

# *Planning and Development Approval Process Study*

for the

**Lexington-Fayette  
Urban County Government**



**The Walker Collaborative, LLC**

With:

**EHI Consultants**

**Common Ground Urban Design + Planning**

**PRIME AE Group, Inc.**

**Clarion Associates**



**DRAFT – June 20, 2023**

 **THE WALKER  
COLLABORATIVE**

# ACKNOWLEDGEMENTS

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## **SECTION 1**

### **EXISTING CONDITIONS**

## A. PROJECT OVERVIEW

Anchored by Lexington, Fayette County, Kentucky, has a total area of 286 square miles, of which 284 square miles are land and approximately 2 square miles are water. Known for its horse farms, area bourbon distilleries, and the University of Kentucky, this progressive community adopted an urban services boundary in 1958 as a strategy to avoid sprawl and the loss of valued open space, and for the efficient provision of urban services and infrastructure. In 1974, Fayette County merged its government with the county seat of Lexington, creating a consolidated city-county government. It is referred to as the Lexington-Fayette Urban County Government (LFUCG). The US Census indicates that Fayette County had a 2020 population of 322,570, making it the second-most populous county in Kentucky. Fayette County is part of the Lexington–Fayette Metropolitan Statistical Area.

### Project Purpose

During the past several years, there have been concerns and discussions regarding the development approval requirements of the LFUCG. Some developers feel that the current requirements are too stringent, time-consuming and costly, while some citizens and interest groups feel that development requirements should be more stringent. Consequently, the LFUCG decided to embark upon a comprehensive review of the current planning and development approval processes. This study is based upon extensive public and stakeholder input. The resulting recommendations will be presented to both the Lexington-Fayette Urban County Council and the Lexington-Fayette Urban County Planning Commission.

### Issues to be Addressed

As stated in the Request for Proposals (RFP) document issued by the LFUCG for this project, *“the primary purpose of the study is to make sure the local planning process remains as efficient and competitive as possible, as well as making sure it best serves those who utilize the process.”* This study reviews and analyzes the current process and framework for decision making and approval by the LFUCG’s Division of Planning as related to the following issues, among others:

- Zoning
- Development planning
- Variances
- Technical Review
- Time from application to approval
- Number of staff recommended postponements during approval process
- Identify possible streamlining of development review for infill and redevelopment
- How approval times compare to similar/comparable cities/counties

### Project Goals & Outcomes

The primary outcome of this study is to identify any procedural issues and to establish improvements to the current development and planning process. This effort identifies and reviews the following:

- How the current zoning/re-zoning process requirements align with Kentucky Revised Statutes and comparable communities
- How the development planning process compares with similar communities
- The current process for variances, conditional uses and administrative appeals
- The current Technical Review process and procedures
- Procedure time frames for typical projects, including:
  - Time from initial application to final approval or final action for each application type
  - Number of staff-recommended postponements during the application process
  - Number of applicant-recommended postponements during the application process
- The current application process to determine where it can be made more efficient, and how the timeliness of projects can be improved

- The Accela approval process, requirements, and how often requirements are required above approved rules or regulations

Additional goals of the project include: A) stakeholder and community input, and; B) review opportunities to make suggestions to potentially improve the process for infill and redevelopment projects within the Urban Services Boundary.

### **Project Process**

Below is a summary of the six tasks conducted for this project:

#### Task 1.0: Existing Process Analysis

##### *Task 1.1: Project Kick-Off Meeting*

This videoconference meeting between LFUCG staff and the Consultant Team provided an opportunity to address both the substance and logistics of the project.

##### *Task 1.2: State Statutes Review*

This initial task was led by the Consultant Team's land use attorneys and focused on statutes related to all aspects of local government and their regulation of land use and development. It helped to establish the parameters for what potential review and approval processes do and do not comply with State laws.

##### *Task 1.3: Review of Existing Process*

This task examined the existing processes used for land use and development approvals, including:

- Comprehensive Plan amendments
- Rezoning
- Variances and waivers
- Conditional use approvals
- Site plan approvals
- Subdivisions
- Certificates of Appropriateness

In addition to a description for each type of approval process, a flow chart was also included.

