

2. ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE– petition for a Zoning Ordinance text amendment to Articles 23A-10 to allow for a number of new land uses within the Expansion Area.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Available from the staff

(Note: Text underlined is an addition, and text ~~stricken through~~ is a deletion to the current Zoning Ordinance.)

The Zoning Committee Recommended: Referral to the Full Planning Commission.

The Staff Recommends: Approval, for the following reasons:

1. The proposed text amendment to Article 23A-10 has been discussed and considered by a committee of government and real estate professionals, land owners, and others, who agreed that additional uses and greater design flexibility were needed in the ED zone.
2. The relaxation of building height and floor area limitations in the ED zone will provide more flexibility for future ED developments, while maintaining the intent of this zone to foster future job creation.
3. New principal and “supportive” uses will mean that future ED projects can meet the intent of this zone, while allowing the necessary mixture of uses that can contribute to successful developments in the future for these EAMP lands.

Staff Zoning Presentation – Mr. Sallee presented the staff report on this proposed amendment to Article 23A-10 of the Zoning Ordinance regarding new uses in the Economic Development (ED) zone. He said that the staff has received one communication regarding this text amendment, from Walt Gaffield, the President of the Fayette County Neighborhood Council. Mr. Gaffield expressed concern regarding this proposed ZOTA, and Mr. Sallee circulated his letter to the Planning Commission.

Mr. Sallee said the Economic Development land is a land use recommendation for two general areas under the Expansion Area Master Plan, which is part of the Comprehensive Plan. He displayed a map of the two primary locations for economic development land. One of the locations is in Expansion Area 3, which is bounded by the Urban Service boundary, by Newtown Pike, Interstates I-75 and I-64, and by Russell Cave Road. The other area is in the Expansion Area 2, which is bounded by Interstate I-75, Winchester Road, and Polo Club Blvd.

Mr. Sallee said that because these are part of the 2013 Comprehensive Plan there is a specific goal to evaluate barriers and opportunities in order to promote economic development within these lands in the Expansion Area. The intent of the ED zone is shown in the Zoning Ordinance in the section that is proposed for amendment. The purpose of the zone is to provide land within the Expansion Area for employment opportunities, compatible with the overall character of the Expansion Area.

Mr. Sallee said that in these two Expansion Areas about 90 percent of the area is zoned, which in the staff’s estimation is approximately 500 acres. He said that 350 acres in Expansion Area 3 is recommended for Economic Development land use and approximately 200 acres in Expansion Area 2 with 60-70 percent of that has already been rezoned.

Mr. Sallee said that the Commissioner of the Department of Planning, Preservation, and Development had established a workgroup to evaluate the current restrictions in the ED zone. Several major issues were discussed, but only two that were relevant to the Planning Commission’s consideration of the ZOTA. The first is why has this particular zone developed at a slow rate compared to other developments in the Expansion Area. The second is what changes are most likely to lead to increased use of this zone. Mr. Sallee said that the land in the Expansion Area comprises about 50 percent of our available and vacant employment land in the community.

Mr. Sallee said that the workgroup reached several conclusions; to increase the number of permitted uses in the zone; to allow supportive uses to accompany other ED zone uses; to allow the residential uses; to increase the Floor Area Ratio; and the height and to decrease the open space requirements. He said that there was one unresolved issue, which was how much of this land should be considered for supportive uses. He said that there were also several new permitted uses recommended, such as breweries, wineries and distilleries; nursing homes, assisted living facilities; flex space projects; office/warehouse; agricultural research and experimental facilities.

Mr. Sallee said that supportive uses are considered principle permitted uses under the text amendment, but they are limited. They may only be provided either concurrently or after other principle economic development zone uses are provided in a development. He said that supportive uses are the bulk of the change that is proposed in this text amendment. He said that all supportive uses are limited under this text amendment to a maximum of 15 percent of the Floor Area Ratio allowed for development in ED zones. Some of the new uses allowed as supportive uses in the ED zone under this text amendment include restaurants, libraries, barber shops, hotels, travel agencies, pharmacies, medical supply stores, banks, nurseries, service stations, animal hospitals, and private clubs. He said that residential uses are also permitted under this text amendment and will have restrictions such as a limit of 15 percent of the allowable Floor Area Ratio for all supportive uses. These new uses would include multi-family residential, dwelling units above the first floor, and townhouses.

