



ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS

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General Government and Planning Committee

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Introduction to HB 443

- Kentucky Legislature introduced and approved in 2024 legislative session
- Creates a new section of KRS Chapter 100 to require that local laws dealing with subdivision plats and development plans be set out by objective standards and applied ministerially, and to set out conditions for application of discretion
- Effective July 1, 2025





Key Terms

- **Objective standards**

- Measurable, specific, unbiased, equitable

- **Applied ministerially**

- An administrative act carried out in a prescribed manner not allowing for personal discretion

- Set out conditions for application of **discretion**

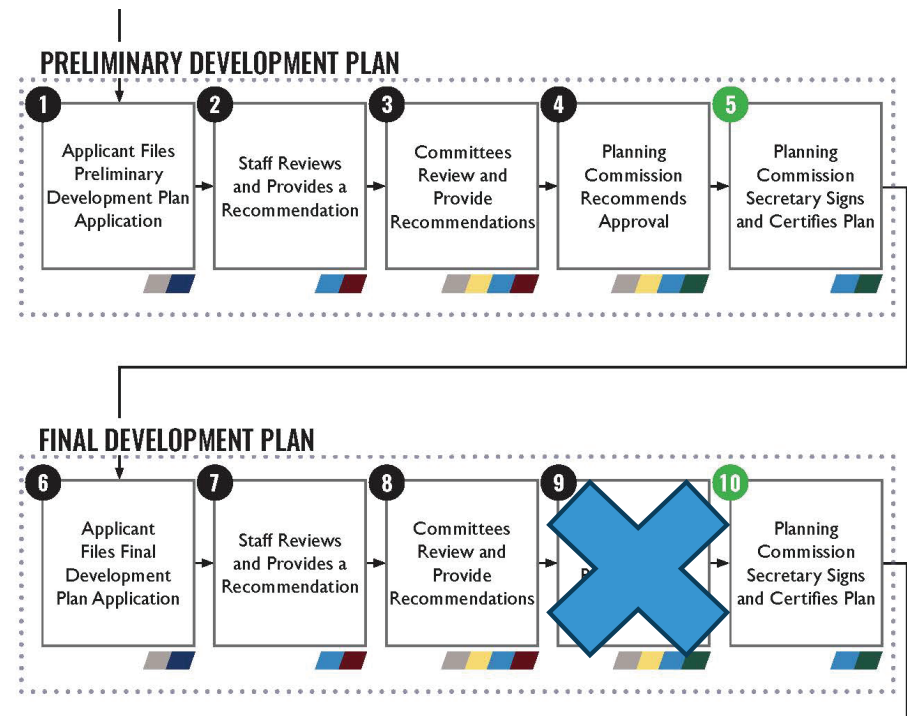
- Establish parameters for when the Planning Commission would utilize discretion
- Similar to a waiver of the Land Subdivision Regulations





Anticipated Change to the Development Plan Process

- Preliminary DP with a Zone Change
 - No change to the process, zone change requests are discretionary
- Final DP
 - No change to Application, Staff Review and Technical Review Committee steps
 - Planning Commission Review would occur for a waiver or deviation of the standards, OR if a requirement would pose a specific threat to public health, safety, or welfare in the affected area





Overview of the Proposed Changes

- Updating zoning ordinance definitions for clarity, consistency, and to address process changes
- Removing subjective criteria and processes and replacing them with objective criteria
- Creating objective standards in the Zoning Ordinance for items that traditionally were part of other Divisions' sign-off processes (DES, Traffic Engineering, etc.)
- Reducing the number of items that require hearings
- Implementing updated Development Plan process





Public Input and Participation under HB443

- Mandatory shift to a ministerial process removes discretion, as well as the ability to consider public comment in review of Final Development Plans/Plats
- Review of the plans becomes a staff-level item, unless waivers are requested by the applicant or a specific health, safety, or welfare concern is identified
- Avenues for Public Participation
 - Plan-making stage
 - Policy-making stage
 - Preliminary Development Plans
 - During the waiver review process
 - During review of projects forwarded to the Planning Commission due to a specific Health, Safety, or Welfare concern raised by staff





Public Engagement and Comment

- Met in person with various stakeholder groups
 - Commercial Property Association of Lexington
 - Building Industry Association
 - Fayette Alliance
 - Land use attorneys
- Notice mailed to 280 active neighborhood associations
- Written citizen comment submitted through email





Changes Made to Text in Response to Public Feedback

- Eliminated portions of the text that did not have a direct bearing on HB 443
- Eliminated provisions that were not previously being applied or reviewed during the current sign-off process
- Further streamlined the review process by eliminating unnecessary pre-application requirements
- Edited the text for consistency and clarity





Planning Commission Recommendation

- Held public hearings on 3-27-2025 and 4-10-2025
- Comments primarily concerned with public input opportunities, as well as the portions of the text that codify the sign-off standards
- Planning Commission recommended approval of the Staff Alternative language, with minor revisions
- The commission issued a strong recommendation for the Council to consider opportunities for public comment and participation



Questions?



LEXINGTON



Summary of Staff Changes to ZOTA-25-00001 based on Public Feedback and Comment			
Article	Item/Provision	Citizen Concern	Staff Action
1	Created a definition for single-lane and multi-lane drive throughs.	Language differentiating the two uses was unclear	Created singular definition for "drive-through" and did not further differentiate between the two.
6	Removed the ability for non-government entities to request a Zoning Ordinance Text Amendment directly.	Is outside the scope of what is required for HB 443. Also significant concerns about reducing opportunities for citizen input.	Removed from the text as it did not directly relate to House Bill 443. Will be addressed under a separate ZOTA.
16	100-foot required buffer from drive-through to residential uses.	Excessive requirement, and makes mixed-use difficult to implement	Removed from the text, as it was a new standard that had not previously been applied.
16	Created requirement that prohibited parking from backing out into the right of way, and required that nonconforming lots be brought up to current standards with any expansion of the structure	Even minor remodels or increases in scope would trigger the need to make more impactful parking lot redevelopment	Created a threshold of 30% increase in the size of the structure before parking reconfiguration would be required.
16	Required Planning Commission approval of multiple drive through lanes	Required PC approval even when the use meets all objective criteria	Removed from the text. The House Bill 443 does not allow for plans to be elevated to the PC except for waivers.
16	Prohibited locating drive-through lanes from being located between the structure and the street.	Creates issues when a lot has double frontage, or a road to the rear.	Modified language to refer to the front yard area only, allowing for stacking to occur to the rear in cases where the lot has double frontage.
16	Commercial access width maximums were established	Does not allow for exceptions for non-traditional entrances, such as right-in/right-out entrances	Incorporated exemption to allow for right-in/ right out access points that would typically exceed the allowable width.
16	Language on specific dimensions of bike parking areas	Needlessly specific	Removed language. Did not need to address this level of specificity in the ordinance
16	Language on bike parking location	Proposed distance was in conflict with another required distance in the ordinance	Removed conflicting portion of language for clarity.
16	Prohibition on gated access points for commercial properties	Prohibits uses of gates for uses such as parking lots, secured uses like self-storage, and other uses	Modified the provision to only prohibit the gating of private streets.
21	Created a requirement for a pre-application process prior to filing	Adds an extra delay for the process, even if they meet all requirements.	Modified language so that the meeting was no longer required, as it was contrary to the streamlined review process envisioned by HB 443.
21	Prohibited cost from being considered as a justification for a waiver	Costs are a part of all types of development, and weigh into how reasonable the waiver request is.	Modified language to allow cost to be considered as a part of the justification, as long as the other necessary findings and criteria are met.
21	Required a hearing if to project was required to be reviewed by an appointed board (Such as the Royal Springs Aquifer Committee).	Required a hearing even if the applicant meets the recommendations established by the boards / committees.	Modified language so that a PC hearing is only required if the applicant does not wish to implement a portion of their recommendation.

Sec. 1-11. - Definitions.

For the purpose of this Zoning Ordinance, certain terms are herewith defined. When not inconsistent with the context, words used in the present tense include the future; words in the singular number include the plural; words in the plural number include the singular; the term "person" includes association, firm, partnership, trust, governmental body, corporation, organization, as well as an individual; the term "structure" includes building; the term "occupied" includes arranged, designed or intended to be occupied; the term "used" includes arranged, designed or intended to be used; the term "shall" is always mandatory and not merely directive; the term "may" is permissive; and the term "lot" includes plot or parcel. Other words and terms shall have the following respective meanings:

Assisted living facility means a residential facility, other than a nursing home, with multiple and separate living facilities-units, ~~generally for persons who are fifty-five (55) years of age or over~~, meal preparation, laundry services, room cleaning, transportation, and/or recreation may also be provided, as well as some medical services, exclusively for the residents of the facility.

Division of engineering manuals (also known as the engineering manuals, or the manuals) is a set of ~~seven (7)~~ eight (8) documents to provide standards for the design, review, construction, maintenance and inspection of infrastructure. The engineering technical manuals are construction inspection (also known as the inspection manual), geotechnical, roadway, sanitary sewer and pumping station, stormwater, and structures. In addition to the six (6) technical manuals, a procedures manual for infrastructure development (also known as the procedures manual) establishes the responsibilities and procedures to be used by the Lexington-Fayette Urban County government, the land developer and the project engineer; and a maintenance manual for post-construction stormwater controls that outlines minimum maintenance requirements. These manuals are hereby adopted by the urban county government and incorporated into this Zoning Ordinance by reference. From time to time, the urban county government may revise, modify, or amend the manuals in conformance with the procedure established in the procedures manual. When any of the engineering manuals are cited by this Zoning Ordinance, the current edition, latest revision, shall be referenced.

Drive-through facility means a facility including, but not limited to, drive aisles, stacking areas, menu boards, order points, and pick-up points which accommodate customers in automobiles for the provision of goods and/or services.

Elderly housing means ~~multiple family structures containing at least twenty-four (24) units and solely devoted to housing families consisting of two (2) or more persons, of which the head (or his spouse) is sixty-two (62) years of age or over, or is handicapped; and single persons who are sixty-two (62) years of age or over, or are handicapped.~~

Environmentally sensitive area means any area, which, due to its natural or physical setting, may have environmental constraints concerning development; such lands shall include, but shall not be limited to, areas of steep slope (over 15%), floodplains, sinkholes, springs, blueline streams, ponds, areas of alluvial soils, improper fill, wetlands, significant areas of tree stands, and aquifer recharge areas.

Extended-stay hotel means a form of hotel ~~multiple family dwelling(s) with allowing for~~ rental or lease of less than one (1) week, provided such rentals or leases of less than one (1) week shall comprise less than fifty percent (50%) of the total dwelling units within the structure(s).

Geologic hazard area means an environmentally sensitive area where the environmental constraints are so numerous that development would pose a serious problem to the immediate area or the surrounding areas. Such areas may include, but are not limited to: areas of excessive floodplain, areas that have potential collapse problems due to caves, cliff areas, etc.

Home-based business means a gainful occupation or profession carried on in a residence that involves:

- (a) Customers or clients coming to the residence; and/or
- (b) The use of materials or equipment that are potentially disturbing to surrounding properties due to noise, odors, flammability or some other risk factor.

Examples include, but are not limited to, individual music instruction; athletic training; counseling services; and upholstery work.

The term "home-based businesses" shall not include offices for escort services; massage parlors; automobile and small engine repair; medical or dental offices; ~~palm reading or~~ fortune telling; catering or food-handling requiring a commercial kitchen; and uses, other than upholstery, which are first permitted in the B-4, I-1 or I-2 zone.

Kenel means commercial business for the sale or temporary boarding or supervision of more than three (3) dogs, but not including the ownership and occasional sale of dogs at, in, or adjoining a private residence. Such uses shall include dog daycare uses.

Lot line, front, means in the case of a lot abutting upon only one (1) street or alley, the line separating such lot from such street. In the case of any other lot, the owner shall, for the purpose of this Zoning Ordinance, have the privilege of electing any street lot line as the front lot line, provided that the primary entrance to the parcel's principal structure is provided along that lot line ~~provided that such choice, in the opinion of the division of planning or the division of building inspection, as appropriate, will not be injurious to the existing, or to the desirable future development of adjacent properties.~~

Micro-distillery means a distillery that produces fifty thousand (50,000) gallons or less of distilled spirits per calendar year and operated under a Class B License as defined by KRS 243.120.

~~Primary entrance means the place of ingress and egress for a structure used most frequently by the public.~~

Story means ~~that the usable~~ portion of a building, other than a cellar or mezzanine, included between the surface of any floor and the surface of the floor next above it; or, if there is no floor above it, then the space between the floor and ceiling next above it. A half-story means the portion of a building between the top floor and a sloping roof, with at least two opposite exterior walls meeting the sloping roof not over three (3) feet above such floor level. This uppermost half-story of a building shall constitute no more than one-half of the square footage of the floor below.

Stub street means a local or collector, closed-end street that is only acceptable as a temporary street condition. Stubs are similar to cul-de-sacs except that they provide no turnaround circle at their closed end. Stub streets shall only be used when a future continuation is planned.

Temporary construction trailer means a manufactured structure that is utilized on a temporary basis in connection with on-site construction work. Such structures shall be subject to the permitting and timing requirements of temporary structures, and are not for use for by the general public.

Vehicular use area (VUA) means any paved area, which is not exclusive to pedestrian use, containing more than eighteen hundred (1,800) square feet of area or used by five (5) or more of any type of vehicle; whether moving or at rest, including, but not limited to, parking lots; loading and unloading areas; drive-through or drive-up window facilities; and sales and service areas. A driveway is considered part of a vehicular use area when adjacent to public streets or other vehicular use elements. Intervening curbs, sidewalks, or landscaping strips, etc., do not eliminate adjacency of VUA.

ARTICLE 6 - AMENDMENTS

Sec. 6-1. - Application for Zoning Map Amendment.

A proposal for amendment to the zoning map may originate only with the Commission, the Lexington Fayette Urban County Council, the owner of the subject property, or by a person having written authorization from the owner of the subject property. Regardless of the origin of the proposed amendment, an application must be filed with the Commission requesting the proposed amendment in such form and accompanied by such information as required by this Zoning Ordinance and the by-laws of the Commission. At the time of filing an application, a non-returnable filing fee shall be paid according to the schedule of fees as established by the Commission, however, there shall be no filing fee for an amendment requested by the Lexington-Fayette Urban County Council, the Commission, or any other governmental agency. Upon the filing of an application for a map amendment by a governmental body, the Commission shall promptly notify the owner of the subject property as required by KRS 100.