##### *Task 1.4: Analysis of Past Application & Approval Data*

The Consultants conducted a current planning application process assessment and analysis, including a review and summary of relevant application approval process data, a summary of existing proposed project timelines for recent projects and procedural processes currently in place for proposed development projects. The report showed the current time it takes for a project from application to approval or final decision.

#### Task 2.0: Field Work & Stakeholder Engagement

This task occurred as part of the Consultant Team's Trip #1 to Lexington on February 21-22, 2023. It included both field work to understand the community's land use and development conditions, and a robust stakeholder engagement process. Key stakeholders included land owners, developers, builders, designers, real estate professionals, environmentalists, historic preservationists and neighborhood activists. This task included the following components:

##### *Task 2.1: Community Tour*

The Consultant Team conducted a windshield tour of the community with an emphasis on locations that represent issues relevant to this project, including recently approved land policy changes and development.

##### *Task 2.2: Stakeholder Kick-Off Meeting*

Conducted the week before Trip #1, this videoconference meeting started with a presentation by the Consultant Team to address the following:

- Introduction of Consultant Team members and key LFUCG officials
- Description of the project intent and process
- Overview of initial findings by the Consultant Team
- Discussion with meeting participants

#### *Task 2.3: Stakeholder Focus Group Meetings*

Six (6) meetings occurred during Trip #1 with each meeting including up to ten (10) participants and lasting one (1) hour. Groups included the following:

- Land owners, developers and builders
- Planners and designers (engineers, architects, landscape architects, etc.)
- Land use attorneys and real estate professionals (brokers, sales agents, leasing agents, etc.)
- Neighborhood representatives
- Conservationists and historic preservationists
- Public officials

#### *Task 2.4: Key Person Interviews*

The Consultant Team was also available during Trip #1 to Lexington and afterwards to meet with key stakeholders either in-person or via videoconference. These meetings were with people who were not available during the trip or who warranted a more focused meeting to address their particular issues and concerns.

#### Task 3.0: Comparison with Other Communities

This review looked at the land use and development approval process of other communities, including a comparison of the length of time the approval process takes for various types of applications at LFUCG compared to other communities. The client signed off on the communities prior to research. Earlier in the project, the concept was to split them into two (2) categories of communities: comparable communities and model communities. Three of each group would be studied. However, as the project evolved, it was determined that distinguishing the selected communities by those two categories was both subjective and unnecessary. Consequently, the six (6) selected communities for study were simply referred to as “peer communities.”

#### Task 4.0: Criteria for Process Improvements

A rough draft of these criteria was prepared earlier in the project, but they were refined and solidified during this task based upon the full breadth of research and stakeholder input. The criteria struck a balance between the two extreme ends of the spectrum of the most stringent regulations and the most lax regulations. Once the draft criteria were prepared, the key Consultant Team members made Trip #2 to Lexington for a meeting to present the Task 3.0 and 4.0 findings and to solicit more input. That meeting with the Planning Commission occurred on May 18, 2023.

#### Task 5.0: Draft Recommendations for Process Changes

The draft recommendations were designed to improve the overall LFUCG planning process based upon “best practices” of the model communities researched and the many other examples known to the Consultant Team, as well as stakeholder input and creative thinking. They suggest changes for implementing codes, regulations, ordinances and administrative documents, including improvements to the review and approval process, associated timelines, and fees. A particular focus is placed on infill, redevelopment and underutilized areas, as well as adhering to State statutes.

#### Task 6.0: Meetings & Revisions to Recommendations

##### *Task 6.1: Meetings*

Once the LFUCG had time to review the report and initial key revisions were made to the report, the Consultant Team returned to Lexington for Trip #3 for a series of meetings to solicit input for revisions. Those meetings on June 27, 2023, included a Planning Commission morning meeting and a Council afternoon work session.

*Task 6.2: Revisions*

The client submitted to the Consultant Team a single “red lined” draft serving as a composite of all comments received by the LFUCG. The Team then made the requested edits and provided the final report to the client.

