

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT****PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS**

APPLICANT: Urban County Council

PROPOSED TEXT: SEE ATTACHED (Note: **Red** text indicates the original initiation language, while **Blue** text represents a subsequent edit; text ~~stricken through~~ indicates a deletion.)

**STAFF REVIEW:**

On April 4, 2024, the Kentucky General Assembly passed House Bill 443, which instituted new requirements to KRS 100 that apply to the process of development plan and subdivision plat review. Under this framework, development plans and plats would be required to reviewed ministerially, and the criteria for evaluating them would be based on objective standards. House Bill 443 requires that these updates be adopted prior to July 1, 2025. In February of 2025, the Planning Commission initiated a text amendment to update the Zoning Ordinance in order to meet the House Bill 443 requirements. The following report reviews the necessary changes to the existing regulations to ensure compliance with the requirements of House Bill 443, and to provide other clarification or process corrections to ensure clarity and consistency in the Ordinance's application.

**TEXT AMENDMENT PROPOSAL**

Below are summaries of the proposed changes to the Zoning Ordinance, organized by section.

**Article 1 – GENERAL PROVISIONS AND DEFINITIONS**

Within Article 1, several changes to the Definitions section of the Ordinance are proposed to eliminate inconsistencies, provide additional clarity, and reduce the number of redundant definitions.

**Article 6 - AMENDMENTS**

The first change proposed to Article 6 of the Zoning Ordinance relate to the process for initiating Zoning Ordinance Text Amendments. Under the current framework, requests for texts amendments can originate from any governmental body or citizen. This framework was the subject of a recent KY Attorney General opinion, which stated that KRS does not provide local jurisdictions with the authority to delegate the power to initiate a text amendment to non-government entities. Consistent with this opinion, the text amendment process is revised to reflect that such requests must come from the Planning Commission or the Urban County Council.

The second alteration to the language of Article 6 relates to the process for amending conditional zoning and other restrictions. The proposed alteration eliminates some ambiguity in the current language that relates to when hearings from the Urban County Council are required. The proposed change clarifies that the Urban County Council is not required to hold a hearing on removing or altering conditions, and do not preclude the Urban County Council from holding a hearing on a particular item if they so desire.



### Article 9 – GROUP RESIDENTIAL PROJECT

Article 9 of the Zoning Ordinance, which provides for Group Residential Projects, needed several changes in order to align with the objective, ministerial process required by House Bill 443. These changes removed discretionary elements and removed the required Planning Commission public hearing for sites larger than five (5) acres.

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

Article 11 of the Zoning Ordinance, which deals with the Interchange Service Business (B-5P) zone, had several changes that needed to be made within the review process to bring the zone in line with the ministerial review mandated by House Bill 443. This removed some discretionary elements that applied to the locations where the zone was appropriate and removed language relating to the old development review process.

Staff is also proposing a change to a lot coverage requirement in the B-5P zone that was inadvertently established with the 2024 Urban Growth Management Zoning Ordinance Text Amendment (ZOTA-23-00006). At that time, a minimum lot coverage requirement was implemented within the Corridor Business (B-3) zone, in an attempt to intensify the land uses on our corridors. The lot standards of the B-3 zone are mirrored by reference in the B-5P zone. As a result, the lot coverage provision carried over to the B-5P zone's lot development standards, which was not intended. The B-5P zone, which is oriented exclusively towards providing services to the traveling public, is not an appropriate location for such a requirement, and so staff has recommended its removal. Outside of this text amendment process, the Planning Commission has initiated a separate text amendment to examine the lot coverage requirements for the B-3 zone.

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

Article 12 of the Zoning Ordinance, which deals with the Commercial Center (B-6P) zone, had several changes that needed to be made within the review process to bring the zone in line with the ministerial review mandated by House Bill 443 as well. This removed some discretionary elements that applied to the locations where the zone was appropriate and removed language relating to the old development review process.

Additionally, Article 12 contained provisions relating to design guidelines for “Big Box” stores within the zone, which are defined as buildings with greater than 80,000 square-feet in size. These guidelines provided additional design, site layout, and connectivity considerations for the Planning Commission to review. Those guidelines have been shifted to requirements, and converted into objective standards that no longer require Planning Commission review.

### Article 15 – GENERAL REGULATIONS FOR HEIGHTS, YARDS, ETC.

Within review of Article 15, staff identified a provision that had been resulting in significant delays with development, especially within the Infill and Redevelopment Areas. This provision required that increases to the depth of a building past fifty (50) feet required an increase in the required side yard setback. This provision resulted in conflicts with many older nonconforming structures, as increases in the depth of the building was resulting in the structure becoming more nonconforming with respect to their side yard setback. As a result, many projects required variances for additions that otherwise met all other Ordinance provisions. Removing this language will help simplify development, especially within the Infill and Redevelopment Area.