(a) *Traffic Impact Studies.* All significant developments requiring a Zoning Map Amendment shall submit a Traffic Impact Study. As used herein, the term "significant developments" shall mean any development which will generate more than one hundred (100) new trips and will have a potential impact on areas of congestion bottle-necks and high crash areas as identified by Transportation Planning staff; or alternatively, two hundred (200) or more additional (new) peak trips during the adjacent roadway's peak hour or the development's peak hour. The applicant shall have the responsibility of conducting and paying for the study. The preparer of a Traffic Impact Study shall be listed as pre-qualified by the Kentucky Transportation Cabinet in the service areas of Traffic Engineering or Transportation Planning.

The Urban-County Government will cooperate and coordinate with the applicant's team to provide any available data. To the extent that the Urban-County Government has done any independent traffic study pertinent to the proposed development, the results of such study shall be made available to the applicant.

Anticipated roadway improvements shall be determined by a review of the Transportation Improvement Program and in consultation with staff from the Divisions of Planning, Traffic Engineering, the Kentucky Transportation Cabinet, and other agencies as deemed appropriate. If the proposed development is within one (1) mile of any county boundary line, then any proposed roadway improvements in the adjoining county shall be included in the study.

The Transportation Planning staff shall review, analyze, and make recommendations on any Traffic Impact study to be submitted as evidence in a rezoning hearing regardless of whether or not such study is required by this Zoning Ordinance.

Sec. 6-5. - Forwarding of the planning commission's action to the urban county council.

Within fourteen (14) days of the Commission's final action to recommend that a zone map amendment be approved, approved with binding conditions or restrictions, or disapproved, or that a binding condition or restriction amendment be modified. the development plan(s) and/or other plans filed in conjunction with the map amendment shall be certified by the Commission's Secretary as set forth in Section 21-4 herein, or else the final action of the Commission on the zone map amendment shall be null and void. Any further consideration of the zone map amendment shall be treated as a new application and shall be reviewed as set forth herein. Upon certification of the plan(s), the Commission's Secretary shall forward its report in writing to the Urban County Council. This report shall include at least the application, legal description of the property, notification area map, staff report, minutes of the Planning Commission public hearing, and the findings of fact and conclusions of law and the recommendation of the Planning Commission, including any

binding conditions or restrictions to be imposed as set forth in Section 6-7 below. ~~Minutes of the Planning Commission public hearing shall be included in the final report whenever they are available.~~

Sec. 6-7. - Conditions to granting a zone map amendment.

Pursuant to KRS 100.203(8), ~~the~~ Planning Commission or the Urban County Council may, as a condition to granting a map amendment, restrict the use of the property affected to a particular use, or a particular class of use, or a specified density within those permitted in a given zoning category; impose architectural or other visual requirements or restrictions upon development in areas zoned historic; and impose screening and buffering restrictions upon the subject property. In recognition that the aforementioned powers may be useful in accomplishing the purposes set forth in Section 1-3, but at the same time in recognition that such powers should be thoughtfully and sparingly used, the method whereby such restrictions or conditions may be imposed, modified, removed, amended and enforced is set forth below.

- (a) *Criteria and Terms.* A binding restriction or condition may be imposed whenever one (1) or more of the specifications of this Zoning Ordinance for the proposed zoning category, if exercised by the applicant, would impair the integrity and character of the area in which the subject property is located or adjoining areas, unless restrictions or conditions as permitted in this Article are imposed in addition to those imposed in the Zoning Ordinance. Such restriction or condition may include, ~~but shall not be limited to, time limitations, requirements that one (1) or more things be done, or restrictions or conditions of a continuing nature, so long as the same are limited to the~~ matters set forth in this section 6-7. No restriction or condition may be imposed which shall deprive the applicant of a reasonable use of the land or create an unnecessary hardship on the applicant.
- (b) *Procedure.* Imposition of binding restrictions or conditions may be considered at any point in the Zoning Map Amendment procedure. However, before the Commission recommends such a restriction or condition or the Urban County Council adopts the same, it shall make findings of fact and conclusions of law which are supported by substantial and competent evidence; which are not arbitrary or capricious; and which demonstrate that the effect of the proposed Zoning Map Amendment on the public health, safety and welfare in the area in which the subject property is located and adjoining areas has been considered. ~~The Council may also designate certain conditions or restrictions as amendable only by Council action. Any such condition or restriction so designated may only be amended, modified or removed by Council action as set forth under Subsection (c)(1) of this section. Conditions or restrictions not so designated~~ may be amended, modified or removed by the established map amendment procedures established in section 6-4, except that alternate findings to address the modification, removal or amendment shall be considered by the Planning Commission as set forth under Subsection (c)(2) of this section. Only when the Urban County Council holds its own public hearing or reviews the record and the transcript of the Commission hearing may the Council impose a binding restriction or condition not recommended by the Commission, or modify or remove a restriction recommended by the Commission ~~or designate certain conditions as amendable only by Council action.~~ Any binding restriction or condition finally imposed after completion of the Zoning Map Amendment process shall be included in the Urban County Council ordinance adopting the Zoning Map Amendment, a copy of which the Urban County Council Clerk shall furnish to the Divisions of Building Inspection and Planning.
- (c) *Amendment.* Modification, removal or amendment of conditions or restrictions shall be as follows:
 - (1) *Restrictions or Conditions Designated Adopted by the Urban County Council.* The Urban County Council shall have final authority to consider and act upon requests for modification, removal or other amendment of a duly imposed binding restriction or condition so designated by the Council at the time of their adoption.
 - (a) *Findings Required.* The request may be granted by the Council only if it is found that there has been a major change of an economic, physical or social nature on the subject property or

within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.

- (b) *Procedure.* The procedure for review, notice and action on requests to modify, remove or amend an imposed restriction or condition shall be the same as for a zone map amendment; ~~except that a full public hearing by the Urban County Council shall be required in all cases.~~ The Council's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action; and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty (30) days after such final action pursuant to KRS 100.347.

- (2) ~~*All Other Restrictions or Conditions*~~ *Neighborhood Character Design (ND-1) Overlay Zone Standards.* The Planning Commission shall have final authority to consider and act upon requests for modification, removal or other amendment of Neighborhood Character Design (ND-1) Overlay Zone standards, which are adopted as map amendment ~~all other restrictions or conditions,~~ in accordance with the procedure and requirements set forth in Subsection (c)(1) of this section, except that no Council action shall be required. In the case of a request to modify, remove or amend a Neighborhood Design Character Overlay (ND-1) zone restriction(s), the application shall ~~follow the procedure as set forth above, but shall~~ be reviewed by the Planning Commission for adherence to the requirements set forth in Subsection (c)(2)(a) of this section. In addition, notice shall be given to the members of the Urban County Council, to the Mayor and to the Council Clerk at least fourteen (14) days in advance of the public hearing. Members of the Urban County Council may appear and speak at the public hearing. The Planning Commission's decision to modify, remove or amend a duly imposed binding restriction or condition shall be final action, and any person or entity claiming to be injured or aggrieved by that action may appeal to Fayette Circuit Court within thirty days after such final action, pursuant to KRS 100.347.

- (a) *Findings Required for ND-1 Overlay Zone.* The request may be granted by the Planning Commission only if the request for modification, removal or amendment is found to meet the following:

- (1) The granting of the modification, removal or amendment to an ND-1 Overlay restriction will not adversely affect the public health, safety or welfare, will not alter the essential character of the overlay district, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the ND-1 Overlay restrictions. In making these findings, the Planning Commission shall consider whether:
- (a) The requested modification, removal or amendment arises from special circumstances that do not generally apply to land in the same ND-1 Overlay District;
 - (b) The strict application of the provisions of the restriction would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the ND-1 Overlay restrictions from which relief is sought; and
 - (d) The general intent and preservation goals of the ND-1 Overlay District are being met.
- (2) The Planning Commission shall deny any request for modification, removal or amendment to an ND-1 Overlay restriction arising from circumstances that are the result of willful violations of the restriction by the applicant subsequent to the adoption of the ND-1 Overlay zone from which the amendment is sought.

- (b) The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.
- (c) The decision of the Planning Commission shall be recorded in minutes and records and issued in written form to the applicant, the Division of Planning and the Division of Building Inspection to constitute proof of the change.
- (d) *Enforcement.* Binding restrictions or conditions imposed under this Article shall be enforced through subsequent development plans, subdivision plans, building permits, occupancy permits and other enforcement powers and shall be in addition to requirements imposed by such plans or permits and other laws or regulations.
- (e) *Judicial Review.* Imposition of binding restrictions or conditions pursuant to this Article shall be upheld on review if supported by substantial, reliable and probative evidence found within the record as a whole.

Article 9 - GROUP RESIDENTIAL PROJECTS

Sec. 9-1. - Intent.

The intent of this Article is to provide a means to permit two (2) or more detached buildings for residential purposes to be placed on the same parcel or lot of land in any R-1T, R-2, R-3, R-4 or R-5 zone, if approved as a Group Residential Project as provided herein, and to allow slight variations from the requirements of the zone in which it is located only as specifically provided herein.

Sec. 9-2. - Where required.

Any development in an R-1T, R-2, R-3, R-4, or R-5 zone, which proposes two (2) or more detached buildings for residential purposes on the same lot or parcel, shall be considered a Group Residential Project, and shall conform to the provisions of this Article.

Sec. 9-3. - Permitted uses.

The permitted uses shall be those principal and accessory uses listed in Article 8 for the zone in which the Group Residential Project is located. All other uses are prohibited, except that the following uses shall be permitted in a project approved on a final development plan:

- (a) Schools for academic instruction;
- (b) Places of religious assembly;
- (c) Canteens of less than five hundred (500) square feet in size for the sale of sundries and other incidental items to residents of the Project;
- (d) A sales or rental office of less than one thousand, two hundred (1,200) square feet in size, where contracts or leases can be obtained or executed;
- (e) Up to two (2) clubhouses for each Project; and
- (f) Recreational facilities, with or without game rooms and/or one (1) indoor theater; ~~shall be permitted in a project approved by the Commission.~~

Single-family detached units permitted under the R-2, R-3, and R-4 zones, with the exception of the Cottage House Project as defined in Section 9-8, are also prohibited from construction under the provisions of this Article. Such uses shall follow the requirements for subdividing, as required for single-family residential zones.

Sec. 9-4. - Detached buildings defined.

For the purposes of this Article, the term "detached buildings for residential purposes" shall be defined as single-family, two-family, or multifamily residential buildings, including ranch, motel or garden design types; townhouses; apartment buildings butted against each other; or apartment buildings connected by an open breezeway or similar connection. Buildings connected by breezeways or similar connections shall be considered to be detached buildings rather than one (1) building. Ranch, motel, garden, butted buildings or other design types may be counted as single detached buildings, as long as they do not exceed two hundred

(200) feet in length; and buildings exceeding this length shall be considered as two (2) or more detached buildings, and shall be permitted only in Group Residential Projects.

Sec. 9-5. - Review and approval.

The Division of Planning may approve site plans for a zoning compliance permit, after which the Division of Building Inspection may issue permits for the construction of a Group Residential Project on a lot of five (5) acres or less; provided the proposed Project meets the requirements set forth under Section 9-6. ~~The Planning Commission shall review For~~ all other Group Residential Projects on lots of more than five (5) acres, a final development plan shall be filed with the Division of Planning in compliance with the procedures and requirements of Article 21, within ninety (90) days of their filing with the Division of Planning, unless the applicant agrees to a longer period. Projects of five (5) acres or less may also submit a final development plan in order to establish the accessory uses listed in Section 9-3 above, be submitted to the Commission. ~~Regardless of the size, the Commission may only approve those Projects which meet the requirements of Section 9-6.~~ The following procedure shall be followed for approval of Group Residential Projects which require a final development plan by the Commission:

- (a) *Development Plan Required.* ~~The Commission shall require a~~ A final development plan ~~for all group residential projects on a lot of five (5) acres or more shall be required and~~ containing the information as required by Article 21; and, in addition, specifying the number and type of dwelling units for each building and use of other structures. ~~The Commission shall review the plan for provision of safe, convenient, efficient and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.~~
- ~~(b) Public Hearing Required.~~ ~~The Commission shall advertise and hold a public hearing before proceeding to postpone, approve, conditionally approve or disapprove the plan for a Group Residential Project. Amendments to the plan shall follow the same procedure as provided in Section 21-7.~~
- ~~(b) (c)~~ *Certification of Approval.* The certification of approval for a Group Residential Project development plan shall be as provided in Section 21-4(f).
- ~~(c) (d)~~ *Permits Required.* After certification by the Secretary of the Commission, the Divisions of Planning and Building Inspection may issue permits in conformance with the approved plan upon receipt of a certified copy of the plan.

Sec. 9-6. - Group residential projects minimum design standards.

All Group Residential Projects, with the exception of Cottage Housing Projects, shall conform to the following minimum design standards:

- (a) *Size.* The parcel or lot on which the Project is located shall not be less than the minimum lot area for the zone in which it is located.
- (b) *Maximum Floor Area Ratio and Lot Coverage.* For Projects in the R-3, R-4 or R-5 zone, the total floor area of all buildings shall not exceed the maximum floor area permitted in the zone in which the Project is located. When additional open space is provided in excess of the minimum required by Subsection (h) of this section, the applicant may exceed the maximum floor area ratio by one percent (1%) for each one percent (1%) of additional usable open space that is provided, unless specific permission is given by the Commission to exceed said permitted floor area by not more than one percent (1%) for each one percent (1%) of additional usable open space that is provided over the

~~minimum required by Subsection (h) of this section. In any case, t~~The maximum floor area shall not exceed, by more than ten percent (10%), the maximum floor area otherwise permitted in the zone. The maximum lot coverage shall be as provided in the zone in which the Project is located. For Projects located in the R-1T zone, the total lot coverage shall not exceed twenty-five percent (25%) There shall be no maximum floor area ratio for Group Residential Projects in the R-1T zone.

(c) Yard requirements. The minimum width of required yards shall be as follows:

- (1) Front Yard. Frontage along any public or private street shall constitute a front yard, ~~and more than one (1) may be designated for each Project, as appropriate.~~ The front yard shall be established as follows:

Zone	Minimum Distance
R-1T	10 feet
R-2	10 feet
R-3	20 feet
R-4	20 feet
R-5	20 feet

- (2) Project Exterior Yard. The Project exterior yard shall be established along the outside boundary of the property, except where a front yard has been established as required in Subsection (c)(1) of this section. Where a Project exterior yard is required, the distance between principal buildings and the outside boundary of the property upon which the Project is located shall not be less than the height of the building, nor twenty (20) feet, whichever is less. Where the wall of any principal building is not parallel to the outside boundary of the property or is broken or otherwise irregular, the average distance shall not be less than as specified above. At no point shall such distance be less than fifteen (15) feet.