Key Stakeholders

In addition to involving the general public, the following stakeholder groups were identified at the beginning of this project as a focus of public engagement for this project:

- Development community professionals (commercial and housing), both infill and urban edge
- Lexington-Fayette Urban County Planning Commission members, staff and other land use policy makers
- Neighborhoods throughout the community
- Commerce Lexington
- Community stakeholders identified by the Sustainable Growth Task Force



## B. RELEVANT STATE STATUTES

Legal authority to regulate zoning and subdivision is delegated to local governments by *Kentucky Revised Statutes (KRS) Ch. 100, Planning and Zoning*. Zoning and subdivision authority is assigned to a “Planning Unit.” *KRS 100.111*. Lexington-Fayette County is a Planning Unit, and the Lexington-Fayette Urban County Government (LFUCG) exercises land-use authority over the land subject to its jurisdiction.

### Comprehensive Plan Required

As a prerequisite to enacting zoning regulations and subdivision regulations, the predecessor to the Urban County Council (UCC) was required to and did establish a Planning Commission in accordance with *KRS 100.133* (see *Section 1-8* of the Zoning Ordinance), and the Planning Commission adopted a comprehensive plan in accordance with *KRS 100.183*. The comprehensive plan includes a statement of goals and objectives that are prepared by the Planning Commission and transmitted to the UCC. If the UCC does not act on the proposed goals and objectives within 90 days, the statement of goals objectives is deemed adopted. *KRS 100.193(1)*. Other elements of the comprehensive plan are adopted by the Planning Commission, with no UCC involvement. *KRS 100.197*. The Planning Commission is required to amend or readopt plan elements at least every five years. *KRS 100.197(2)*.

### Zoning Authorized

Local governments that have adopted comprehensive plans are authorized to enact zoning regulations. *KRS 100.203*. The zoning ordinance can include different zoning districts, each with uniform standards throughout the district, and each district can include regulations regarding:

- Activity on the land;
- The size, width, height, bulk, and location of structures and buildings;
- The intensity and density of development;
- Districts of special interest, such as exclusive use districts, historical districts, planned districts, and renewal, rehabilitation, and conservation districts;
- Development on the “fringes” of the district to address compatibility with neighboring districts; and
- Activity and structures on the land near major throughfares, interchanges, bodies of water, and other locations.

#### KRS 100.203(1).

The zoning regulations can also include provisions governing conditional use permits, nonconformities, variances, and other “necessary” provisions.

Zoning ordinances adopted by urban-county governments such as LFUCG may also include regulations authorizing the imposition of additional conditions on approval of a zoning map amendment, including conditions that restrict allowable uses, impose architectural or other visual requirements on buildings, or require screening or buffering. *KRS 100.203(8)*.

### Zoning Procedures

#### Map Amendments

Zoning map amendments may be initiated by the Planning Commission, the UCC, or a property owner. *KRS 100.211(2)(a)*. Each application is referred to the Planning Commission. *KRS 100.211(2)(b)*. The Planning Commission is required to hold a public hearing following notice (*KRS 100.207*), make findings of fact, and make a recommendation of approval or disapproval. The recommendation must be issued within 60 days of an administratively complete application being filed, which may be extended to 90 days (as in LFUCG) or 120 days. Upon a tie vote, the Planning Commission may hold the application for further consideration for 30 days. *KRS 100.211(2)(c), (e), (g)*.

The application and recommendation, if any, are transmitted to the UCC for its decision, as follows:

- A majority vote of the entire membership of the UCC is required to reject a map amendment if the Planning Commission's recommendation is to approve the map amendment, or to approve a map amendment if the Planning Commission's recommendation is to reject it.
- A majority vote of the entire membership of the UCC is required to approve a map amendment if the Planning Commission did not make a recommendation on the application (due to a tie vote or otherwise).
- If the UCC does not act within 90 days, the Planning Commission's recommendation takes effect.

*KRS 100.211(2)(h),(i).*

To adopt a map amendment, the Planning Commission or UCC must find the map amendment is in accordance with the adopted comprehensive plan or, if not, that one of the following applies:

"(a) That the existing zoning classification given to the property is inappropriate and that the proposed zoning classification is appropriate;

"(b) That there have been major changes of an economic, physical, or social nature within the area involved which were not anticipated in the adopted comprehensive plan and which have substantially altered the basic character of such area."