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Mr. Sallee said that this text amendment also addresses Floor Area Ratio, building height, and open space. Under this text amendment, the Floor Area Ratio would increase from 0.75 to 1.0. The amendment also proposes a major increase to the allowable building height. The current ED zone is limited to a maximum of 90' for a single building. This text amendment will increase that to 120' in height. There is no change from the current 25% minimum requirement for open space in the zone. However, the text is being modified to allow that open space to be clustered on a number of lots and reviewed on a development plan basis rather than being required on each and every lot in an ED development area. He said that this will be a much more flexible approach to providing open space in an ED zone without allowing a wholesale change to the concept that originally led to the creation of this zone, which was to require that some open space be provided in these developments.

Mr. Sallee said that the staff is recommending approval of this text amendment for the reasons listed in the staff report. He said that the Zoning Committee recommended referral of this text amendment, to the full Planning Commission.

Commission Comments – Ms. Mundy said that there was to be a Community Center (CC) zone area near the Winchester, Polo Club, and Costco area. She asked with this change, will that CC zone be eliminated. Mr. Sallee replied that the CC zone in this area of Polo Club and Man 'o War Blvd. has moved to be more oriented to the interstate interchange, whereas the Expansion Area Master Plan had shown that land use on the opposite side of Polo Club Blvd., away from the interstate. He said that the two acreages are very close and the zone that was eliminated was the Transition Area (TA) zone. Ms. Mundy asked for clarification of the previously recommended CC zone location. Mr. Sallee pointed it out on the displayed map; it is adjacent to Man o' War Blvd. on the east side of Polo Club Blvd.

Petitioner Presentation – Jacob Walbourn, attorney, was present representing the petitioner. He said that the ED zone is very controversial and considered as a failed zone. There has been zero development in the ED zone since the Expansion Area Master Plan was adopted and the workgroup was established to correct this. He said that the workgroup centered on two key points. One of them is the cost; this is expensive land that is subject to very high exaction fees and very expensive to develop. The other point is diversity of uses in the ED zone; what is it about this zone that hasn't worked out. He said that the workgroup was divided into three groups; a group of interested parties, a group of land owners, and a group of people that were interested in preserving "the jobs land." The entirety of the ED land is owned by three developers; Anderson Community, the Cowgill family, and Baptist Health. Baptist Health is in the healthcare business, which is already permitted in the ED zone; the other two individual parcel owners have a substantial stake in this text amendment. He said that the property owners had proposed basically what is being proposed with the exception of 15% supportive uses, they had asked for 30%; and instead of 15% of 15% (2 1/2% of total square footage) for residential, they had asked for 50% of 30% of residential (15% of total square footage). He said that the developers believe that successful development can happen on the ED land at 30% supportive uses, of which half could be residential.

Mr. Walbourn said the intent of this zone was to create jobs and that hasn't been accomplished and that there is a movement to protect the zone that we currently have. He believes that these changes are not substantial enough to spur the kind of growth and change that we all want to see in this area. He said that this is some of the vacant land in the Urban Service Area and the land is filling up; we're running out of land and this is a prime location where we could start contributing to the tax base. He said that he believes that the proposed change is not all that radical; the difference between 15 and 30% would leave 60 acres available for economic, non-supportive uses and that is still a substantial amount of land to provide employment. He believes that 30% of supportive use is the bare minimum that can be requested that will enable the petitioner to do this kind of development and contribute positively to the community.

Citizen Comment – Christie Harris, resident of 2550 Winchester Road, said that her family has owned this property since 1999. She said that her family has a strong desire to develop this property and hasn't had any opportunities to since they had purchased it. She said that her family would like the opportunity to develop the corner of I-75, Winchester Road, and Polo Club Blvd.; they have had many ideas but can never to move forward on their ideas. She said that the committee seemed to be conservative with their recommendation of 15% for supportive uses.

Commission Comments – Mr. Cravens said that the property owner would like to change the supportive uses to 30%, what part of that would be residential. Mr. Walbourn replied that they had requested up to 15% of the overall, which will be half of the 30%, 15% overall.