- (3) Distances Required Between Buildings. The distances between principal buildings shall not be less than the required side yard in the zone in which the Project is located. Where the walls of the buildings are not parallel, or are broken or otherwise irregular, the average distance between the principal buildings shall not be less than as specified above, and shall at no point be less than one-half ($\frac{1}{2}$) the required side yard for the zone in which the Project is located.

- (d) Proximity to Drive. A part of every residential building shall not be farther than one hundred sixty (160) feet from an access roadway or drive providing vehicular access from a public street. Residential buildings shall not be closer than five (5) feet to any access roadway or drive.

- (e) Maximum Height. The maximum height of nonresidential buildings within a Project shall be thirty-five (35) feet. The maximum height of residential or mixed-use buildings within a Project shall be as follows:

Zone	Maximum Height
R-1T	35 feet
R-2	40 feet
R-3	40 feet
R-4	60 feet
R-5	80 feet

- (f) Parking Area. As for the zone in which it is located (See Articles 16 and 18 for additional parking regulations).

~~(g) Service Areas. Proper open spaces shall be devoted to service needs of the Project, including, among others, refuse collection areas and equipment service areas.~~

~~(g) (h)~~ Open Space. See Article 20 for open space regulations.

~~(h) (i)~~ Private Streets. ~~Private streets may be permitted by the Commission.~~ Plans containing private streets shall conform to the requirements of the Subdivision Regulations concerning private streets.

~~(i) (j)~~ Maintenance of Common Spaces. Where the design of the Group Residential Project indicates a need or desire to subdivide property and to provide for common spaces, a Home Owners' Association, or other mechanism for the provision of maintenance, improvement, and operations for all common spaces, including streets; parking areas; open space, etc.; shall be required to be established by the applicant. The applicant's responsibility to create such a mechanism shall be noted on the development plan of the Group Residential Project. A requirement that each property owner be individually responsible for maintenance of the common space abutting the lot shall not be considered as acceptable for fulfilling the requirements of this section.

~~(j) Density of Use. For projects that include one hundred (100) or more dwelling units, a minimum of two (2) commercial access points shall be provided. For projects that include more than six hundred (600) dwelling units, a minimum of three (3) commercial access points shall be provided. Such commercial access point shall be unobstructed.~~

(k) -Other Requirements. Except as modified herein, the Project shall conform to the requirements of this Zoning Ordinance for the zone in which it is located.

Sec. 9-7. - Group residential projects in the infill and redevelopment area.

Projects in the Infill and Redevelopment Area shall follow the same procedures set out as provided in Sections 9-5 and 9-6 herein for Group Residential Projects, except that such Projects may utilize the following alternative minimum design standards:

- (a) Provisions of the Underlying Zone. Projects in the Infill and Redevelopment Area may choose to comply in whole with the height; front, rear and side yard setbacks; and parking requirements as for the underlying zone rather than with Sections 9-6(b) through 9-6(f) above.
- (b) Bonus Floor Area. The maximum floor area shall not exceed one hundred twenty-five percent (125%) of the otherwise permitted maximum floor area in the zone in which the Project is located, provided the required usable open space has not been granted a dimensional variance. ~~Any Project that proposes a total floor area of more than one hundred percent (100%) of that permitted in the zone in which the Project is located, shall require that notice be provided to all property owners within four hundred (400) feet of the site, as outlined in Section 6-4(b) herein prior to Planning Commission consideration.~~
- (c) Open Space Reductions. Where proposed dwelling unit entrances or other applicable building entrances are located within ¼ mile (1,320 feet) walking distance along a walkable route of an existing LFUCG park, the minimum required useable open space shall be reduced by fifty percent (50%).
- (d) Front Yard Averaging. The front yard may be averaged as permitted in Section 15-2(a)(1) only if the primary wall plane of the building is parallel to the public or private street.

Sec. 9-8. Cottage housing project.

(a) Review and approval. Development Plan Required. No development shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, The Commission shall require an approved final development plan containing the information as

~~required by Article 21; and, in addition, specifying T~~he number and type of dwelling units for each building and use of other structures ~~shall be included. The Commission shall review the plan for provision of safe, convenient, efficient, and harmonious groupings of buildings in relation to their intended use; transportation and utilities in relation to the buildings served and general circulation needs; open space in relation to needs of the occupants; and for conformance to any other necessary requirements. The Project shall be planned to properly blend with all surrounding property.~~

(b) Project Site Requirements:

1. Minimum Project Size - twenty thousand (20,000) square feet.
2. Minimum Density - four (4) detached single-family dwelling units per twenty thousand (20,000) square feet; eight (8) attached single-family dwelling units per twenty thousand (20,000) square feet.
3. Minimum Project Lot Frontage - thirty (30) feet.
4. Minimum Project Setbacks.
 - a. Side Yard - five (5) feet.
 - b. Front Yard Setback - ten (10) feet.
 - c. Rear Yard Setback - ten (10) feet.
5. Cottage Housing Shared Open Space.
 - a. Shall be centrally located to the cottage house project.
 - b. Shall be a minimum of four hundred (400) square feet per cottage.
 - c. Abut at least fifty percent (50%) of cottages in a cottage housing development.
 - d. Have cottages on at least two sides.

(c) Cottage Requirements:

1. Cottages shall be oriented around and have the primary entrance from the shared open space.
2. Cottages shall be sited to avoid the rear of the building facing a street (other than an alley) to the greatest extent practicable.
3. Cottages shall be within sixty (60) feet of walking distance of the shared open space.
4. A minimum distance between structures shall be ten (10) feet, including accessory structures.
5. Cottages shall have a roofed porch with a minimum dimension of eight (8) feet on any side.
6. Minimum Lot Frontage - no limitation.
7. Maximum Cottage Size - one thousand five hundred (1,500) square feet.
8. Minimum Lot Size - no limitation.
9. Minimum yard requirements - no limitation.

(d) Parking Requirements: Per Article 16 and Article 18.

Article 11 - INTERCHANGE SERVICE BUSINESS (B-5P) ZONE

Sec. 11-1. - Intent.

The intent of this zone is to permit the establishment of limited commercial facilities which should be located at limited access highway interchange areas so that the traveling public is conveniently provided with transient type services without endangering the movement along, as well as access to and from, the limited access highway. The standards contained in this Article are intended to provide adequate protection for, and consideration of, the traveling public. This zone should be established in accordance with the Goals, Objectives, Policies, and Development Criteria of the Comprehensive Plan.

Sec. 11-2. - Principal uses permitted.

The following are principal permitted uses in an Interchange Service Business (B-5P) zone:

- a. Automobile Service Stations and automobile and vehicle refueling stations providing full-service, self-service, or a combination thereof; including the sale of convenience-type merchandise in conjunction therewith in an enclosed building. Such uses shall conform to all requirements of Article 16.
- b. Facilities for the sale of convenience-type merchandise in an enclosed building in conjunction with pumps for the sale of fuel for vehicles.
- c. Restaurants, excluding drive-in restaurants.
- d. Cocktail Lounges, Nightclubs, Wine Tasting Rooms and Discotheques, with or without live entertainment or dancing.
- e. Brew-pubs, when located at least one hundred (100) feet from a residential zone, which shall be soundproofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.
- f. Hotels and Motels.
- g. One Confectionery or Candy Store, not exceeding one thousand, five hundred (1,500) square feet, per interchange quadrant.
- h. Roadside stand and value-added product sales.
- i. Carnivals on a temporary basis, and upon issuance of a permit by the Division of Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect public health, safety, or welfare or deny such if public health, safety, or welfare are adversely affected. A carnival may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
- j. Temporary cellular telephone transmitting facility; not to exceed seventy (70) feet in height and with a 1:1 height to yard ratio.
- k. Car washing establishments, provided that surface water from such uses shall not drain onto adjacent property or over a public sidewalk, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes. The use shall be located at least one hundred fifty (150) feet from a residential zone or residential structure in a nonresidential zone; or the use shall be designed so that all vehicular stacking areas and machine operations, including vacuuming and mechanical washing, shall be conducted inside a building, or shall be separated from the residential zone or residential structure in a nonresidential zone by a building or an eight-foot solid wall.

Sec. 11-3. - Accessory uses permitted.

Accessory uses permitted in the B-5P zone are those uses which are customarily accessory, clearly incidental, and subordinate to any permitted principal use, such as:

- (a) Swimming pools.
- (b) Meeting rooms.
- (c) Tennis courts, putting greens, handball courts, and other similar indoor or outdoor recreational facilities.
- (d) Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
- (e) Bus agencies.

Sec. 11-4. - Conditional uses.

The following are conditional uses in an Interchange Service Business (B-5P) zone (Permitted only with Board of Adjustment approval):

- (a) Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91) and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:
 - (1) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - (2) That a reasonable degree of reclamation and proper drainage control is feasible; and
 - (3) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any federal, state or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
- (b) Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
- (c) Seasonal activities.
- (d) Market gardens.

Sec. 11-5. - Prohibited uses.

All uses, other than those specifically named as permitted uses, shall be prohibited in the B-5P zone.

Sec. 11-6. - Locational standards.

A B-5P zone may be established only upon land having a minimum of five hundred (500) feet of frontage on a street designated ~~by the Commission~~ as an arterial and abutting a limited access highway interchange. ~~The~~

~~location of such B-5P zone shall have an acceptable relationship to the design of the limited access highway which it abuts.~~

Sec. 11-7. - Minimum design standards.

- (a) Access. There shall be no direct entrances or exits from any establishments to any arterial street unless acceleration and deceleration lanes not less than two hundred (200) feet in length and eleven (11) feet in width are provided for both directions of travel.
- (b) Non-conforming Uses. Development of a B-5P zone in accordance with the provisions of this Article shall include the removal of any non-conforming use located on the property involved.
- (c) Parking. No minimum requirements. (See Articles 16 and 18 for additional parking regulations).

~~Conditional Uses: The Board of Adjustment may establish additional requirements as needed.~~

- (d) Screening. Landscaping and screening shall be provided as required in Article 18.
- (e) Lot, Yard, and Height Requirements. Lot and yard requirements shall be as for the Corridor Business (B-3) zone, ~~except for the lot coverage requirement~~. There shall be no height restriction except when a side or rear yard adjoins a residential zone, then a 3:1 height-to-yard ratio.
- (f) Minimum open space. See Article 20 for additional open space regulations.

Sec. 11-8. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-5P zone shall be the same as provided in Article 6, ~~herein above; and in addition, as follows:~~

~~(a) Preliminary Development Plan Required. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment with the information as specified in Article 21 hereinbelow~~

~~(b) Final Development Plans Required. Within two (2) years of approval by the Urban County Council of any B-5P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and approval; otherwise, an application to change the B-5P zone to its previous zone or other appropriate zone may be filed by the Commission, as provided under Article 6 hereinabove. The final development plan shall show the information as specified by Article 21 hereinbelow. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits the development plan.~~

~~(c) Building Permit Required. No building permit shall be issued until a final development plan has been approved by the Commission and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.~~

Article 12 - COMMERCIAL CENTER (B-6P) ZONE

Sec. 12-7. - Locational standards.

A community commercial center shall abut, front on and have its principal access to and from ~~a street designated by the Commission as~~ an arterial or collector street ~~as deemed to be appropriate by the Commission~~. A regional commercial center shall abut, front on, and have its principal access to and from a street designated ~~by the Commission as~~ an arterial. ~~The proposed commercial center shall be at a location where congestion will be minimized by provision in the plan for proper entrances, exits, transit, bicycle, and pedestrian facilities, and by internal provisions for traffic circulation and parking.~~

Sec. 12-8. - Minimum design standards.

The following minimum standards shall be met in the design of a planned commercial center:

- (a) Height Requirement. There shall be no height limitation.
- (b) Required Setback.
 - (1) Streetfront building setbacks (Four-story buildings and below), the building setback line shall be:
 - (i.) Arterial street: Fifteen (15) feet minimum.
 - (ii.) Collector street: Fourteen (14) feet minimum.
 - (2) Streetfront building setbacks (buildings above four (4) stories), the building setback line shall be:
 - (i.) Arterial street: Eighteen (18) feet minimum.
 - (ii.) Collector street: Sixteen (16) feet minimum.
 - (3) Side and Rear yard building setback: Ten (10) feet, unless adjacent to a residential zone, then a 3:1 height-to-yard ratio.
- (c) Screening.
 - (1) No residential dwelling shall be developed so that the rear of the structure abuts an arterial or collector street unless the dwelling is located not less than two hundred (200) feet from the arterial or collector street.
 - (2) Any commercial center which directly adjoins any single-family residential zone shall be required to provide a buffer yard of six (6) feet in width, with one (1) tree for every thirty (30) feet of linear boundary from Group A, B, or C of the Plant List, as referenced by Article 18 of this Zoning Ordinance; plus a six-foot-high fence, wall or earth mound. The responsibility for such a buffer shall be the B-6P property, although the buffer may be shared as provided in Article 18.
 - ~~(3) Pedestrian and/or bicycle connections and programmed amenities (such as seating, canopies, pergolas, and/or patios) which integrate the commercial center with adjacent residential zones shall be incorporated into the development plan at appropriate locations along the required buffer.~~
- (d) Lot Coverage and Floor Area Requirements. The ground area occupied by all the buildings shall not exceed the maximums noted below, based upon the minimum floor area requirements. Parking structures shall not be considered as a building for the purposes of this section.
 - (1) Community Commercial Center.
 - (i.) For a proposed development that meets the following locational criteria:
 - A. Ten (10) acres or larger;

- B. Smaller than thirty (30) acres;
- C. Contains frontage along a collector street.

(ii.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:

- A. The minimum F.A.R. shall be 0.30.
- B. The maximum Lot Coverage shall be 0.35.

(iii.) For a proposed development that meets the following locational criteria:

- A. Ten (10) acres or larger.
- B. Smaller than thirty (30) acres.
- C. Contains frontage along an arterial street.

(iv.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:

- A. The minimum F.A.R. shall be 0.4.
- B. The maximum Lot Coverage shall be 0.30.

(2) Regional Commercial Center.

(i.) For a proposed development that meets the following locational criteria:

- A. Thirty (30) acres or larger.
- B. Contains frontage along an arterial street.

(ii.) The following Lot Coverage and Floor Area Ratio (F.A.R.) shall apply:

- A. The minimum F.A.R. shall be 0.5.
- B. The maximum Lot Coverage shall be 0.3.

(3) Special Provisions for All Centers.

(i.) Increases in floor area over and above the minimum shall grant an increase in the maximum lot coverage at a rate of 2 to 1.