*KRS 100.213(1).*

*KRS 100.21111* authorizes an alternative map amendment process. Under this alternative procedure, the Planning Commission recommendation takes effect unless within 21 days of the recommendation an aggrieved person files a written request that the UCC make the decision, or the UCC itself files a notice with the Planning Commission that the UCC will decide. A majority vote of the entire membership of the UCC is required to overrule the Planning Commission recommendation.

State law authorizes a local government to require that an application for a rezoning map amendment be accompanied by a development plan that controls development on the site and may be enforced following approval. *KRS 100.203(2).*

#### Text Amendments

Amendments to the text of the zoning ordinance may originate with the Planning Commission or the UCC. Each application is referred to the Planning Commission which is required to hold a public hearing following notice (*KRS 100.207 and 100.211(2)*), and make a recommendation of approval or disapproval with a statement of reasons. The recommendation must be made within 60 days if the text amendment originated with the UCC. Following the Planning Commission's action, the proposed amendment and any recommendation is transmitted to the UCC where a majority vote of the UCC is required for adoption. *KRS 100.211(3).*

#### Notice

Notice must be given for proposed text and map amendments in accordance with *KRS Ch. 424*, Legal Notices, which requires notice by publication.

#### **Board of Adjustment**

A local government must establish a Board of Adjustment (*KRS 100.217*) to review and decide applications for the following:

- Conditional use permits (*KRS 100.237*);
- Variances (*KRS 100.241*), with required findings (*KRS 100.243*); and
- Appeals of administrative decisions (*KRS 100.257*).

Use variances are prohibited. *KRS 100.247*. Notice of an appeal of an administrative decision must be made within 30 days of notice of the action being appealed. *KRS 100.261*. A Board of Adjustment may permit a change from one nonconforming use to another nonconforming use in the same or more restrictive classification, but may not

allow the enlargement or extension of a nonconforming use beyond its scope and extent at the time the use became nonconforming, except in exceptional circumstances regarding a major public attraction. *KRS 100.253(2)*.<sup>1</sup>

The zoning ordinance may include provisions providing that, at the applicant's option, the Planning Commission may hear and decide on applications for variances and conditional use permits when proposed development requires a map amendment and one or more variances or conditional use permits. *KRS 100.203(5)*. Subdivision regulations may include provisions providing that, at the applicant's option, the Planning Commission may decide on applications for variances when submitted in conjunction with a plat. *KRS 100.281(6)*. In both scenarios, the Planning Commission is subject to the adjudicative powers and duties of the Board of Adjustment when deciding on a variance or conditional use permit application. *KRS 100.203(6)*; *100.281(7)*.

### **Subdivision Regulations Authorized**

A Planning Commission which has completed several of the required comprehensive plan elements may adopt subdivision regulations.<sup>2</sup> *KRS 100.273*. In urban-county governments, the Planning Commission makes recommendations as to the regulations and transmits them to the UCC. A majority vote of the entire membership of the UCC is required to override the Planning Commission's recommendations.

Planning Commission approval is required before land may be subdivided. *KRS 100.277*, although the Planning Commission may delegate approval authority to its secretary or any other officer or employee. *KRS 100.281(1)*. The subdivision regulations must provide for approval or disapproval for all preliminary plats and final plats within 90 days of submission of an application.

### **Agricultural Exceptions**

Agricultural uses are defined in *KRS 100.111(2)*. Agricultural uses include tracts at least five acres in size used to produce agricultural or horticultural crops; small farm wineries; and certain horse-related activities such as riding lessons, ridges, horse training, and boarding and related care on land 5 acres or larger in size.<sup>3</sup>

The following exceptions from the zoning and subdivision regulations apply to agricultural uses:

- A division of land for agricultural purposes that does not involve a new street is not a subdivision. *KRS 100.111(22)*.
- Lands used for agriculture purposes are subject only to the following zoning regulations (*KRS 100.203(4)*):
  - Street setback requirements.
  - Regulations regarding the placement of building or structures in a floodway or flood plain.
  - Regulations regarding mobile homes.
  - The horse-related uses in *KRS 100.111(2)(c)* may be classified as conditional uses.