Citizen Comment – Mr. Murphy, attorney for Dennis. Anderson, confirmed that Mr. Walbourn set up the facts and the lack of success of the ED zone over the past 20 years. He said that he participated in the Expansion Area committee during the 1996 Comprehensive Plan update, and said that the plans had shown the southern half of the 346 acres as residential and the northern section as more commercial or ED zone. He said that on the eve of the vote, a new plan was on display by the landscape architecture firm, showing the entire thing as ED land use, and the consultant stated that if the current owner didn't approve that he would take the entire thing out the Urban Service Area boundary. He said that the developers have dealt with this land for 20 years and that the Planning Commission chair at the time said that the zone could be changed. The zone hasn't been changed and the lack of inertia has carried forward. He said that Mr. Anderson agrees with Mr. Walbourn's comment of the developer's plans for this land. He said that after 20 years, it's time to give more flexibility because people are building communities now.

Mr. Murphy said that he is also representing a potential fourth owner of ED zone land in this community, residents of the lot across Winchester Road from to the Cowgill property. He said that he had filed a zone change two years ago for 2 1/3 acres for a lot that is in between two land uses that were not anticipated; one is a sewage pump station and the other is a KU substation. These facilities have greatly impacted the marketability of this property for residential use, which was proposed for this lot. This lot had applied for a zone change to the Community Center (CC) zone, which has been indefinitely postponed, pending the results of the ED workgroup. He said that the work group didn't address smaller tracts that were not attached to one of the three larger tracts; this lot is a smaller tracts. He said that two of the larger tracts have development plans for them and there will be one for the third; he believes the future for this 2 1/3 acre lot will serve the ED zone, since the small size of this property makes it impossible for it to be used as a factory or a medical facility, which is the largest use in ED zone. He said that with the 15% rule on this property of only 2 1/3 acres would only be 0.3 acre that would be eligible for commercial type uses.

Mr. Murphy handed out to the Planning Commission two potential solutions, which would modify the proposed text of Zoning Ordinance Article 23A-10(j)(12)(d). He said that the principal use for the smaller tracts of less than 10 acres, under separate ownership, adjacent to an ED parcel, the supportive uses would be principal uses without the 15% limitation on it. He said as an alternative to that is the conditional use making all of the supportive uses conditional uses on the small tracts of 10 acres or less. He said that this would allow it to be a conditional use if there is a restaurant coming in. He believes that this would be appropriate for the smaller tracts of land and asked the Planning Commission to adopt one of the alternatives as an amendment to this proposal.

Lee Simms, spouse of the executor of the Miller Estate on Winchester Road, said that his family has owned this property for 60 years and has seen the KU substation and sewage pump station appear on either side of them more recently. He said that the family would like something purposeful to take place on this land. He said that he had met with the staff for 2 years to try to change the zone to CC and was advised to wait for the ED zone. He said that the ED zone is not a fit for a small land owner, they need more flexibility; and would also like the opportunity to provide jobs and help with the tax base. He said that some businesses and hotels have contacted him for sale but the owners are limited by what can be built there. He said that he is requesting some assistance, from the Planning Commission, for the smaller land owners, for them to have the opportunity to also grow.

Rob Gabert, consultant for the landowner, said that he was assigned to find some commercial viability for the front 2.38 acres inside of the USA boundary. He said that hotels and B-3 type users have been approaching the land owners for sale. He said that it will be very difficult to get a viable project on this land with the plan retention in the rear of the property and also with the plans to continue Polo Club along with the 15% restriction and the greenspace allotment.

Dennis Anderson, landowner of the Kingston Hall property, said the difficulties of developing this property is the limited amount of uses and that people don't understand exactions, they seem confusing and will tend to lean people towards refusal of them. He said that this land has been undeveloped for 20 years now and he believes that the uses need to be expanded. He said that he had buyers that were interested in distribution and a farm implement dealer on this property; he said that neither is correct for this property. He said that he wanted to build a mixed-use development that would be fun to work and live, an up-scale office/business park, with walking trails and townhouses on this property. He believes that land uses should be sprinkled in areas and that every use on this property is worth at least three times as much as residential land. He said that he would like a community on Newtown Pike that will contribute to the overall Lexington community. He said that he wants a place where after 5 o'clock in the evening that people don't go home; there will be employment, restaurants, bars and housing (townhouses). He believes that there isn't adequate housing in this area and in order to stimulate the growth in this area he needs to have these support services.

Mr. Anderson said that he agrees with the Cowgill family relative to the request for 30% supportive uses, of which 15% have the option to use as residential as they see needed.

