

idea as to how height could be taken off, if it becomes necessary. Mr. Murphy requested time to consult with his client. The Chair agreed.

Ms. Blanton said that this proposal has met every standard under the Zoning Ordinance and they are providing infill, which is what people have said they want. She said that this project has been praised by the Mayor's office and they are saving an area that has been blighted for many years. There is no reason for the Commission to vote against this request. Should the Commission do that, they are sending a chilling effect to anyone who wants to come into this community and invest money in a development. She said that it would be a huge detriment to Lexington and everything that the Commission is trying accomplish.

Ms. Plumlee thanked the residents for coming down to speak on this request. She said that she understands it is hard to accept a change to a neighborhood and hoped that before the meeting was over, a compromise could be reached with this development.

Ms. Roche-Phillips said that under Article 21, the Planning Commission has leeway in things that are at least superficially ministerial, if given the proper evidence. Ms. Jones said that, primarily this is a ministerial function, and this is an amended development plan. She said that the Planning Commission can review Article 21-7(e) of the Zoning Ordinance that speaks to the Commission making a finding, based upon factual evidence presented at today's hearing, that the plan has a negative impact on public health, safety or welfare, or alters the essential character of the development as it was originally approved by the Commission.

Mr. Murphy said that, in consulting with his client, they have determined that the height of the building can be lowered from 65' to 60' along Laketower Drive. He then said that they cannot determine what the height of the building would be at the rear of the property, but this would be the starting point. He added that this would be an additional 5 feet and would result in a total of 10 feet less height than the original proposal.

Ms. Roche-Phillips asked if the height is lowered if the height-to-yard ratio is also decreased. Mr. Taylor said that the height-to-yard ratio would be 30 feet, and the building would be able to move toward Laketower Drive an additional 2 feet. Ms. Roche-Phillips said that the net effect of lowering the height is more mass. Mr. Taylor said that this gives the applicant the ability to move the building closer to the property line within that ratio, but it doesn't mean that they would. He then said that the setback requirements would still need to be met for the R-4 zone.

Ms. Beatty said that there needs to be a compromise on this request. She said that she understands the neighborhoods' concerns, and the applicant has indicated that they are willing to lower the height to 60 feet. She asked if the residents could respond to the applicant's proposal. Mr. Duzky said that they had tried to discuss this issue with the applicant before coming in front of the Commission, and if the applicant is agreeable, they are willing to continue the discussion. He then said that they are at a disadvantage without their technical support present. He said that, by dropping the height from 70 feet to 65 feet, the height of each story would become 13 feet. Now they are suggesting removing an additional 5 feet to go back to two shorter stories. He said that, as opposed to a compromise, they request that the Commission pass on any vote in order to allow them to further discuss this issue with the applicant.

The Chair said that he appreciated everyone coming to the Commission meeting to voice their concerns. He said that this is a ministerial matter and the staff is recommending approval, subject to the standard signoffs from the different divisions in the government. He said that the issue comes down to the height of the building, traffic and the number of units, but there was a previous development already on site. He then said that most of the issues are not relevant; and in reviewing the viewshed for this area, the building would be 60 feet and he sees 60-foot trees in the photo. He added that this is a tough call; but at this point in time, he is in favor of the proposed request.

Action - A motion was made by Ms. Blanton to approve DP 2012-104: LAKEVIEW ESTATES, UNIT 2B, BLKS J & K, UNIT 2E (AMD), subject to the revised conditions, as presented by the staff.

Discussion of Motion - Mr. Wilson asked if the approval included the height of building being lowered to 60 feet. Ms. Blanton replied affirmatively, and said that she would like to amend her motion since the applicant had stated that they are agreeable to the 60-foot height limit along the Laketower Drive.

The motion was seconded by Ms. Mundy, and carried 8-0 (Brewer, Cravens and Penn absent).

V. **COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. **INITIATION OF ZONING ORDINANCE TEXT AMENDMENTS** - The staff will request initiation of four Zoning Ordinance Text Amendments related to Zoning Enforcement:

1. Vehicle Repairs Accessory to a Residential Use
2. Parking and Storage of Vehicles, Trailers, Equipment and Materials in Residential Zones



- 3. Temporary Signage
- 4. Zoning Enforcement Abatement Authority

Staff presentation – Mr. Marx said that the staff had presented these text amendments to the Commission at their November, 2012, Work Session. He then said that these text amendments are related to issues that have been problematic since the Division of Planning had taken over the responsibilities of the Zoning Enforcement at the beginning of 2012. He requested that the Planning Commission initiate these Zoning Ordinance text amendments in order to address these issues.