### **Airport Zoning**

Zoning regulations involving airports are authorized to be enacted by the Kentucky Airport Zoning Commission, established by *KRS 183.861*. The commission is authorized to enact regulations to ensure aircraft may safely maneuver in airspace around an airport. *KRS 183.867*. These regulations may include restrictions on maximum building height. *KRS 183.870*.

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<sup>1</sup> This provision has been used to permit the expansion of the Churchill Downs racetrack in Louisville. It is unclear if it would apply to sites in Lexington/Fayette County.

<sup>2</sup> In an urban-county government, subdivision is the division of a parcel into two or more lots. *KRS 100.111(22)*.

<sup>3</sup> Tracts of land smaller than five acres in size that were used for the horse-related activities prior to July 13, 2004, also are included within the definition.

## C. EXISTING LFUCG APPROVAL PROCESSES

This section of the report provides information on: 1) the LFUCG's departments and review bodies; 2) the LFUCG's five planning and development areas; and 3) the various type of land use and development-related applications.

### **LFUCG Departments & Review Bodies**

The LFUCG's departments feature the professional staff who administer the day-to-day operations associated with land use and development. The review bodies, on the other hand, are comprised of elected or appointed officials who make recommendations and/or decisions on all applications above the level of the staff-level administrative approvals.

#### LFUCG Departments

The departments summarized below are certainly not the only ones that exist for the LFUCG, but they are the ones most relevant to land use and development within Lexington and Fayette County.

##### *Division of Planning*

The staff with this division are the primary contacts for developers navigating their way through the applicable development review process, and for the required Planning Commission or Board of Adjustment Public Hearing or Meeting. There are three units within this division, as follow:

- Long-Range Planning: Develops long-term visionary plans, such as the Comprehensive Plan, and outlines the framework for implementation.
- Planning Services: Manages applications, reviews, staff reports, and presentations tied to all Division of Planning processes. For the purposes of this study, they are the most relevant entity of the LFUCG, in addition to the key review bodies.
- Transportation Planning: Operates under the Lexington Area Metropolitan Planning Organization (MPO) to develop plans and policies that inform decision-makers on transportation matters.

##### *Division of Engineering*

The Division of Engineering provides the following services:

- Overseeing the design and construction of capital infrastructure projects
- Ensuring that new development is compliant with the LFUCG's engineering standards, and
- Managing permitting within the public right-of-way

##### *Building Inspection*

Building Inspection's goal is to ensure safe construction of projects by enforcing the Kentucky Building Code. Some of their key services relate to the following:

- Enforcing building codes
- Processing permit applications
- Registering contractors
- Preventing polluted runoff
- Enforcing the zoning ordinance

Zoning ordinance enforcement is achieved through investigation and inspection of zoning compliance violations.

#### LFUCG Review Bodies

The most significant review bodies associated with land use and development in Lexington and Fayette County include the following:

##### *Planning Commission*

The Planning Commission advises the elected officials on matters related to both short-and long-term community planning. They vote to approve subdivision plats and development plans, review and make recommendations on

preliminary development plans, and make recommendations to the Urban County Council for zone change requests and zoning ordinance text amendments. The Commission also reviews and adopts Lexington's Comprehensive Plan and other long-range plans and studies. See information below on two Planning Commission committees.

#### *Board of Adjustment*

The Board of Adjustment (BOA) reviews and grants dimensional variances, conditional use permits, and changes in non-conforming uses when deemed appropriate for a specific site. They also conduct administrative reviews, which involves the hearing of appeals resulting from the Division of Planning or Building Inspection in the enforcement of the Zoning Ordinance. BOA decisions are subject to appeal to Circuit Court, as opposed to the Urban County Council.

#### *Board of Architectural Review (BOAR)*

Local Historic Districts are areas under official H-1 zoning overlays that overlap the base zones, providing special protections intended to preserve the historic character of the area. This warrants a specific review and permitting process for any new or redevelopment, which is conducted by the BOAR and/or the Historic Preservation Office. Changes within historic districts require a Certificate of Appropriateness (COA), which may be granted when the proposed modifications are deemed to be consistent with the Design Guidelines.