Commission Comments – Mr. Cravens asked Mr. Anderson to clarify how the 30% supportive uses would work, that it could only work if it were built at the time of the use it is supporting. Mr. Anderson replied that timing markets is impossible; he wants to bring to the market what it needs when it needs it.

Mr. Penn commented that Townley Center was not ED zoned land. He said that he doesn't want to take ED zone land and turn it into a Townley Center. If the principal uses are not done first and the supportive uses are done first, the principal uses may never come forward. He said that he has to support timing the construction of the supportive uses being after the principal uses, otherwise a zone change should have been presented. Mr. Anderson replied that the Townley property was originally zoned I-1 and was changed to mixed-use. He said that he had an economic study completed of this property that states that the amount of taxes and jobs from when he began this project to today has changed phenomenally. Mr. Penn asked if the land is too expensive to compete with other industrial lands. He opined that we should not address it by putting in other uses other than an ED zone and call them supportive uses. Mr. Anderson said that the problem isn't the price; the problem is that the amount of uses available is too narrow. He said that this is to expand the uses in the ED zone, 85% of the land will still remain in economic development uses.

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Mr. Cravens asked Mr. Anderson if he agrees to the uses that have been expanded with the exception of 30% instead of 15%. Mr. Anderson agreed and said that he glad that hotels and restaurants were included. He said that the older generation lived to work and that the young people today work to live and they don't just want to go to work, they want to go to lunch and to go out after work and that is what he wants to provide.

Mr. Wilson asked the staff about their concerns to the proposal that was made. Mr. Sallee said that the ratio of principal to supportive uses was also a concern with the workgroup and they were unable to reconcile the difference of the percentage. He summarized that the staff's recommendation is that the supportive uses would comprise 15% of the Floor Area Ratio and of that allowance, 15% of that would be allowed for residential use. He said that the Cowgill family had asked for 30% of Floor Area Ratio and 15% allowable for residential use. He also believed that Mr. Anderson had also asked for 30% Floor Area Ratio and 15% of that for residential use.

Mr. Sallee said that if the Floor Area Ratio is increased as it has been proposed with this text amendment, there could be approximately 24 million square feet of buildable area in these ED areas. He said that these percentage changes would have huge ramifications; under that staff provision, 15% would be 3,700,000 square feet would be available for supportive uses, which about three times the size of the Fayette Mall and of that approximately 500,000 square feet would be available for residential use, which would be about 1 dwelling unit per acre. He said that at the 30% supportive and 50% residential would be approximately 7,500,000 square feet of supportive uses and 3,725,000 square feet of residential use, which would be about 6 ½ dwelling units per acre. He suggested that the Commission compare those calculations to what the staff sees in a typical multi-family development plan. A typical multi-family development plan proposes a density of about approximately 18 units per acre. He said that the staff's result, according to their recommendation, will still allow pockets of that type of development in these ED zones.

Mr. Sallee said that Commissioner Paulsen was very clear to all the attendees of the workgroup that this task should be done in a way that didn't compromise the basic intent of the ED zone, which is to provide jobs in the area. He said that the staff asks the Planning Commission to be very cautious about the percentages.

Mr. Cravens asked if the percentages were of the actual size of the building not the acreage. Mr. Sallee said that with a Floor Area Ratio of 1.0 that makes it easy for this type of calculation. Mr. Cravens said that it would be difficult to build on the entire site unless other sites were available. Mr. Sallee replied that won't be possible to cover the entire site because of the 25% open space requirement. The only way to achieve a Floor Area Ratio of 1.0 is to build a taller building because parking still needs to be provided, as well. Mr. Cravens asked if these calculations were only on the 15% of the other uses based on the square footage of the buildings built to support the actual use not the supportive use; not the gross acreage but on the buildings that are built. Mr. Sallee replied that those were possible building square footages based on the total land area, not land square footages.

Mr. Brewer said if the non-development in this ED area was created with a great intent, but didn't work. He asked if this small change is going to make an appreciable difference in what is left to create jobs in the area or should we be looking at this as changing the zone. He said that we should try something different and will this create a fertile ground for job creation in the remaining 70% of this space. Mr. Sallee said that the workgroup was very mindful of this and was trying to balance the restrictions and that the zoning limits were one contributing factor as to why the land had not developed.