(ii.) Increases in floor area for residential uses shall grant an increase in the maximum lot coverage at a rate of 1 to 1.

(iii.) Minimum Open Space: See Article 20 for open space regulations.

(e) Maximum ~~Required~~ Parking. Notwithstanding any other requirements of this Zoning Ordinance:

(1) For any commercial center that is located on a transit route, there shall be a maximum of four (4) surface parking spaces per one thousand (1,000) commercial square feet.

(2) For any commercial center that is not located on a transit route, there shall be a maximum of five (5) surface parking spaces per one thousand (1,000) commercial square feet.

(3) For any commercial center containing residential use(s), the residential use(s) there shall be a maximum of one (1) surface parking space per dwelling unit.

(4) Structure parking shall not count toward any maximum parking requirement.

(f) Loading Areas. Notwithstanding any other requirements of this Zoning Ordinance, there shall be provided one (1) off-street loading space for each twenty thousand (20,000) square feet, or fraction thereof, of aggregate floor space of all buildings in the center. At least one-third (~~1/3~~) of the space required shall be sufficient in area and vertical clearance to accommodate trucks of the tractor-trailer type. Such loading facilities shall be permanently and fully screened. The exact type and nature of such screening shall be determined by Article 18.

(g) Lighting. Exterior lighting shall be regulated by Article 30 and restricted as follows:

- (1) Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.
- (2) Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.
- (3) Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.
- (4) Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height unless specifically used to light an outdoor recreation facility such as a tennis court, ball field, or similar use.
- (5) Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, ~~and shall be shielded or equipped with cutoffs~~ and shall meet all requirements of Article 30. so as to prevent undue light spill onto adjoining properties.

~~(h) Multi-Modal Accommodation. The applicant shall, on the submitted development plan or on a separate exhibit, provide a proposed multi-modal improvement plan designed to accommodate all users for the entirety of the property, as well as connecting to any planned and/or existing public facilities. For redeveloping or infill sites, the multi-modal improvement plan shall also be a guide for future improvements as redevelopment occurs.~~

~~(h) (i)~~ Transit Facilities.

- (1) For all commercial centers located along a transit route, a minimum of one (1) transit shelter and with seating shall be provided on such route, and shall have sidewalk connections a minimum of five (5) feet in width to both the internal and perimeter pedestrian circulation systems. Such transit shelter shall not be required when an existing transit shelter is present within ¼ mile of the development along the same side of the roadway, and connected to the development with a continuous sidewalk network required and indicated clearly on the development plan to the approval of the local transit authority. Adequate pedestrian facilities to serve the required transit infrastructure, both along the right of way and internal to the site, shall be to the approval of the Metropolitan Planning Organization (MPO). It will be strongly encouraged that the development plan afford appropriate facilities and accommodations for additional ridesharing services.
- (2) No zoning compliance permits shall be issued for the commercial center until all approved transit infrastructure is constructed in accordance with the approved final development plan.

Sec. 12-9. - Design guidelines standards for "big-box" retail establishments.

It is in the best interest of Lexington-Fayette County to minimize the possible "blighting" effect that abandoned shopping centers and large retail establishments can have on the larger area or neighborhood in which they are located. By imposing additional standards in the form of design guidelines standards for such centers, these effects can be minimized, and future redevelopment and reuse of vacant retail buildings encouraged through proper facility design, without expenditure of public funds. For this reason, the Planning Commission has adopted the following design guidelines standards for commercial centers containing a single "big-box" establishment larger than eighty thousand (80,000) square feet in size (referred to as principal building below): ~~These additional standards are listed in Design Guidelines for "Big-Box" Establishments incorporated by reference, and are consistent with guidelines which have been established in other cities and counties across the United States for such facilities. These design guidelines are intended to provide professional designers and the Planning Commission with direction for improved development plans which address the following issues:~~

- (a) ~~Variation in building heights and identifiable customer service entrances and pedestrian entryways; For every hundred (100) feet of linear wall along the primary wall plane of the principal building and any additional buildings attached to the principal building, there shall be a corresponding inset, offset, projection or reveal a minimum of three (3) feet in dimension.~~
- (b) ~~Uninterrupted facades, windows, allowance for smaller stores or departments having exterior entrances, and back or side facades; Customer entrances are required along all exterior walls facing a public or private street or access easement constructed to serve as frontage. Where this involves more than two sides of a principal building, this shall only apply to two (2) sides of such building.~~
- (c) ~~Landscaping and/or screening of outdoor display of building materials or other similar bulky products, and of trash collection and loading areas; Loading docks, trash collection areas, and outdoor storage of materials shall not be located within the front yard.~~
- (d) ~~Pedestrian circulation in relation to vehicular movement and common open spaces for pedestrians Sidewalks a minimum of five (5) feet in width are required along the full length of any exterior wall featuring a customer entrance or an off-street parking lot, and along sides of the lot that abut a public or private street.~~
- (e) ~~Walkways and sidewalks must be covered with awnings or other weather protection at all customer entrances, provided at least twenty percent (20%) of the sidewalk along the exterior wall is covered in front of the entrance.~~
- (f) ~~Sidewalks a minimum of five (5) feet in width shall be provided to connect the customer entrance locations to the public or private right-of-way. A maximum of one (1) crosswalk is allowed to make the connection.~~

Sec. 12-10. - Procedure.

The procedure for obtaining a Zoning Map Amendment to the B-6P zone shall be the same as provided in Article 6 hereinabove, in addition, as follows:

- (a) Preliminary Development Plan Required. A preliminary development plan shall be submitted with the application for a Zoning Map Amendment, with the information as specified in Article 21; and, in addition, approximate total gross floor area of anticipated retail facilities; the approximate total gross floor area of anticipated office and service facilities; the approximate number of anticipated off-street parking spaces; and the stages which will be followed in the construction of the proposed commercial center.
- (b) Final Development Plan Required. The procedure for a Final Development Plan shall be the same as provided in Article 21.
- ~~(1) Within two (2) years of final approval by the Urban County Council of any B-6P Zoning Map Amendment, unless an extension is granted by the Commission, the applicant shall submit a final development plan to the Commission for its review and action; otherwise, an application to change the B-6P zone to its previous zone or other appropriate zone may be filed by the Commission as provided under Article 6 hereinabove.~~
- ~~(2) The final development plan shall show the information as specified by Article 21, Development Plans. The Commission shall approve, conditionally approve, or disapprove a final development plan within ninety (90) days after the applicant submits his development plan.~~
- (c) Building Permit Required. No building permit shall be issued until a final development plan has been approved ~~by the Commission~~ and certified to the Division of Planning, after which a permit for construction may be issued by the Division of Building Inspection. The approved final development plan shall limit and control the issuance of all building and occupancy permits, and shall restrict the construction, location, and use of all land and structures to all conditions set forth in the plan. Amendments to the plan can be made only as permitted in Article 21, Development Plans.

Article 15 - GENERAL REGULATIONS FOR HEIGHTS, YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES AND INFILL/REDEVELOPMENT CONSTRUCTION

Sec. 15-2. - Yards.

Except as otherwise specified herein, every lot shall have a front yard, a rear yard, and a side yard on each side, the least depths of which shall not be less than those specified for the respective zone, or as contained in the small lot provisions for each residential zone.

(a) *Front Yards.*

- (1) *Required Front Yard for Redevelopment of a Lot.* In any residential zone, whenever a principal structure is destroyed or demolished by any means, any subsequent principal structure on that lot shall be located within ten (10) feet of the same setback as the previous structure, except as provided in the small lot provisions established for each residential zone. Where the setback of the original structure cannot be determined, or if the lot is vacant, the setback of the new structure, including any projections, shall be within ten (10) feet of the average front yard of the principal structures on the two (2) lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two (2) lots immediately adjoining, but shall be at least ten (10) feet. In no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.
- (2) *Required Front Yard for Building Additions.* In any residential zone, whenever an addition is made to the primary wall plane of an existing principal residential structure, any addition to that structure shall be located within ten (10) feet of the average front yard of the principal structures on either side of the subject property, provided they are located in the same block front and within one hundred (100) feet of each side of the lot. The front yard shall not be required to exceed the average depth of the front yards of existing buildings on the two (2) lots immediately adjoining, but shall be at least ten (10) feet. If the lots on either side of the property in question are vacant, then the setback required for the specific zone shall be used to determine the front yard required for any building addition; but in no event shall a building be constructed any closer than the least setback established by the averaging above, or as established on a plat of record.
- (3) *Yard on Street Side on Lot Adjoining or Facing a Residential Zone.* On a lot in any nonresidential zone sharing the same block front with a lot in any residential zone, the depth of the minimum required front yard shall equal the required front yard depth for that residential zone, or as contained in the small lot provisions for the residential zone.
- (4) *Front Yards on Through Lots.* On any lot which runs through a block from street to street, a front yard as otherwise required in the zone shall be provided along each street lot line. In residential zones, the small lot provisions will apply. In the event that one (1) of the streets is an alley, the required front yard along the alley shall be the equivalent of fifty percent (50%) of the otherwise required front yard for the zone in which it is located. Alignment of existing structures shall not be used to determine a building line along a rear alley.
- (5) *Front Yards Not Parallel to the Building.* Where the front wall of a building is not parallel with the front lot line or is broken or otherwise irregular, the average depth of the front yard shall not be less than the front yard required for that zone, or as contained in the small lot provisions for residential zones. No wall of a building shall encroach more than five (5) feet into the otherwise required front yard depth.

- (6) *Required Front Yard for Infill and Redevelopment of Lots in Business Zones.* On a lot in a business zone and inside the Infill and Redevelopment Area, the required front setback (minimum and maximum) of the building shall be within five (5) feet of the average front yard of the principal structures on the two (2) lots immediately adjoining on either side of the subject property, provided those structures are located in the same block front and within one hundred (100) feet of each side of the lot. This setback shall be considered more restrictive than the underlying zone setback when applicable.

(b) *Side Yards.*

- (1) *Side Yards Decreased for Narrow Lot.* For each foot by which an existing lot of record at the time of enactment of this Zoning Ordinance is narrower than fifty (50) feet, and where the owner of record does not own any adjoining property, one and one-half (1½) inches may be deducted from the required least width of any side yard for buildings not exceeding two and one-half (2½) stories in height. In no case may a side yard be narrower than three (3) feet at any point. For any lot within the designated Infill and Redevelopment Area, the special provisions for the Infill and Redevelopment Area contained in Article 8 shall take precedence.

~~(2) *Side Yards Increased for Deep Buildings.* In any zone where a side yard is required, the least width of each side yard shall be increased by one (1) inch for each foot by which the side wall of a building adjacent to a side yard exceeds fifty (50) feet.~~

- ~~(2)~~ (3) *Additional Yard Requirements for Certain Multifamily Structures.* In addition to other yard requirements, whenever the principal entrance to a multifamily structure, or the entrance to the individual dwelling units therein, faces on and opens directly onto the side yard portion of the building, that side yard width shall not be less than the front yard requirement, or thirty (30) feet, whichever is greater. No parking shall be permitted within the side yard space required under this provision.

- ~~(3)~~ (4) *Side Street Side Yard.* On a corner lot in any zone, the required least width of the side street side yard shall equal either the minimum front yard required for that zone or the existing alignment on the lot immediately adjoining, whichever is less. Notwithstanding the above, no such yard shall be required to exceed thirty (30) feet in a residential, business, or industrial zone.

- ~~(4)~~ (5) *Side Yard Exceptions for Attached Dwellings.* In the case of attached dwelling units, the entire structure shall be considered as a single building with respect to side yard requirements.

- ~~(5)~~ (6) *Side Yards Not Parallel to the Building.* Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the average width of the side yard shall not be less than the otherwise required least width. At no point shall the side yard be narrower than one-half (½) the otherwise required side yard; nor shall it be narrower than three (3) feet, in any case.

- ~~(6)~~ (7) *Side Yard for an Addition to an Existing Building.* On any lot in a residential zone, where the principal structure does not meet the minimum required side yard for that zone, if the side yard is legally non-conforming, additions to the principal structure may be made which have the same side yard as the original structure. In no case shall the addition be closer than three (3) feet to the adjoining lot line. ~~All provisions of Subsection (b)(2) of this section regarding increased side yards for deep buildings shall apply.~~

- (c) *Rear Yards.* Where the rear wall of a building is not parallel with the rear lot line or is broken or otherwise irregular, the average depth of the rear yard shall not be less than the otherwise required rear yard; provided, however, that such rear wall shall not at any point encroach any more than one (1) foot into the otherwise required rear yard.

Article 16 GENERAL REGULATIONS FOR VEHICULAR USE AREAS

Sec. 16-6. Vehicular use area, pedestrian facilities, and loading and unloading areas permitted in nonresidential and mixed-use zones.

(a) Locational Standards for any P-1, B-1, B-3, B-5P, B-6P, CC, MU-1, MU-2 or MU-3, zones as well as any Supportive Uses in the ED zone:

- (1) On a corner lot, vehicular use areas shall not be in the front yard.
- (2) On all other lots a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to sixty (60) feet in depth as measured perpendicular to the street, whichever is greater, shall be permitted between the building and the street, except otherwise prohibited by a maximum setback.

(3) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian walkways shall be provided between vehicular use areas.
- c. Where internal pedestrian walkways are required to cross a drive aisle at a distance of greater than twenty-four (24) feet, raised pedestrian crossing shall be utilized. A minimum vertical deflection of six (6) inches shall be utilized as part of the raised pedestrian crossing.
- d. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- e. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(b) Locational Standards for any B-2, B-2A, B-2B zone:

- (1) There shall be no vehicular use areas located in the front yard or side street side yard.

(2) Connection Standards:

- a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. Walkways shall be a minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
- b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
- ~~d.~~ Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
- d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

(c) Locational Standards for any B-4, 1-1, I-2, or ED zone:

- (1) There shall be a maximum of two (2) bays of surface parking with a single drive aisle, or a vehicular use area of up to one hundred twenty (120) feet in depth as measured perpendicular to the street, whichever is greater.
- (2) Connection Standards:
 - a. Internal pedestrian walkways shall be required and meet the following standards:
 - i. A minimum of five (5) feet wide where there is no vehicular curb overhang. A minimum of seven (7) feet where there is vehicular curb overhang.
 - ii. Extend from the vehicular access point to the building entrance(s).
 - iii. Directly connected to all adjacent rights-of-way.
 - b. For projects with two or more buildings, internal vehicular and pedestrian access shall be provided between vehicular use areas.
 - c. Parking islands where utilized as part of a pedestrian pathway within a parking lot, shall be grade separated by a minimum six (6) inch curb. Pavement markings shall not be utilized as a substitute.
 - d. Primary internal drives shall connect to established internal drives on adjacent properties to create cross-access and thru connections.

