholson indicated it would be around 22,000 square feet.

Ms. Worth stated that she was struggling with this, and thinks the applicant has done the right thing here, but is worried about unintended consequences.

Action – A motion was made by Mr. Davis and seconded by Ms. Meyer and failed 3-6 (Penn and Pohl absent) to disapprove PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES

Action – A motion was made by Mr. Nicol and seconded by Mr. Bell and carried 6-3 (Penn and Pohl absent) to approve PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES with Staff's alternative text.