### Article 16 – GENERAL REGULATIONS FOR VEHICULAR USE AREAS

In conjunction with the Division of Traffic Engineering, several changes are proposed to Article 16 of the Zoning Ordinance, which deals with vehicular use areas. A number of significant changes were proposed for drive-through facilities. While this text amendment does not change the zones where drive-up windows and drive-through facilities can be located, new objective standards are provided to clarify how such uses are designed. Under the proposed revisions, requirements that govern where on a site drive up windows and drive through facilities can be located, how much stacking for the uses are required, how such facilities are required to be screened, and the instances in which pedestrian facilities are required.

Additionally, the Ordinance provides new standards for evaluating commercial access. Many of these standards have been a part of the standard review process for the Division of Traffic Engineering but are now being objectively codified with this text amendment. These codified standards include minimum and maximum dimensional requirements, spacing and alignment standards, parking specifications, and other standards. These provisions are anticipated to be supplemented by the provisions of the Traffic Engineering Manual and the Complete Streets Manual, which will need to be adopted by the Lexington Fayette Urban County Government through a separate process.

### Article 18 – LANDSCAPE AND LAND USE BUFFERS

In conjunction with the Division of Environmental Services and the Division of Solid Waste, several changes were proposed to Article 18, which regulates required landscaping and screening. The changes include clarification on the landscaping requirements when redevelopment occurs, screening requirements for dumpsters and solid waste areas, as well as removing elements of the section which did not refer to objective standards.

### Article 21 – DEVELOPMENT PLANS

The proposed changes to Article 21, which regulates the Development Plan process, are among the most substantial proposed under this text amendment. The current Development Plan process requires that all Final Development Plans (including major amendments) be reviewed and approved by the Planning Commission. These plans are approved on a conditional basis, with a list of conditions needed in order to be certified. Currently, many of those conditions relate to the approval of specific staff sign-offs, who review and interpret the Ordinance, as well as other adopted manuals, guidelines, and apply those requirements and best practices.

In order to comply with House Bill 443, the review of such plans would be required to be ministerial, and approvable at the staff level. Under the new framework, the Planning Commission would only review Final Development Plans if there was a waiver associated with the request, or if the Planning Staff or Technical Review committee identified a specific threat to health, safety, or welfare posed by the development. Under the House Bill 443 framework, Preliminary Development plans are not required to be reviewed ministerially, and could continue under the current process, with review by the Planning Commission Subdivision Committee, as well as a Planning Commission public meeting.

Revisions to Article 21 establish the updated process for Technical Review Committee review, the timelines associated with the review, and the establishment of a waiver process. Revisions also



include updating the requirements of what information is included on a development plan, standard notes and plan certifications.

#### Article 23 – EXPANSION AREA ZONING CATEGORIES AND RESTRICTIONS

Article 23 of the Zoning Ordinance deals with the process and procedures relating to development within the 1996 Expansion Areas. Development Plans within these areas are currently required to be heard and approved by the Planning Commission, and have specific notification requirements as well as compliance statements. That requirement has been removed, and now plans in those areas that meet the necessary conditions for approval can be approved ministerially.

#### Article 28 – MIXED USE ZONES

Within Article 28, the proposed changes address issues of consistency that arose when the provisions of the Neighborhood Business (B-1) zone changed when the Urban Growth Management ZOTA was adopted. These changes ensure the uses present and allowable within the mixed-use zones align properly with the other commercial uses. Additionally, changes were made to ensure that the process and review of the mixed-use zones were based on objective standards that could be applied ministerially.

### EVALUATION

In staff's review, the proposed changes satisfy the requirements of House Bill 443. The proposed language changes clarify existing definitions and processes, establish a new framework for Development Plan review, and ensure that the ordinance is being applied with objective standards.

The PROPOSED STAFF ALTERNATIVE TEXT is attached for further review and consideration.

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

1. The proposed text amendment makes the necessary change to existing Zoning Ordinance provisions to allow them to be administered ministerially, in line with the requirements of House Bill 443.
2. The proposed language provides for pathways for review and consideration by the Planning Commission in instances where a development plan cannot meet the objective criteria, or if the proposal would result in a threat to the public health, safety, or welfare.

DAC/TLW

3/5/2025

Planning Services/Staff Reports/ZOTA/2025/PLN-ZOTA-25-00001: MINISTERIAL REVIEW OF DEVELOPMENT PLANS