#### *Urban County Council*

A local legislative body made up of elected officials that determine the tone, policies, and regulations related to planning in Lexington and Fayette County. The Urban County Council reviews the recommendations on zone change requests and text amendments passed down by the Planning Commission and makes an official decision. The Council also confirms Mayor-appointed Planning Commission and BOA members.

#### *Other LFUCG Review Bodies*

Other review bodies with a relevance to development in Lexington and Fayette County include the following:

- **Technical Review Committee (TRC)** – It is represented by the Division of Engineering, the Division of Environmental Services, the Division of Fire, the Division of Traffic Engineering, the Division of Addressing, the Division of Waste Management, the Division of Planning, the Division of Water Quality, and various local utilities. The Division of Planning facilitates the committee's meeting and the review of plans filed with the LFUCG. The Division of Planning reviews the plans prior to the meeting and makes a recommendation to the TRC. The TRC comments and concerns are then discussed at the meeting, which can result in a revised recommendation or additional conditions.
- **Planning Commission Subdivision Committee** - The Subdivision Committee is made up of a representative from the Division of Engineering, a representative from the Division of Traffic Engineering, and half of the Planning Commission members. Planning Commission members are appointed by the Commission chair. They review recommendations of the TRC and staff for subdivisions and development plans.
- **Planning Commission Zoning Committee** - This committee is made up of the other half of the Planning Commission members not serving on the Subdivision Committee, and Commission members are appointed by the chair. It reviews recommendations of the staff and evaluates the map amendment request to determine its compliance with the requirements of the PUD zone with a particular consideration of the land use aspects of the application. It also considers compliance with the Comprehensive Plan and other adopted plans.
- **Administrative Hearing Board** - This board holds administrative hearings and decides on appeals from civil penalties issued by the Division of Code Enforcement.
- **Corridors Commission** - The Commission assesses major roads regarding aesthetics, landscaping, fencing, signage, litter control, bike and pedestrian considerations, and other elements. It also funds corridor beautification projects.
- **Courthouse Area Design Review Board** - This board reviews and approves development projects within the CADRB boundary with a focus on various aspects of buildings and their sites.

- Historic Preservation Commission - The commission assists in preparing documentation for the designation of additional historic districts, reviews legislation that may affect historic preservation, adopted and periodically updates the H-1 design guidelines, and has related duties.
- Infrastructure Hearing Board - This board hears matters regarding the enforcement of ordinances by the divisions of Engineering, Water Quality, Building Inspection, and Traffic Engineering.
- Paris Pike Corridor Commission - The commission reviews plans and requests for alterations to properties within this designated corridor in Fayette and Bourbon Counties, and it makes recommendations to the appropriate entities.
- Rural Land Management Board - This board governs the Purchase of Development Rights (PDR) program, and members are appointed by the mayor and confirmed by the Urban County Council. The PDR program requires landowners who have a PDR easement to obtain the board's permission before adding or expanding housing or adding paving within the designated Rural Area. The members use the Rural Land Management Plan and Ordinance 4-2000 as their guides for decision making.
- Floodplain Appeals Committee - Established by Article 19 of the Zoning Ordinance, this committee reviews floodplain variances and appeals of the Urban County Engineer's determination related to special use permits. In reviewing appeals, the committee considers information provided by the appellant, the Urban County Engineer, staff, and the public. The committee is comprised of five members appointed by the Urban County Planning Commission.
- Exactions Appeals Committee - Any person directly aggrieved by a decision of the LFUCG with respect to exactions has the right to appeal to this committee. The committee consists of a representative of the Mayor's Office, the Commissioner of Public Works, the Commissioner of Finance, and the Commissioner of General Services (or their designated representatives), one member of the Urban County Council, and one member of the Planning Commission. The committee forwards its recommendations on any appeal to the Urban County Council for its final decision.
- Landscape Review Committee - The Zoning Ordinance authorizes this committee to review compliance with landscaping. They meet as needed when there is an application for a variance to the landscaping requirements, and the Board of Adjustment (BOA) appoints the members.