Sec. 16-7. Parking, loading and unloading areas permitted in required front or side street side yard in zones other than residential zones.

In any zone other than a residential zone, or an industrial zone adjoining an Agricultural Rural (A-R), Agricultural Buffer (A-B) or Agricultural Natural (A-N) zone across a public or private street right-of-way, off-street parking, loading or unloading areas may be permitted within the required front or side street side yard if there is a minimum of twenty-five (25) feet of depth sufficient depth between the street right-of-way line and the building line or other barrier to accommodate all parking and maneuvering without the necessity of backing over the street right-of-way line. All portions of front yards and side street side yards, including driveways, shall be enclosed by a barrier or landscaped in accordance with the landscaping requirements for vehicular use areas set forth in Article 18 of this Zoning Ordinance.

Sec. 16-9. Stacking area. Drive-Through Facilities and Drive-Up Windows

~~For any use which utilizes a drive-in or drive-through window or service area, a vehicular stacking area shall be provided for a minimum of five (5) vehicles. Such vehicular stacking area shall not include any spaces located at the windows or service areas, shall be provided wholly on the property and shall not include any right-of-way. Where menu boards or other stopping points are utilized before moving to the window or service area, the vehicular stacking area shall not include the space at the stopping point nor the spaces between that stopping point and the window or service area. The vehicular stacking area shall be subject to all yard, paving, landscaping and other requirements of a vehicular use area, as contained in Article 18.~~

- (a) A vehicular stacking area shall be provided for any drive-up window or drive-through facility. Such vehicular stacking area shall not include any right-of-way, shall be provided wholly on the property, and shall not interfere with the use of any parking spaces provided. The minimum number of required stacking spaces within the vehicular stacking area shall include the space at the initial point of service, including but not limited to, a window, menu board, service area or other stopping point. Each stacking space shall be twenty-two (22) feet in length. The vehicular stacking area shall not include the area between the initial point of service and any subsequent window, service area or other stopping point.

The vehicular stacking area shall be subject to all yard, paving, landscaping, and other requirements of a vehicular use area, as contained in Article 18 when vehicular traffic entering the drive-thru and traffic within an adjacent drive aisle are moving in opposite directions in order to provide separation between the drive-through lane and other drive aisles on the site.

- (1) For drive-up windows, a minimum of three (3) stacking spaces shall be provided.
 - (2) For quick-service food and beverage services, accessory to a restaurant, a minimum of six (6) stacking spaces shall be provided for the first drive-through lane. For any subsequent drive-through lane a minimum of three (3) stacking spaces shall be provided.
 - (3) For quick-service food and beverage services without indoor service or seating, and provision of retail products, including packaged food and beverages, a minimum of six (6) stacking spaces shall be provided per drive-through lane.
 - (4) For banks, and pharmacies a minimum of three (3) stacking spaces shall be provided for the first drive-through lane, with no additional stacking spaces required for multiple lanes.
 - (5) For self service car-wash facilities, a minimum of two (2) stacking spaces shall be provided per bay.
 - (6) The number of required stacking spaces may only be modified or waived by the Planning Commission on a final development plan based on the recommendations of an Operational Plan if the Planning Commission makes a finding that modifying the minimum stacking requirements will not impede traffic circulation on-site, negatively impact adjoining properties or land uses, nor create a public safety hazard.
 - (7) An Operational Plan shall include the following:
 - a. A site plan with an applicable tracking path simulation (e.g. AutoTURN) for the design vehicle of the drive-through facility;
 - b. The required stacking area;
 - c. The drive-through width; and
 - d. The pedestrian circulation.
- (b) General Standards for Drive-Up Windows - Drive-up windows, including the stacking area, shall be screened from any adjoining residential use or zone, public park, place of religious assembly, school, or childcare facility by a 6-foot tall, solid fence in addition to any VUA or property perimeter screening required by Article 18.
- (c) General Standards for Drive-Through Facilities shall meet the requirements established for Drive-Up Windows, in addition to the following:
- (1) Drive-through lanes shall be a minimum of ten (10) feet and a maximum of twelve (12) feet in width.
 - (2) A minimum of one direct pedestrian walkway a minimum of five (5) feet in width shall be provided that allows pedestrians to access the building from the right-of-way without crossing drive-through lanes.
 - (3) All components of the drive-through facilities, including but not limited to menu boards, stacking lanes, ordering points, and other objects associated with the drive-through shall be located to the side or rear of the building.
 - (4) If a bail out lane for unobstructed exit capability is provided, it must be a minimum width of 10 feet and run parallel to the drive-through lane. If such bail out lane is also an interior access drive providing access to parking spaces, the bail out lane is limited to a one-way traffic pattern following the direction of the drive-through lane.
 - (5) Pedestrian walkways shall be clearly visible and emphasized by enhanced paving or markings where they intersect drive-through lanes.

Sec. 16-12. - Bicycle parking and storage.

- (a) Where vehicle parking is provided, bicycle parking facilities shall be provided and shall meet the following standards:
- (1) Bicycle parking shall be provided at a rate of one (1) space for every ten (10) vehicular spaces or fraction thereof;
 - (2) Bicycle parking facilities shall be securely anchored;
 - ~~(3) Short-term bicycle parking facilities shall be located within fifty (50) feet from the entrance;~~
 - (4) Long-term bicycle parking facilities shall be constructed with at least one of the following features:
 - a. A bicycle locker or similar structure manufactured for the purpose of securing and protecting a standard size bicycle, or;
 - b. A secured and dedicated bicycle parking area provided either inside the principal building on the lot, or in a building located elsewhere on the lot.
- ~~(b) Where bicycle parking is provided externally, such parking shall be located adjacent to the building and within twenty (20) feet of a building main entrance. Bicycle parking shall be located so the bicycles do not impede the pedestrian through movement when parked.~~
- ~~(c) Where bicycle parking facilities are provided within a parking structure, the storage area shall be within ten (10) feet of one (1) or more of the following: an external pedestrian access, stairway tower, and/or an elevator tower.~~
- ~~(d) 50% or greater of the required bicycle parking for multi-family developments shall be covered and either located adjacent to the dwellings or in a secure location internal to the structure. The bicycle parking shall be divided equally by total number of units per building and then multiplied by the number of buildings in order to serve the development equally.~~
- ~~(e) Each bicycle rack shall accommodate a minimum of 2 bicycles.~~

Sec. 16-15. Commercial Access Standards.

~~Commercial access to a property shall be governed by the following standards and in concert with the adopted Land Subdivision Regulations. Commercial access shall defined as access for the following land uses: multi-family residential; professional services, and banks; institutional uses;-schools for academic instruction; businesses for retail sales and eating and drinking establishments; places of religious assembly; commercial parking lots or structures; indoor or outdoor recreation and athletic facilities; hotels of any type; nursing homes, personal care facilities, rehabilitation homes and assisted living facilities; community centers and private clubs; light and heavy industrial; warehouses and storage; and other businesses not specifically identified above.~~

- ~~(a) Proposed commercial entrances shall aligned with existing curb cuts or existing street features on the opposite side of the street. If entrance locations cannot align, then the proposed commercial entrance shall be a minimum distance away from any other entrance based upon-as the following:~~

Posted Roadway Speed	Distance Between Commercial Entrances
25 MPH	100 feet
35 MPH	150 feet
45 MPH or greater	200 feet

- ~~(b) Proposed commercial entrances, except for right-in/ right-out access points, shall be a minimum width of twenty (20) feet and a maximum width of thirty (30) feet, measured at the right-of-way line.~~

Driveway width, apron flare and curb radius must meet all Fire Code or LFUCG Division of Fire standards.

- (c) A minimum fifteen (15) foot curb radius shall be provided for commercial entrances, shared access points and for any entrance from an arterial street. A maximum curb radius of thirty-five (35) feet shall be provided and must be supported by tracking path simulation (e.g. AutoTURN).
- (d) Entrance spacing along frontage roads shall meet local road access spacing, with a maximum of two (2) access points.
- (e) Proposed commercial entrances shall be a minimum of one hundred (100) feet from any at-grade railroad crossing right-of-way.
- (f) Where a median exists in the right-of-way, entrances shall be aligned with median openings.
- (g) Appropriate storage and taper lengths, pavement markings (including raised pavement markings) for left turn lanes and monolithic median noses shall comply with design standards established by the Traffic Engineering Manual and LFUCG Standard Drawing ###.
- (h) No parking spaces shall be permitted to back directly into a public or private street right-of-way. Existing parking lots shall be revised to meet current standards when there is a zone change or addition made to a principal structure of more than thirty percent (30%) of the floor area.
- (i) When a site is redeveloped, existing entrances shall be removed, replaced or relocated unless they are in compliance with LFUCG Standard Drawing 307 for entrance apron design and width.
- (j) Commercial entrances shall be located a minimum of three (3) feet from the property line or more to allow the corresponding apron flare to remain inside the projected property line and be in compliance with LFUCG Standard Drawing 307-1 or 307-2.
- (k) Existing damage or damage caused during construction activity to existing right-of-way shall be repaired or replaced in concert with permitted construction activities, per Article 5 of the Zoning Ordinance.
- (l) Gated primary entrances for a private street shall be prohibited. Gates shall meet the performance and operation guidelines of the Division of Fire and Emergency Services.
- (m) Gated access points for "exit only" or "emergency access only" shall be located a minimum of thirty (30) feet from the curb to ensure vehicles can see the gate before entering. A "do not enter" sign shall be posted on the gate.
- (n) Any proposed modification to existing LFUCG or KYTC signaling equipment must be reviewed and approved by the Division of Traffic Engineering. Grade changes adjacent to existing LFUCG signaling equipment will require replacement to current LFUCG Traffic Engineering Standards.

Sec. 16-16. Solid Waste Access Standards.

Refuse collection is provided by the Lexington-Fayette Urban County Government in accordance with the standards and procedures of Chapter 16 of the Code of Ordinances. Dumpsters and other solid waste areas shall be located, screened and maintained in accordance with the requirements of the Chapter 16 of the Code of Ordinances.

Article 18 - LANDSCAPE AND LAND USE BUFFERS

Sec. 18-2. - Sites affected.

- (a) New Sites. No new site development, building, or structure shall hereafter be constructed or vehicular use area created or used unless landscaping is provided as required by the provisions of this Article.
- (b) Existing Sites. Any development that expands, moves, removes, or reconstructs the building, structure, or vehicular use area (VUA) by thirty (30%) percent or more of a previously approved development plan by the Planning Commission shall comply with the provisions of this Article. Changes of less than thirty (30%) percent of the site shall comply with the provision of this Article only for the portions of the site being altered or modified.
- (c) Change of Use. Interior landscaping shall not be required where only the use of the property is changed and no new construction or reconstruction is proposed.
- (d) Change of Zone. No use of an existing building, structure, or vehicular use area shall be commenced subsequent to a change in zoning unless property perimeter landscaping as required herein has been provided.

Sec. 18-3. - Where landscape materials required.

This section describes the minimum requirements that shall be met in regard to interior and perimeter landscaping for vehicular use areas, perimeter landscaping for incompatible land use areas, and landscaping for service areas.

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- (b) Interior Landscaping for Vehicular Use Areas. Any open vehicular use area containing five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, shall provide interior landscaping in addition to the previously required perimeter landscaping. Interior landscaping shall be peninsular or island types. Where a vehicular use area is altered or expanded to increase the size to five thousand (5,000) or more square feet of area, or fifteen (15) or more vehicular parking spaces, interior landscaping for the entire vehicular use area shall be provided and not merely to the extent of its alteration or expansion.

(4) Location for Interior Landscape Areas.

- a. A maximum distance of ninety (90) feet between interior landscape areas.
- b. At the end of every row of parking there shall be an interior landscape area.
- c. Every other row of double-loaded parking requires a continuous interior landscape area of a minimum of eight (8) feet in width when trees are provided or five (5) feet when no trees are provided.

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- (7) Landscaping for Service Structures. All service structures shall be fully screened except when located in an R-1, R-2, B-4, I-1 or I-2 zone or when located more than thirty-five (35) feet above the established grade. Service structures in the B-4, I-1 or I-2 zone shall be fully screened when located within one hundred (100) feet of any zone except B-4, I-1 or I-2. For the purpose of this Article, service structures shall include propane tanks, air-conditioning units and condensers,

electrical transformers, dumpsters, and other equipment or elements providing service to a building or a site.

(a) Location of Screening. A continuous planting, hedge, fence, wall, or earth mound shall enclose any service structure on all sides unless such structure shall be frequently moved, in which case screening on all but one (1) side is required. The average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height. Whenever a service structure is located next to a building wall, perimeter landscaping material, or vehicular use area landscaping material, such walls or screening material may fulfill the screening requirement for that side of the service structure if that wall or screening material is of an average height sufficient to meet the height requirement set out in this section. Whenever service structures are screened by plant material, such material may count towards the fulfillment of required interior or perimeter landscaping. No interior landscaping shall be required within an area screened for service structures. Screening for dumpsters and other solid waste service areas shall be installed and maintained in accordance with Chapter 16 of the Code of Ordinances.

(b) Protection of Screening Material. Whenever screening material is placed around any trash disposal unit or waste collection unit which is emptied or removed mechanically on a regularly occurring basis, a fixed barrier to contain the placement of the shall be provided in accordance with the requirements of Chapter 16 of the Code of Ordinances ~~within the screening material on those sides where there is such material. The barrier shall be at least eighteen (18) inches from the material and shall be of sufficient strength to prevent possible damage to the screening when the container is moved or emptied. The minimum front opening of the screening material shall be twelve (12) feet to allow service vehicles access to the container.~~

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~~(9) Innovative Design Landscape Plan. Interior landscaping requirements for vehicular use areas may be modified on a development plan without a variance in accordance with an Innovative Design Landscape Plan. An Innovative Design Landscape Plan shall be certified by a landscape architect licensed to practice in the State of Kentucky.~~

~~The plan may include, but is not limited to:~~

- ~~a. Green infrastructure elements above and beyond existing requirements;~~
- ~~b. Provisions for solar or alternative energy production;~~
- ~~c. Vegetated areas that do not meet one or more of the above regulations, but still achieve the basic objectives of these regulations.~~

~~The plan shall be reviewed and approved by the Landscape Review Committee; and a finding shall be made by the Planning Commission and noted on the Final Development Plan. Such finding shall state that the proposed interior landscaping for the vehicular use area utilizes innovative landscape design elements to promote public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare in accordance with Article 18-1.~~

Article 21- DEVELOPMENT PLANS

Sec. 21-4. - Development plan procedures.