Mr. Duncan added that there may be some regulatory problems with seeking a different zone than what the Expansion Area Plan recommends if we aren't able to do a swap like we did with the other CC land because this is what was designated so then to do a zone change for something different or something outside of the Expansion Area zone could be a problem from regulatory standpoint. If that hurdle could be met, and we could work to do that; what we have heard now for the last two Comprehensive Plans is the need for hundreds of acres of contiguous jobs land and if we were to take this out of that entirely then we would need to identify some other land to take its place and we don't really have that option in the Urban Service Area boundary. We would have to expand the Urban Service Area boundary to come up with 300-400 acres of land that is designated for jobs that would be in close proximity to itself. He said that these issues will be difficult to overcome without addressing the regulatory issues of zoning or without addressing the policy issues of having jobs-related land and the workgroup felt that anything more than the 15% would begin to take away the purpose of this land and as supportive uses it is still supposed to be an attractor to other jobs land not the driving force, necessarily. It was supposed to help entice other jobs land to come here, but not take the place of this for jobs uses.

Mr. Cravens said that rezoning this property was mentioned earlier, but it is located within the Expansion Area so that it could only be rezoned into Expansion Area zones. Mr. Duncan replied that we could swap this land with something else, like what was done with the CC area; it would have to be reviewed very carefully to see if we could do anything else other than and ED zone. Mr. Cravens said that these land owners can't do anything with this land but an ED zone. All of the land owners are present and they are requesting that they need more flexibility because they are unable to rezone it. Mr. Duncan stated the Planning Commission recognized this in the 2013 Comprehensive Plan and had requested this study to evaluate what else could be done with this ED zone land to encourage it to be developed for its intended purpose.

Mr. Berkley said that he served on that workgroup and attended most of the meetings. He said that the modern developments that we're seeing of this type have the supportive uses. We've got three property owners that are largely represented here today and two of them have had a concept plan completed and presented to the Planning Commission and they don't believe that 15% will work and if we are not going to be willing to listen to that solution then we are just setting ourselves up to fail. He said that at the workgroup meetings there was never any evidence that 30% or even 20% wasn't appropriate. He said that there wasn't a consensus and that the workgroup came up with an odd number. He said that the Planning Commission should review that further and consider what has been presented here today before a decision is made that may not serve anybody.

Mr. Wilson asked what the staff felt about Mr. Murphy's smaller tracts of land proposal. Mr. Sallee said that this issue was at the Zoning Committee earlier this month and the staff didn't feel that it was needed to provide a staff alternative or a Zoning Committee alternative to address that, where Mr. Murphy has. He said that the difficulty in making the principle use amendment is that it could entice owners of ED land to first create lots and subdivide their property to allow these other uses. The conditional use route avoids that, but still isn't consistent with the general concept of the supportive uses. He said that it is awkward in the Zoning Ordinances to have one set of uses considered as principal and another conditional under different circumstance, such as lot size.

Mr. Duncan added that the 16 member committee that reviewed this was asked about the possibility of some kind of transfer so that a property who may not participate in the supportive uses (Baptist Health) could transfer their 15% to an adjacent property and that idea was rejected by the workgroup.

Mr. Walbourn said that the three landowners were out voted by the 16 member committee. He said that he doesn't believe that the landowners would object to a transfer of the supportive uses. He said that the landowners wanted 30% of the supportive uses then and now. He said that the property owners would also be open to transferring the supportive uses if the Planning Commission wanted to entertain that. He said that that the property owners believe that this is what is needed to make this succeed and to help build a better city.

Mr. Anderson clarified what he had said earlier that he was asking for 30% of the property for supportive uses, of which 50% of that could be used for residential. He said that according to building square footage, these properties would never develop at the density or intensity that they could. He asked does that mean if they can use the square footage of the maximum allowable or the square footage that actually gets developed. The staff clarified it drafted based on actual built square footage.

Mr. Murphy said that on the behalf of the smaller property owners, if it is made a conditional use, either the Planning Commission or the Board of Adjustment will have total control of what will be developed on this land, but it will give the landowners an opportunity.

Chairman's Comments – Chairman Wilson stated that the hearing was now "closed," and he opened the floor for discussion.