Action - A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 8-0 (Brewer, Cravens and Penn absent) to initiate the four Zoning Ordinance text amendments, as presented by the staff.

**B. COMMISSION COMMENTS** – The Chair reminded the Commission members to give their financial statements to the staff before departing today's meeting.

**C. UPCOMING WORK SESSION** – The Chair then reminded the Commission members of the upcoming work session scheduled for January 24, 2013.

**VI. STAFF ITEMS** – No such items were presented.

**VII. AUDIENCE ITEMS** – No such items were presented.

**VIII. NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	January 24, 2013
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building).....	January 30, 2013
<b>Zoning Items Public Hearing, Thursday, 1:30 p.m., 2<sup>nd</sup> Floor Council Chambers.....</b>	<b>January 31, 2013</b>
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building).....	February 7, 2013
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	February 7, 2013
<b>Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2<sup>nd</sup> Floor Council Chambers.....</b>	<b>February 14, 2013</b>

**IX. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 4:37 PM.

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Mike Owens, Chair

\_\_\_\_\_  
Lynn Roche-Phillips, Secretary

\* - Denotes date by which Commission must either approve or disapprove plan.



**ZOTA 2013-5: Parking & Storage of Business Vehicles, Trailers,  
Equipment, and Associated Materials**

**ZONING ORDINANCE**

(Note: Underlined text below indicates an addition, and ~~stricken-through~~ text indicated a deletion to the current Zoning Ordinance.)

ARTICLE 1-11: Definitions

**STORAGE** - The keeping, either indoors or outdoors, of equipment, vehicles, materials or supplies used in the conduct of a trade, business, or profession. ~~Storage does not include the overnight parking in residential zones of a single vehicle with no more than two (2) axles weighing no more than three (3) tons which, although used primarily for business, trade or professional purposes, also provides daily transportation to and from work.~~

ARTICLE 3: GENERAL REGULATIONS

**3-9 Parking and Storage of Business Vehicles, Trailers, Equipment and Materials in Residential Zones**

- a. One business vehicle per dwelling is permitted, provided it has no more than two (2) axles and a GVWR (gross vehicle weight rating) of no greater than 14,000 lbs. and is used for daily transportation to and from work. Such a vehicle must be parked on a permitted paved surface or on a legal nonconforming (existed prior to December 5, 2002) gravel surface. Dump trucks, box trucks, cube vans, high-roof cargo vans (greater than 8' height, as measured from ground to top of roof), earth-moving machinery, tow trucks, transport wreckers, semi-trucks and tractor-trailers, concession trucks and vans, and flat bed trucks are specifically prohibited, even if they technically comply with the above limits.
- b. One single axle business trailer per dwelling (open or closed), used in conjunction with an allowed business vehicle, may be parked or stored on a permitted paved surface or legal nonconforming gravel surface. Any such trailer is limited to a length of no greater than twelve (12) feet. Concession trailers are specifically excluded from this category of allowable trailers, even if they technically comply with axle and length limitations.
- c. Trailers, equipment or materials shall not be parked or stored on any public or private street.
- d. Equipment can be stored on any open portion of a vehicle or open trailer only if such equipment is of a type customarily used by a homeowner for residential maintenance purposes (e.g., ladders, wheelbarrows, lawnmowers, weed eaters). Equipment of a type not customarily used by a homeowner for residential maintenance purposes (e.g., concrete mixers, bobcats) is prohibited.
- e. Construction materials (such as siding or brick) and salvaged items (such as used appliances or scrap metal) may not be stored.
- f. Business activities (e.g., selling of merchandise or customer visits) shall not take place on the premises, except as allowed by home office provisions or as authorized by a conditional use approved by the Board of Adjustment. Corollary business activities such as the storage of merchandise or having employees report to the property are also prohibited.

ARTICLE 8: SCHEDULE OF ZONES

**8-1 Agricultural Rural (A-R) Zone**

**8-1(e) Prohibited Uses in the A-R Zone**

13. Storage, except as permitted herein and by Article 3-9.