The following shall be the procedure for ~~Planning Commission~~ consideration of any development plan.

- (a) ~~Pre-Application Meeting.~~ Prior to application for a final development plan, the owner/developer may request to meet with the appropriate staff members of the Division of Planning to discuss the proposed plan. The purpose of the pre-application meeting is to discuss the requirements, procedures and issues related to the proposed development to alleviate possible conflicts by early recognition of existing conditions, current standards, necessary infrastructure and adopted plans.
- (b) ~~On-Site Meeting.~~ Prior to the submission of a development plan, the owner/developer shall contact the Urban Forester who will determine if an on-site meeting with the developer's design professional and/or other pertinent Urban County Government staff is necessary.
- (c) ~~(b)- Filing.~~ To formally request ~~Planning Commission~~ action on the development plan, the developer shall file a complete ~~the required~~ application ~~information form~~, and submit a current deed for the subject property, copies of the plan, associated plans and studies as required by the Zoning Ordinance and pay the filing fee and copies of the plans as required by the Commission's adopted filing and fee schedules with the Division of Planning. ~~The Division of Planning shall make copies of the plan available to all other concerned agencies.~~
- (d) ~~(c)- Review.~~ The Division of Planning ~~shall facilitate the review of all development plans through the following steps:~~
 - (1) ~~Technical Review Committee.~~ The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Review Committee (TRC) to ~~try to ensure the plan meets all requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other adopted rules and regulations; as well as resolve all differences or conflicts.~~ Development plans that meet all ordinance requirements, manuals, regulations and rules may be approved by the Technical Review Committee and no further action by the Planning Commission will be required. The Technical Review Committee shall have a maximum of thirty (30) days to review a development plan. If the development plan meets all requirements within that timeframe, it shall be approved and certified by the Secretary of the Planning Commission in conformance with subsection (e) and (f) herein. If the development plan does not meet all requirements, it may be postponed until revisions are made to meet all requirements or the developer files a waiver request in compliance with Subsection 21-9. In the event a development plan has been postponed for a period of one (1) year from the initial application date, the plan shall become indefinitely postponed and will no longer be considered active. A development plan can be re-activated upon written notice to the Division of Planning and submission of materials in conformance with subsection (c) above.
 - (2) ~~Planning Commission Subdivision Committee.~~ Development plans may require further review by the Planning Commission's Subdivision Committee and the full Planning Commission under the following criteria and circumstances:
 - (a) ~~Additional guidance or recommendations may be required from boards and commissions as stipulated by other ordinances or agreements such as, but not limited to, the Royal Springs Aquifer Wellhead Protection Committee, or the Paris Pike Corridor Commission. Such recommendations and conditions shall be incorporated into the development plan. Relief from such recommendations and conditions may be granted by the Planning Commission at a public meeting.~~

- ~~(b) The developer requests a waiver to the requirements established by the Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations. Allowable waivers are further regulated by Subsection 21-9.~~
- ~~(c) The Division of Planning refers a development plan because a strict application of the requirements established by the Zoning Ordinance or other adopted rules and regulations would pose a specific threat to public health, safety or welfare in the affected area.~~
- ~~(d) The development plan filed in conjunction with a map amendment request that requires further evaluation relative to the adopted Comprehensive Plan or a Small Area Plan.~~
- ~~(e) The preliminary development plan associated with a map amendment request has expired and a new plan is necessary.~~

The Subdivision Committee will review all recommendations, and then forward their recommendations to the full Planning Commission for final action. These Committee meetings shall be open to the developer and to any interested citizen, however, each Committee may impose rules which control participation by non-members in attendance. The developer may secure recommendations from the staff at any of the review checkpoints, and proceed to make plan changes so that revised plans may be submitted to the remaining review groups.

- ~~1. The Subdivision Committee shall have the authority to require an applicant to prepare a traffic impact study for significant developments per Article 6-1(a).~~
- ~~2. The Subdivision Committee shall have the authority to require an applicant to prepare a Parking Demand Mitigation Study for significant developments per Article 16-14.~~

~~(e) (d)~~ *Commission Action.*

No development plans shall be considered for action by the Commission until they have been reviewed by, and recommendations made by the Subdivision Committee ~~unless this requirement is waived by the Commission under its adopted late filing procedures~~. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed ~~for Commission action~~ with the Division of Planning, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a map amendment request, the Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. For cases such as these, the Commission shall either approve or disapprove the development plan within sixty (60) days of the date of Council action on the map amendment request unless the developer agrees to a longer time period.

The Commission will review the Subdivision Committee's recommendation and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property or affected area. In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e) hereinbelow. Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:

- (1) *Approval*. Means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.

- (2) *Conditional Approval*. Means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.
- (3) *Postponement*. Means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.
- (4) *Disapproval*. Means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under Subsection (b) of this section.

~~(f) (e)~~ *Certification of Approval*. Within fourteen (14) days of the Commission's approval for all development plans filed in conjunction with a map amendment, and for all other development plans, within one (1) year of the Technical Review Committee or Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:

- (1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan including the signed owner's certification to the Division of Planning;
- (2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense. In conjunction with any request by the developer for a time extension of no greater than one (1) year or reapproval of an expired plan, the Commission may require changes in the development plan ~~when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or~~ when applicable ordinances and regulations have been changed.

~~(g) (f)~~ *Timing Restrictions*. The following timing restrictions shall be applicable to development plans:

- (1) Final development plans shall be submitted for Commission consideration within two (2) years of the date of Commission action on a preliminary development plan, otherwise, the preliminary development plan shall be deemed as disapproved ~~by the Commission~~. A new preliminary development plan shall be required to be submitted and reviewed by the Planning Commission.
- (2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of ~~Commission~~ action on the development plan, ~~otherwise, no further building permits shall be issued unless and until the plan is reapproved by the Planning Commission. Once expired, a new final development plan filing shall be required.~~

Sec. 21-5. - Types of development plans.

There shall be a preliminary development plan and a final development plan, defined as follows:

(a) *Preliminary Development Plans*. A preliminary development plan is a site plan by which, at the early stages of development design, the Commission may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan.

(b) *Final Development Plan.* A final development plan is a development plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking areas, open spaces, access points and any other site design features.

Sec. 21-6. - Contents and format of development plans.

All development plans shall be prepared on Mylar or other material capable of clear reproduction using ozalid print process. Plans shall be legible and of a size and scale (generally not exceeding one (1) inch equals one hundred (100) feet) which enables clear presentation of required information. Required plan information shall be as follows:

(a) Contents of preliminary development plan. A preliminary development plan shall contain the following information ~~at a minimum:~~

- (1) A title block containing the plan name, development plan type, name and address of developer and plan preparer; ~~and~~ written and graphic scale.
- (2) The boundary of the subject property denoted with a solid line and bearings and distances, and its record plan designation (if available); and the record plan name or owner's name of all adjacent adjoining property. The boundary of all adjacent property shall be denoted with dashed lines.
- (3) A vicinity sketch, oriented in the same direction as the design scheme, at a scale of one (1) inch equals two thousand (2,000) feet, labeled with roadways and identifying the subject property.
- (4) Topography with contour intervals not greater than five (5) feet.
- (5) Location, arrangement, and ~~approximate~~ dimensions of existing and proposed driveways, walkways, pedestrian crossings, parking areas and arrangement of spaces (including reserved parking, display areas, and compact spaces), point of ingress and egress (including all gates restricting vehicular access), traffic calming elements, access points for construction vehicles, and other vehicular and pedestrian rights-of-way or easements (as required by Article 16).
- (6) Location and cross-sections of any proposed or existing streets within or abutting the subject property, access points for all adjacent land, and stub connections that adjoin any portion of the subject property (both vehicular and pedestrian).
- (7) Location, arrangement, and dimensions of existing and proposed ~~S~~screening, landscaping and buffering; (as required by Article 18), recreational and other open space areas (as required by Article 20).
- (8) ~~Approximate size, if~~ Location, size, height, floor area, area arrangement and use of proposed and existing buildings, walls over three feet in height, fences, and canopies over drive aisles and signs.
- (9) Storm drainage areas, floodplains, alluvial soils, conceptual drainage controls and stormwater retention and any other designated environmentally sensitive or geologic hazard area.
- (10) ~~Proposed and Existing~~ easements for utilities or other purposes, including dimensions and labels.
- (11) A tree inventory map and notes as required by Article 26.

- (12) Location of any existing burial grounds (including private family cemeteries) on the subject property and all adjoining property, and provisions for their protection, maintenance and accessibility.
- (13) A statistical summary of all pertinent site data, including site area in square feet and acres, zoning, building coverage and floor area, parking quantities, open space by type (total, common, usable and vegetative, tree canopy etc. Additional site statistics may be required based on the requirements of the zoning category. Statistical summary table shall meet the standards of the Division of Planning.
- (14) Proposed and existing addresses for each lot, building and/or unit, and front yard and exterior building line(s).
- (15) The approved conditional zoning, variances, waivers, conditional use permits or other binding restrictions for the subject property.
- ~~(14) A note stating that no grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.~~
- ~~(15) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."~~
- (b) Preliminary Development Plans shall contain the following general notes stating the following: A note stating that no
- (1) No grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances.
- (2) No building permits shall be issued unless and until a final development plan is certified by the Secretary of the Planning Commission.
- (3) All buildings, paving, signs, fences, walls and retaining walls that are depicted, described or required on this Development Plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
- (4) The location of the fire hydrants, fire department or fire service features, if required, shall be approved by the Division of Fire, Water Control Office.
- (5) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, do fully agree to all graphic and textural representations shown hereon, and do adopt this as my (our) development plan for the property."
- (6) ~~(16)~~ A Commission's certification to be signed by the Secretary of the Commission's Secretary if and when the plan is fully approved by the Planning Commission, as follows: "I do hereby certify that this development plan was approved by the Urban County Planning Commission at its meeting held on (date)."
- (7) An alternative Commission's certification shall be used when the plan meets all requirements of the Zoning Ordinance and has not been acted on by the Planning

Commission, as follows: "I do hereby certify that this development plan complies with all provisions of the Zoning Ordinance."

~~(17) — A note stating that no building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~

~~(c) (b)~~ Contents of final development plan. All information required for preliminary development plans as required under Subsections (a) and (b) 1 through 17 of this section, above; except that that the plan information shall be of an exact nature, rather than approximate or general. In addition, the following information shall be required:

(1) Environmentally sensitive and geologic hazard areas, as defined in Article 1-11, shall also be depicted on a supplemental environmental plan sheet;

(2) Contour intervals shall be two (2) feet;

(3) A tree protection plan, data block, and tree protection areas as required by Article 26;

(4) A lighting plan as required by Article 30; and

(5) Proposed easements for utilities or other purposes, including dimensions and labels.

~~(4) shall be required and that the plan information shall be of an exact nature, rather than approximate or general.~~

Sec. 21-7. - Amendments to development plans.

Amendments to an approved development plans shall follow the steps established below. All development plan amendments shall meet the requirements established by the adopted Zoning Ordinance, the Land Subdivision Regulations, and other applicable adopted rules and regulations.

~~can be made only by official Planning Commission action in a public hearing. However,~~

Aamendments which fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the Commission's Secretary without further action by the Commission.

(a) Minor Amendments Defined. Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments:

- (1) Shall not decrease the overall land area in yards, or other open spaces;
- (2) Shall not increase building ground area coverage, floor area, or height, or increase the number of dwelling units;
- (3) Shall not increase the number or size of signs;
- (4) Shall not change the location or cross-section of any street and shall not increase the number, or change the location of street access points, except that shifts in the approved access location not exceeding twenty-five (25) feet may be approved as a minor amendment where the access point is not located on an arterial street and the Divisions of Traffic Engineering and Planning concur that such relocation will not have a negative effect on traffic safety and movement.

(b) Procedures for Minor Amendments. Shall be as follows:

- (1) *Filing.* The developer shall file the following materials with the Division of Planning: a reproducible ~~tracing of the~~ plan prepared on Mylar or other material capable of ~~clear~~ reproduction ~~using ozalid print process~~; three (3) ~~blue or~~ black line prints of the ~~plan tracing~~; a current deed for the subject property; and a filing fee in the amount determined by the Commission's adopted fee schedule.
 - (2) *Review.* The Division of Planning shall review the plan for compliance with all applicable requirements and ordinances and shall consult with the Divisions of Building Inspection, Traffic Engineering, Engineering, and others as appropriate to ensure proper plan review. Upon determination that all requirements have been met, the Commission's Secretary shall certify the plan as approved. If any question arises as to compliance, ~~or if the Division of Planning feels that shall~~ refer the proposed amendment ~~raises issues deserving the attention of to the Technical Review Committee or the~~ full Commission, however, the plan shall ~~be referred to the full Commission for action follow the process established in subsection 21-4 above.~~
 - (3) *Certification.* Upon certification of approval by the Commission's Secretary, the Division of Planning shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.
- (c) *Content and Format of Minor Amendments.* Minor amendments shall have the same content and format requirements as the original development plan, except that:
- (1) The title shall indicate the plan is a minor amendment;
 - (2) A note shall be added listing the exact nature of the requested changes (no plan change shall be considered in effect unless it is referenced in this note); and
 - (3) The following will be the required language for the Commission's certification: "I do hereby certify that this development plan amendment complies with the provisions of Section 21-7 of this Zoning Ordinance."
- (d) *Content and Format of Major Amendment Requirements.* Major amendments to development plans shall have the same content and format requirements as the original development plan, except that:
- (1) The title shall indicate the plan is an amended development plan; and
 - (2) A note shall be added listing the exact nature of the requested changes.
- No plan change shall be considered in effect unless it is referenced in this note.
- (e) *Major Amendment Procedures.* The procedure for a major amendment to a development plan shall be the same as for the original submission as specified in Section 21-4 above. However, in addition to the standards listed in Section 21-4(~~de~~), the Commission may also disapprove or modify the requested amendment if it finds that such amendments will adversely affect the public health, safety and welfare, ~~or alter the essential character of the development as originally approved.~~

Sec. 21-8. - Relationship to land subdivision regulations.