Discussion - Mr. Brewer said that Mr. Sallee mentioned two parties that were not able to agree on percentage of the supportive uses during the workgroup meetings. He asked who was on the workgroup and was supporting the lower percentage. Mr. Sallee said that the workgroup was comprised of representatives from the University of Kentucky, Commerce Lexington, Council members, and the property owners were represented. He said that the property owners were asking for the higher supportive usages because of their concern and interest in preserving the jobs land and in a general sense, the comments reflected those concerns and that was why there was not able to be a consensus reached for what the percentage ought to be.

Mr. Duncan listed the committee members: Dr. Paulsen (Commissioner), Skip Alexander, Dennis Anderson (Property owner), Buddy Cowgill (Property owner), Christie Harris, Eric McMundy (UK Finance), Melody Flowers (UK Administration), Jenna Greathouse (Commerce Lexington), Kim Rossetti (Commerce Lexington), Price Bell, Herb Miller, Will Berkley, Kevin Stennitt (Council), Kevin Adkins (Mayor's office), and Jonathan Hollinger (Dept. of Planning), Planning Staff had attended all of the meetings, as well.

Mr. Brewer asked what the rationale was for the transfer idea that it was not being seen as a viable option. Mr. Duncan replied that the discussion of the committee centered around Baptist Health having the zone and the uses that they want and then perhaps not needing the supportive uses. He then said Baptist Health stated that they don't want to give up their option on this either. Then it came down to no one being willing to transfer the uses so the workgroup decided not to pursue that as an option. Mr. Brewer asked what other options the Planning Commission has; he doesn't believe that there will be a consensus here either, nor a plan that makes sense to all the parties involved.

Ms. Plumlee said that she had reviewed the work of the task force, attended the Planning Commission work sessions, and reviewed the reports that have been provided by the staff with their recommendation. She said that she believes that the staff has made the correct recommendation based on their work and time.

Mr. Wilson said that the Planning Commission's options are to have a continuance, postponement, approve or disapprove. Mr. Sallee said that the staff asked the Planning Commission to not postpone at this point. Mr. Duncan stated that the text could also be amended.

Mr. Penn said he understands the options, but not the best uses of those options. He wants this land to be where it can be used and agrees that postponement is not the correct direction at this time, but is there a middle ground. He said that he doesn't believe that there are enough members on the board that are ready for a vote, can we see how many are ready for a vote.

Ms. Jones asked the Planning Commission to consider the time, there is only one more work session this year, at the end of September and that agenda is fairly full already. She said that if more time is needed and needs to be continued, then a work session could be another potential option.

Mr. Owens said that having taken part in the committees and the time that was involved; this land is supposed to be kept as job creation type land. He said that he sees two options; to pass it or continue it; he doesn't believe that the Commission is ready to make any changes yet.

Mr. Berkley said that our CC zone has a mixed-use element to it, what are the percentages of residential and commercial in the CC zone. Mr. Sallee said that zone requires 40% of the Floor Area Ratio to be devoted to non-commercial/residential use.

Mr. Cravens said that he believes that he could support the 30% or analyze the acreage and review how that would affect the total area.

Mr. Wilson said that he would like a continuance only if it provides a productive outcome. He said that there may need to be some compromise in order to get this done. He asked the Planning Commission if they are ready to consider a continuance with the understanding that there will be some information and productivity to end this conflict.

Ms. Richardson said that the city and schools use money to bring in experts to complete studies, we have the landowners that have been trying to develop this land for 20 years and have been unable to do so, and they are the experts of this land. She asked why the Planning Commission isn't taking in more strongly what the landowners are asking for.

Mr. Smith said that he agrees with his colleagues and said that the landowners are stifled and their opportunities are limited.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, and failed 5-5 (Brewer, Cravens, Owens, Plumlee, and Wilson opposed; Drake absent) to amend ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, to modify supportive uses to 30% and residential uses to 50%.

Mr. Owens said that he couldn't agree to the 30% figure, as he believed that there is compromise possible if this would be continued.

Mr. Penn said that he can't support the 30% option either, and is concerned about the principle use being built before the supportive use. He said that he also concerned about the other people that were on the workgroup that are not represented here today.

Mr. Cravens said that the only people that have a stake in this today are the landowners and that have asked for that and with most of the discussion here today, the landowners are unable to do anything else with this land but keep it ED zone land and they are at our mercy to give them the percentages that they are asking for.

Mr. Brewer said that the people that were previously involved in this are represented in the conclusion of the report. He said that he believes the property owners have an immediate effect on the Planning Commission decisions and votes; the others that were on the workgroup believed that they're represented in the conclusion of the report. He also said that he can't support the 30% at this time.

Ms. Plumlee said that she can't support the 30% either, because if the ED zone land is turned into something else, which will happen if this motion carries; the developers will be wanting more ED land in the future and want to expand the USA boundary.

Ms. Richardson said that the Zoning Committee turned this over to the Planning Commission because they were unable to make a decision. She said that the Planning Commission just needs to consider the work that they had done and to expand upon that. She said that the Planning Commission has the right to move on this without their thoughts and concerns; the workgroup work has been done.

Mr. Berkley said that he believes the need for having more ED zone land will be a positive idea, to expand our boundaries for that reason would be good thing. That would mean that the work that was done today, potentially worked. He said that the Committee could never come to a consensus about the percentage of the supportive uses. He said that the landowners have

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had their consultants review the studies and they have made recommendations. He feels that the Planning Commission is just throwing that aside. He said that he is supportive of the 30% supportive uses.

Ms. Mundy said that she is also in support of the 30% option because she feels that the Planning Commission is inhibiting the landowners. She said that the Planning Commission has the opportunity here to move this forward and we may have to expand the boundary in order to get more jobs into the area.

Mr. Wilson called for the voting of the motion, which failed. He then asked to entertain another motion related to a continuance and revisiting this at the work session on September 29<sup>th</sup>. Mr. Duncan said that there are still other options for this; the Commission could vote on it as presented by the staff, offer another percentage. Mr. Wilson asked if the staff could work on agreeing to a percentage and then returning the Commission with a recommendation. Mr. Wilson then said to take the motion as presented.

Zoning Action – A motion was made by Mr. Owens, seconded by Ms. Plumlee, to amend ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, to 18% supportive uses and 18% of that to be residential.

Mr. Owens said that the Zoning Committee referred this to the Planning Commission to resolve this and that he feels that 30% is too much and his motion is a compromise.

Mr. Berkley commented on the need of more ED zone land, questioned why the Commission is reluctant to add to the Urban Service Area boundary. Mr. Penn said that more ED zone land is not needed if the Commission can't decide on how the land we have now should be used. Mr. Penn asked if this text amendment broad enough to do what the Commission is trying to do with the supportive uses and whether the principal use is going to be built before the supportive use because if it isn't then it doesn't matter what percentage is agreed upon because then the developer would return stating they were unable to do the principal so we're just going to the supportive.

Mr. Berkley said that it would be concurrent or after, what is the clarification of this text. Mr. Duncan said that the supportive uses could not be built before the other principal uses, they could be built at the same time or after. He said that the jobs creating use would have to be demonstrated first or at the same time of the supportive use. He also said to give a percentage a try for a while and if it doesn't work the possibility of changing it will always be there. Mr. Berkley said that isn't goal of the ED zone land to develop it. The uses have to be in place to attract businesses.

Mr. Cravens asked if a waiver or another text amendment would be necessary to change the percentage of the supportive uses in the future. Mr. Duncan said that it would have to be another text amendment.

Mr. Brewer said that he believes that something needs to change with this land since the developers have not been able to develop anything on it for the past 20 years and that a decision needs to be made today. He said that if had a recommendation from the staff to possibly move this to 20%, that would be a fair compromise. Mr. Duncan replied that 20% is cleaner than 18% as well as gets us a little closer to what the property owners are requesting.

Mr. Wilson then asked Mr. Owens if he would consent to the revision of 18% to 20% supportive uses. Mr. Owens said that if give 30% of this away that's 30% less ED zone land. He said that we need some of this to get the economic development in here and he feels that is too much.

Zoning Action – The previous motion was amended by Mr. Owens, seconded by Ms. Plumlee, to amend ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, to 20% supportive uses and 15% of that to be residential. Mr. Owens withdrew his motion.

Zoning Action – A motion was made by Mr. Cravens, seconded by Mr. Berkley, and carried 7-3 (Mundy, Penn, and Richardson opposed; Drake absent) to approve ZOTA 2016-4: AMENDMENTS TO ARTICLES 23A-10 TO THE ECONOMIC DEVELOPMENT (ED) ZONE, changing to 20% supportive uses and 15% of that be residential.