The relationships between development plans and the Land Subdivision Regulations are established as follows:

- (a) *Applicability of Land Subdivision Regulations.* Although developments plans are not subdivision plans, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

- (b) *Development Plans Required Under Section 5-2(g) of the Land Subdivision Regulations.* Development plans required under Section 5-2(g) of the Land Subdivision Regulations are required to conform with the provisions of this [Article 21](#) of this Zoning Ordinance.
- (c) *Development Plans and Preliminary Subdivision Plans May Be Combined.* It is recognized that for certain development situations it can be advantageous to both the developer and the Commission to combine the functions and requirements for development plans and preliminary subdivision plans in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:
- (1) The developer shall meet with the Division of Planning no later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plan.
 - (2) The plan shall show all information required for a development plan (preliminary or final as appropriate) and all information required for preliminary subdivision plans as set forth in Section [5-2](#) of the Land Subdivision Regulations.
 - (3) Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.
- (d) *Preliminary Subdivision Plan May Be Substituted for Development Plans Required in Conjunction with map amendment request.* It is recognized that in certain cases, a preliminary subdivision plan would be as appropriate or more appropriate to be considered in conjunction with a map amendment request than a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and the requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivisions plans prior to receiving a zone change approval. When a developer is required to provide a development plan under Section [21-3\(c\)](#) hereinabove, and the developer desires to file a subdivision plan in its place, the developer shall meet with the Division of Planning in advance of filing the map amendment request to discuss the appropriateness of a substitution. In any disputed cases, the Planning Commission shall make the final judgments as to whether a development plan or subdivision plan is required.

Sec. 21-9 - Waivers

The Planning Commission may consider waivers to modify, reduce or eliminate certain standards and minimum requirements established by the Zoning Ordinance which cannot be addressed through a dimensional variance. Use, conditional use, density, lot coverage and F.A.R. standards shall not be modified by this process. Waivers to the Land Subdivision Regulations, Engineering Manuals or other adopted regulations shall follow the specific waiver or appeal procedures established therein and shall take precedence over the procedures established in this section. Only site, building and structure design elements are subject to the waiver provisions of the Zoning Ordinance. Regulations that prohibit certain structures or activities (e.g. freestanding signs prohibited in certain zones), and other non-design related standards (e.g. limit on hours of operation) may not be waived.

- (a) Application Submission Requirements - Applications for waiver shall be submitted by the property owner or his/her agent and filed with the Division of Planning in accordance with these regulations. Applications shall be accompanied by appropriate supporting material and by the appropriate filing fee. The list of required supporting materials shall be available from the Division of Planning. Applications for waivers will not be accepted until all required materials and filing fees are submitted. At a minimum, the following materials shall be submitted with all applications for waiver:

(1) A justification document which addresses as applicable the following items:

- a. The waiver will not compromise public health, safety, and welfare; and
- b. The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and.
- c. Either:
 - i. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
 - ii. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

(2) Unless determined by the Planning Director to be unnecessary, a site plan or development plan of sufficient detail to demonstrate to the Planning Commission the character and objectives of the proposed waiver and the potential impacts of the waiver on the community and its environs.

(b) Notice Requirements - Following receipt of a completed application, staff of the Commission shall provide notice of the request for modification or waiver to adjacent property owners on the proposal now under consideration for waiver. Addresses shall be obtained using current available data from the Property Valuation Administrator. Such notice shall be given no less than ten (10) calendar days prior to the meeting at which the request is to be considered.

(c) Public Hearing - The Planning Commission shall hold a public hearing in order to consider a requested waiver. Requests for a waiver may extend review periods when associated with a development plan, but the waiver shall be approved or disapproved within ninety (90) days of the date it is formally filed with the Division of Planning, unless the owner or agent agrees to a longer period of time.

(d) Findings Necessary for Granting of Waiver or Modification

The Planning Commission may approve waivers of standards upon a finding that:

- (1) The waiver will not compromise public health, safety, and welfare; and
- (2) The extent of waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant; and.
- (3) Either:
 - a. The applicant has incorporated other design measures that exceed the minimums of the zone and compensate for non-compliance with the requirements to be waived (net beneficial effect); or
 - b. The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant.

(e) Additional Conditions - The Commission may impose additional conditions or restrictions intended to mitigate the impact of the modification or waiver. These conditions or restrictions shall be noted on the plan and are only able to be modified by the Planning Commission.

APPENDIX 23B. EXPANSION AREAS PROCEDURES AND REQUIREMENTS

Sec. 23B-4. Content and format for final development plans within the Expansion Areas.

Final development plans required pursuant to this Article shall meet, at a minimum, all information as required for a final development plan as set forth under Section 21-6. In addition, the following shall be a required part of the final development plan and shall be submitted at the time of the application:

~~(a) Comprehensive Plan Compliance Statement. This document shall set forth the developer's specific actions related to natural environment, land use, open space, housing, community design, public facilities, design features and criteria, density, and similar matters to demonstrate that the final development plan complies with the "Future Land Use" and "Community Design" Elements of the adopted Expansion Area Master Plan.~~

~~(a) (b)~~ Infrastructure Statement. This document shall set forth a project description including engineering and construction cost estimates prepared by a professional engineer for the public and/or private expenditures for system improvements that the developer proposes to construct, and for construction, or other development activity which will be in place prior to or in conjunction with the development. This document will demonstrate that the proposal complies with the "Infrastructure Element" of the adopted Expansion Area Master Plan. Any proposed or executed development agreement that is required or anticipated by the developer as set forth under Section 23C-7 hereinbelow shall also be a part of this statement. At the time of the application, the developer shall distribute copies of the Infrastructure Statement to the Chief Administrative Officer, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services. Such officials shall review the proposed statement and provide their comments to the Division of Planning during the review process. Planning Commission action.

~~(b) (c)~~ Other Information on the Final Plan. The final development plan shall indicate the developer's restrictions for lot sizes (minimum and, where appropriate, maximum); yard and setback restrictions; coverage restrictions; height limitations; floor area ratios; project lighting; or similar restrictive techniques to be established within the development or defined areas within it so as to achieve the purposes of the Expansion Area Master Plan and to prevent or minimize potential adverse effects upon properties within and in the vicinity of the proposed development.

~~(c) (d)~~ DTR Related Information. For any final development plan which proposes units permitted under a DTR, a copy of the Certificate of DTR shall be filed as a part of the application.

Sec. 23B-5. Review procedures.

Final development plans required under this Article shall follow the development plan procedures as set forth in Section 21-4, except that an Infrastructure Plan shall be required. Approval of the development plan will require staff certification that the plan is in compliance with the Infrastructure Element of the Expansion Area Master Plan as specifically modified herein.

~~(a) Staff Report on Compliance with Expansion Area Master Plan and Infrastructure. In addition to all other reports and recommendations from staff and review committees provided to the Commission, the Division of Planning shall prepare and submit for Commission review a report reviewing the final development plan's compliance with the Expansion Area Master Plan. The report shall review the statements and information provided by the developer under Sections 23B-4(a) through (d) above, and may make specific recommendations on design changes needed to establish compliance with the Expansion Area Master Plan. The Division shall include comments from all applicable Departments involved with public facilities within~~

the development, including the physical extent of the proposed project improvements; exactions; related capital improvements financing; regulations; and similar matters.

~~(b) Commission Hearing and Action. The Planning Commission shall advertise and conduct at least one (1) public hearing and shall approve, conditionally approve with conditions noted, or disapprove any request for action on a final development plan within one hundred twenty (120) days of its filing unless the applicant agrees to an extension of time beyond such period. The minimum notice shall include a newspaper notice placed not more than twenty-one (21) days, nor less than seven (7) days, in advance of the hearing; and the posting by the applicant of a sign in a conspicuous location on the property. The sign shall be constructed of durable material; shall not be less than four (4) feet by four (4) feet; shall state "development plan" in bold letters not less than three (3) inches in height; shall state the time, date, and location of the hearing and the phone number of the Division of Planning in letters at least one (1) inch in height; and shall be posted on the property at a location which is visible from the highest traffic volume roadway abutting the property not more than fourteen (14) days after the filing of the plan and maintained until the hearing date. The applicant shall provide an affidavit to the Planning Commission at the hearing, stating that the sign was posted as required and has been maintained on the property during the notice period to the best of the applicant's knowledge and ability.~~

~~(c) Commission Action. No development plan shall be considered for action by the Commission until it has been reviewed by, and recommendations made by, the Subdivision Committee unless this requirement is waived by the Commission under its adopted late filing procedures. The Commission will review all staff and committee recommendations, comments made in the public hearing, and shall then act for approval, conditional approval with conditions noted, postponement, or disapproval. The Commission may modify through conditional approval or disapprove the development plan if it finds the plan does not comply with the requirements of this Zoning Ordinance, and when applicable, the Land Subdivision Regulations; or if it finds there are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property which cannot be properly mitigated.~~

- ~~(1) Further, approval of the development plan will require a finding on the part of the Planning Commission that the plan is in compliance with the Infrastructure, Future Land Use, and Community Design Elements of the Expansion Area Master Plan, and the Commission may disapprove or require modifications to the development plan to ensure such compliance, and the need to prevent or minimize adverse effects upon properties within or in the vicinity of the development. The Commission shall impose conditions regarding construction of required infrastructure and the proposed development to ensure that development is supported by infrastructure consistent with the Expansion Area Master Plan and any development agreement. The Commission shall permit the construction and bonding of required infrastructure pursuant to the provisions of Section 4-7 of the Land Subdivision Regulations.~~
- ~~(2) In addition to these items, development plans which seek to amend the original development plan or its approved amendments shall also be subject to the provisions of Section 21-7(e). Reasons for action of postponement or disapproval shall be fully incorporated in the Commission's minutes. The following actions by the Commission shall have the meanings so stated:~~
 - ~~(1) Approval means the development plan is ready to be certified by the Commission's Secretary with no further corrections or revisions of the plan required by the developer.~~
 - ~~(2) Conditional Approval means the development plan cannot be certified by the Commission's Secretary until the developer has complied with the conditions of approval set forth in the Planning Commission's action on the plan.~~
 - ~~(3) Postponement means that the Commission has deferred action until some future Commission meeting in order that certain clarifications can be made in regard to the development plan. No completely new re-submittal is required of the developer as is the case for disapproval.~~
 - ~~(4) Disapproval means disapproval of the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required~~

~~herein. For any action of disapproval, the Planning Commission shall be required to make specific findings to support such action.~~

~~(d) Certification of Approval. Within one (1) year of the Commission's approval, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else the Commission's approval becomes null and void:~~

~~(1) The developer shall fully comply with any conditions of approval placed on the plan by the Commission and submit the completed original tracing of the plan, including the signed owners' certification, to the Division of Planning;~~

~~(2) The plan shall be certified by the Commission's Secretary if it is in conformance with all requirements. Required copies of the certified plan shall be made by the Division of Planning at the developer's expense.~~

~~In conjunction with any request by the developer for a time extension or re-approval of an expired plan, the Commission may require changes in the development plan when it finds that time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.~~

Sec. 23B-6. Subdivision of land.

The following provisions shall apply to subdivision of land within the Expansion Area:

- (a) Applicability to Subdivisions. Except as expressly specified in this Article, all subdivision of land within the Expansion Area shall be required to comply with all procedures, requirements and standards of the Land Subdivision Regulations for major or minor subdivisions as applicable to the nature of the proposed subdivision.
- (b) Applicability to Development Plans. Where any development plan under this Article indicates a need or intent to subdivide property, all design and improvement standards contained in the Land Subdivision Regulations shall be applicable to the development plan.
- (c) Development Plan and Preliminary Subdivision Plan May Be Combined. The required development plan and preliminary subdivision plan may be combined as set forth in Section 21-8(c).

Sec. 23B-7. Amendments.

Amendments to development plans under this Article shall be as provided in Section 21-7 of this Zoning Ordinance, except as modified hereinabove.

Article 28 - MIXED USE ZONING CATEGORIES

Sec. 28-3. - Mixed use 1: Neighborhood Node Zone (MU-1).

Mixed use 1: "Neighborhood Node Zone (MU-1)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-1 shall only be permitted on parcels which meet all of the following criteria:

1. The parcel must contain a combined total frontage of at least one hundred (100) feet of the intersection of two (2) streets, one (1) of which has the functional classification of arterial or collector, and must be located inside the Urban Service Area boundary.
2. The parcel must contain at least five thousand (5,000) square feet and may not exceed a maximum of one-half ($\frac{1}{2}$) acre.

~~3. The parcel must be designated in a Medium, High, or Very High Density Residential, or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use.~~

(b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-1 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.

(c) *Accessory Uses.* The following shall be considered accessory uses in the MU-1 zone:

1. The accessory uses permitted in the P-1 and B-1 zone except for drive-through facilities.

(d) *Conditional Uses.* The following shall be conditional uses in the MU-1 zone:

1. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

(e) *Prohibited Uses.* The following uses shall be prohibited in an MU-1 zone:

1. The following principal uses, in the B-1 zone: automobile service stations; parking ~~lots and~~ structures; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis; indoor theaters; arcades, including pinball and electronic games; pawnshops.
2. The following accessory use in the B-1 zone: drive-through facilities, ~~the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone.~~
3. All B-1 conditional uses.
4. All uses listed as prohibited in the B-1 zone.

(f) *Lot, Yard, and Height Requirements.* Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 1.0.
2. Height: Thirty-five (35) feet Maximum.

3. Front Yard: No limitation for first or second story; any third floor shall be set back at least fifteen (15) feet; also see Subsection (h)(5) of this section, below.
4. Each Side Yard:

For one- and two-story structures, ten (10) feet.

For three-story structures, twenty (20) feet.
5. Rear Yard: Ten (10) feet or thirty percent (30%) of lot depth, whichever is greater.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: No limitation.

~~(g) Off-Street Parking: (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g) (h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses.
2. Only one (1) principal structure shall be permitted per MU-1 site.
3. All residential uses shall be required to be in the same structure as nonresidential uses.
4. Within the Infill and Redevelopment Area, at least sixty percent (60%) of the front building wall shall be required to be built at the zero-foot setback line. When ~~the Planning Commission requires~~ additional sidewalk or pedestrian areas ~~are provided~~, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement.
5. Signage shall be as permitted and restricted under Section 17-11(e) ~~for a P-1 zone~~.

Sec. 28-4. - Mixed use 2: Neighborhood Corridor Zone (MU-2).

Mixed use 2: "Neighborhood Corridor Zone (MU-2)" is hereby created and regulated as follows:

(a) Location Criteria. MU-2 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Boundary and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Bates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least one-half (½) acre and may not exceed a maximum area of four (4) acres.

~~3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.~~

(b) Principal Permitted Uses. The following shall be principal permitted uses in the MU-2 zone:

1. Dwelling units.
2. The principal permitted uses of the P-1 and B-1 zone except as specifically prohibited herein below.

(c) Accessory Uses. The following shall be accessory uses in the MU-2 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, except for drive-through facilities.

(d) Conditional Uses: The following shall be conditional uses in the MU-2 zone:

1. Drive-through facilities, ~~as an adjunct to a permitted use as permitted in Article 8-16(d)5.~~
2. Temporary structures designed for use or occupancy for sixty-one (61) to one hundred eighty (180) days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.

(e) Prohibited Uses. Prohibited uses shall be as for the MU-1 zone, except for drive-through facilities which are permitted as a conditional use.

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Fifty-five (55) feet.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; also see Subsection ~~(h)~~(g)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum seventy-five percent (75%).

~~(g) Off Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g)~~ ~~(h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen

percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-2 project has reached ten thousand (10,000) square feet of commercial use, additional commercial square footage will not be required.

- ~~2. For any MU-2 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-2 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above.~~
- ~~2.~~ 3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. ~~Where the Planning Commission requires~~ When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.
- ~~3.~~ 4. Signage within the MU-2 zone shall be as permitted and restricted under Section 17-11 (n) of this Zoning Ordinance.

Sec. 28-5. - Mixed use 3: Mixed use Community Zone (MU-3).

Mixed use 3: "Mixed use Community Zone (MU-3)" is hereby created and regulated as follows:

(a) *Location Criteria.* MU-3 shall only be permitted on parcels that meet all of the following criteria:

1. The parcel must be located within the Urban Service Area and have at least one hundred sixty (160) feet of frontage on one (1) of the following streets: Tates Creek Road/High Street; Nicholasville Road/South Limestone; Southland Drive; South Broadway/Harrodsburg Road; Maxwell Street/Versailles Road; Old Frankfort Pike/Manchester Street; Midland Avenue/Winchester Road; Main Street/Richmond Road/Leestown Road; Georgetown Street; Georgetown Road; Newtown Pike; Russell Cave Road; Virginia Avenue; Bolivar Street; South Upper Street; Vine Street; Red Mile Road; North Broadway; Man O' War Boulevard; Citation Boulevard; or North Limestone Street.
2. The parcel must contain at least three (3) acres.
- ~~3. The parcel must be designated in a Medium, High, or Very High Density Residential or Commercial Land Use Category in the Comprehensive Plan or currently zoned for commercial use. If a property is recommended in the Comprehensive Plan for a Downtown Master Plan, Commercial Residential Mixed use, Industrial Mixed use, or Retail Trade/High Density Land Use Category, the parcel does not have to meet the street frontage criteria listed in Subsection (a)1 of this section, above.~~

(b) *Principal Permitted Uses.* The following shall be principal permitted uses in the MU-3 zone:

1. Dwelling units.

2. The principal permitted uses of the P-1 and B-1 zones, except as specifically prohibited hereinbelow.

(c) Accessory Uses. The following shall be accessory uses in the MU-3 zone:

1. The accessory uses permitted in the P-1 and B-1 zones, including drive-through facilities, except as prohibited under Subsection (e) of this section, below.

(d) Conditional Uses. The conditional uses in the B-1 zone except as prohibited under Subsection (e) of this section, below.

(e) Prohibited Uses. The following uses shall be prohibited in an MU-3 zone:

1. The following principal uses in the B-1 zone: ~~parking lots~~; outdoor miniature golf or putting courses; circuses and carnivals on a temporary basis.

~~2. The following accessory uses in the B-1 zone: the rental of trucks (single rear axle, 28-foot maximum overall length), trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abut a residential zone.~~

~~2. 3.~~ The following B-1 conditional uses; self-service car washes; animal hospitals or clinics, except as permitted herein; ~~the rental of trucks (single rear axle, 28-foot maximum overall length), trailers and related items in conjunction with the operation of an automobile service station; gasoline pumps available to the public without an employee on site.~~

~~3. 4.~~ All uses listed as prohibited in the B-1 zone, except as permitted herein.

(f) Lot, Yard, and Height Requirements. Lot, yard, and height requirements shall be as follows:

1. Floor Area Ratio: Maximum 2.0.
2. Maximum Building Height: Eighty (80) feet if a building is located at the intersection of a street classified as an arterial with another arterial or collector street: seventy (70) feet for all other buildings.
3. Front Yard: No limitation for first or second story; any third and additional floors shall be set back at least fifteen (15) feet if located adjacent to a residential zone, including any that may be separated by a street right-of-way fifty (50) feet or less in width; see also Subsection ~~(h)~~(g)(3) of this section, below.
4. Each Side Yard: For one- and two-story structures, ten (10) feet; for three-story structures and higher, ten (10) feet, unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
5. Rear Yard: Ten (10) feet unless adjacent to a residential zone; then a 1:1 height-to-yard ratio.
6. Open Space: See Article 20 for open space regulations.
7. Lot Coverage: Maximum fifty percent (50%).

~~(g) Off-Street Parking. (See Articles 16 and 18 for additional parking regulations.)~~

~~No minimum requirements.~~

~~Conditional Uses: The Board of Adjustment may establish additional requirements, as needed.~~

~~(g) (h)~~ Special Provisions. Special provisions shall be as follows:

1. No less than fifteen percent (15%), nor more than eighty-five percent (85%), of the floor area of any structure shall be required to be residential uses, except where multiple principal structures are involved. In such cases, mixing within a single structure shall not be required after the fifteen

percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the MU-3 project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

~~2. For any MU-3 project located on a site recommended for "Professional Services" in the Comprehensive Plan, uses first permitted in the P-1 zone shall be required on at least seventy-five percent (75%) of the nonresidential floor area of the project. For any MU-3 project located on a site recommended for MD, HD, or VHD in the Comprehensive Plan, the project shall meet at least the minimum required residential density and the maximum amount of commercial floor area shall be limited to a maximum of fifty percent (50%) instead of eighty-five percent (85%) as listed in Subsection (h)1 of this section, above. Renummer as needed~~

~~2.~~ 3. Within the Infill and Redevelopment Area at least forty percent (40%) of the front building wall(s) shall be required to be built at the zero-foot setback line. ~~Where the Planning Commission requires~~ When additional sidewalk or pedestrian areas are provided, the edge of the pedestrian area shall be construed as the zero-foot setback. Where a sight distance triangle is required, the sight distance line shall be construed as the zero-foot setback; and for buildings facing on two (2) streets, only the longest front building face shall be subject to this requirement. However, the Planning Commission may increase the zero-foot setback line where it makes a finding that the strict application of the zero-foot setback would be inappropriate for the property, creating an environmental problem; vehicular, pedestrian or bike traffic problems; or a development incompatible with the surrounding neighborhood.

~~3.~~ 4. Signage within the MU-3 zone shall be as permitted and restricted under Section 17-11(o) of this Zoning Ordinance.

~~4.~~ 5. An Entertainment Mixed use Project may be permitted only by the Planning Commission for a tract of land with a minimum of ten (10) acres, ~~and recommended by the adopted Comprehensive Plan for mixed use or a nonresidential land use~~, upon the approval of a preliminary development plan and a final development plan as provided in Article 21 herein. In its approval of such a development plan, the Commission shall find that the location is both appropriate for the use, and compatible with neighboring land uses. The parcel shall be subject to the MU-3 zone regulations above and the following requirements:

(a) Subdivision of land in an Entertainment Mixed use Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.
3. For the overall project area, open space shall be governed by Article 20. Open space may be clustered across multiple lots to facilitate the common use of the land.

(b) At least twenty-five percent (25%) of the combined floor area of all buildings constructed within an Entertainment Mixed use Project shall be located on the second or higher floor.

(c) Where multiple principal structures are proposed within an Entertainment Mixed use Project:

1. Mixing within a single structure shall not be required within the first forty percent (40%) of floor area for commercial use, or after the fifteen percent (15%) minimum mix of residential to nonresidential uses has been achieved in multiple-use structures. Once the

project has reached fifteen thousand (15,000) square feet of commercial use, additional commercial square footage will not be required.

2. The front building wall of at least fifteen percent (15%) of all buildings shall be required to be built at the zero-foot setback line.
- (d) Buildings within an Entertainment Mixed use Project may be a maximum of eighty (80) feet in height, regardless of location, provided a 1:1 height-to-yard ratio is maintained from any residential zone.
- (e) In addition to the uses otherwise permitted above in the MU-3 zone, the following uses shall also be permitted in an approved Entertainment Mixed use Project:
1. As Principal Permitted Uses:
 - a. Restaurants, cocktail lounges and nightclubs, with entertainment, dancing, and/or sale of malt beverages, wine or alcoholic beverages.
 - b. Motels, hotels, extended-stay hotels, and hosted or un-hosted short-term rentals as regulated in Section 3-13.
 - c. Indoor amusements, such as billiards or pool halls, skating rinks, theaters, or bowling alleys.
 - d. Athletic club facilities.
 - e. Drive-in restaurants, provided that all outside food service shall be at least one hundred (100) feet from any residential zone.
 - f. Animal hospitals or clinics, including offices of veterinarians, provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 - g. Grandstands associated with horse race tracks with allotted race meets, including simulcast facilities, accessory restaurants and/or the serving of alcoholic beverages provided that such structures or uses, not including accessory parking areas, shall be at least one hundred (100) feet from any residential zone.
 2. As Accessory (clearly incidental and subordinate) Uses:
 - a. Outdoor patios, when accessory to any permitted restaurant.
 - b. Conference centers, banquet facilities and convention facilities, when accessory to a hotel or motel.
 3. As Conditional Uses:
 - a. Self-service car washes.
 - ~~b. Gasoline pumps available to the public without an employee on site.~~

Sec. 28-6. - Provisions applicable to all mixed use zones.

Provisions applicable to all mixed use zones shall be as follows:

- (a) *Development Plan Required.* All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure

for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, ~~the developments within these zones shall comply with provisions~~ Planning Commission shall consider the following plan features in its review. ~~Approval of a development plan for any mixed-use zone shall require a finding that the development plan complies with the provisions~~ of Subsections (b) through (g) of this section, below.

(b) *Pedestrian Accommodation.* Pedestrian accommodation shall be as follows:

- (1) At least one (1) primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one (1) location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two (2) or more buildings are proposed, they shall be arranged in a manner that provides a centralized open space area, such as a plaza, courtyard or similar feature.
- (4) ~~Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas. Sidewalks shall be provided along each road frontage, with connections provided to each principal structure, parking area, and open space area.~~
- (5) A six-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. ~~Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.~~
- (6) For any development within the Downtown Streetscape Master Plan Area, the development shall adhere to the provisions of that plan.

(c) *Building Features.* Shall be as follows:

- (1) For every primary wall plane:
 - a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every eighty (80) feet of length or fraction thereof; or
 - b. Implementation of a minimum of three (3) of the following for every sixty (60) feet of length or fraction thereof:
 1. A change of at least one (1) foot in depth for at least one (1) story;
 2. A change in wall height of at least two (2) feet;
 3. A change in exterior material type, style, or finish for at least one (1) story;
 4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.
- (2) For every side or rear wall plane:
 - a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every one hundred (100) feet in length; or
 - b. Implementation of a minimum of three (3) of the following for every eighty (80) feet of length or fraction thereof:
 1. A change of at least one (1) foot in depth for at least one (1) story;
 2. A change in wall height of at least two (2) feet;

3. A change in exterior material type, style, or finish for at least one (1) story;
4. A minimum of twenty percent (20%) of the ground floor building face shall be transparent glass, including windows and doors.

(3) The primary wall plane shall provide at least one (1) of the following features at ground level:

- a. A balcony at least four (4) feet by five (5) feet.
- b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.
- c. A covered entrance at least three (3) feet by three (3) feet.
- d. A porch at least four (4) feet by six (6) feet, with a floor at least twelve (12) inches above grade.
- e. A recessed entrance at least three (3) feet by five (5) feet.

(4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

(d) *Location and Assignment of Provided Off-Street Parking.* At least fifty percent (50%) of provided parking spaces shall be located so as to not project between any front building face and any adjoining street, except an alley. The Planning Commission may require designation of certain spaces for use of residents only on the development plan.

(e) *Accessory Structures.* Shall be regulated as follows:

1. The sides of any parking structure shall include one (1) or more of the following features:
 - a. First floor retail or office uses.
 - b. Murals or public art on at least fifteen percent (15%) of the building face.
 - c. Display cases on at least ten percent (10%) of the building face.
 - d. Landscaping in an area of at least five (5) feet in width, with plantings as specified in Article 18 for edges of vehicular use areas.
2. Any garage doors shall meet one (1) of the following criteria:
 - a. The garage door shall face perpendicular to or away from any adjoining street.
 - b. The garage door shall be offset at least four (4) feet behind the primary wall plane.
 - c. If flush with the primary wall plane, the garage door shall not cover more than thirty percent (30%) of the surface area of the wall plane.

(f) *Parking for Bicycles.* For projects with three (3) or more dwelling units, four (4) bicycle rack spaces shall be provided per every three (3) units, with a maximum requirement of twelve (12) spaces.

~~(g) *Site Lighting.* Site lighting shall be restricted as follows:~~

- ~~1. Wall mounted lamps that use the equivalent of one thousand, two hundred (1,200) lumens per bulb or greater shall be shielded or equipped with cutoffs so that the light sources are not visible from a public street. Spotlights without shielding devices are prohibited.~~
- ~~2. Wall mounted light fixtures shall not extend above the height of the wall to which they are mounted.~~

~~3. Lighting that is positioned to highlight a building shall be aimed at the object to be illuminated and not directly aimed into the sky.~~

~~4. Any light fixture intended to illuminate walkways or other outdoor areas shall not exceed fifteen (15) feet in height, unless specifically used to light an outdoor recreation facility, such as a tennis court, ball field, or similar use.~~

~~5. Any light fixture intended to illuminate a parking area shall not exceed twenty-five (25) feet in height, and shall be shielded or equipped with cutoffs so as to prevent undue light spill onto adjoining properties.~~

~~(g) (h) Increased Setback for Building Height Differences. In cases where the proposed mixed use structure(s) have a height differential of greater than ten (10) feet from immediately adjoining residential structures, the Commission may require the establishment of a minimum 1:1 height-to-yard ratio for the adjoining side yard shall be provided, additional screening, or other mitigating measures as deemed appropriate to address compatibility of mixed use structures to the surrounding residential structures.~~

~~(i) On-Street Parking. The number of on-street parking spaces, calculated at one (1) space for every twenty-two (22) feet of curb length or the number of marked spaces, may reduce the number of off-street parking spaces required, as long as the reduction otherwise complies with Section 16-10 of this Zoning Ordinance.~~

~~Sec. 28-7. Effect of historic zoning.~~

~~In the event any Mixed use zone is created within an Historic District (H-1), the Board of Architectural Review shall perform its normal duties in the approval of a Certificate of Appropriateness. This shall include approval of specific details designed to accommodate the requirements of Sections 28-6(b), (c), (e), and (g), above.~~