### **LFUCG Planning & Development Areas**

In addition to the LFUCG's review bodies and departments, there are various boundaries that have been adopted to guide urban growth, land use management, and context-sensitive development in specific areas within Lexington-Fayette County. These areas come with additional considerations that may apply to development applications if the property falls within one of them. Below is a summary of each area, and a map is provided after that summary. The map is from page 1-23 of the LFUCG's Development Handbook prepared in 2021.

#### Rural Service Area

Development within the Rural Service Area (RSA) considers the unique aspects of the agricultural landscape. The 2017 Rural Land Management Plan (RLMP), along with applicable regulations and policies, serves as the primary guide for development within this area.

#### Urban Service Area

Development in Lexington-Fayette County is generally contained within the Urban Service Area (USA) boundary, which was established in 1958 and divides the Urban and Rural Service Areas. In general, urban development occurs within the USA and is subject to the Zoning Ordinance, the Land Subdivision Regulations, and the Comprehensive Plan.

#### Expansion Area

The USA was significantly expanded in 1996 per the Expansion Area Master Plan (EAMP). The EAMP, along with Article 23 of the Zoning Ordinance, contains innovative planning concepts to ensure that development occurs in an



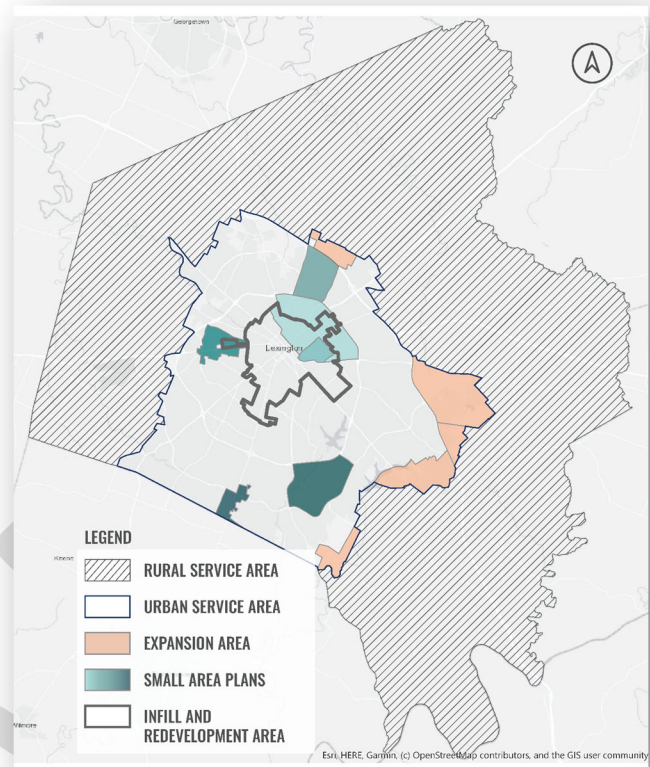
environmentally-friendly and community-oriented manner. Close attention is paid to scenic resource areas, special design areas, agricultural and buffering needs, rural scenic road preservation, and other provisions.

#### Small Area Plans

Multiple small area plans were adopted as elements of the 2007 and 2013 Comprehensive Plans and have since taken effect in six neighborhoods. Rooted in extensive community engagement, the small area plans identify community needs, opportunities, and challenges in their respective neighborhoods, which help to inform strategies for policy changes and project implementation.

#### Infill And Redevelopment Area

This area was established as part of the 2001 Comprehensive Plan, and it is approximately 10 square miles centered around Downtown. The area is subject to special provisions within the Zoning Ordinance designed to inspire development that is compatible and complementary to historical patterns, while also increasing density.



Source: Development Handbook – pg. 1-23.

#### **Summary of Application Types**

On the next pages is a summary of the following types of applications:

- Zone Change Requests
- Zoning Ordinance Text Amendments (ZOTA)
- Subdivisions
- Development Plans
- Variances
- Conditional Use
- Administrative Appeals

For each application type there is a summary description of the application process, an average timeline, and a flow chart excerpted from the 2021 LFUCG's Development Handbook. Also, on the following page is a single table summarizing the various application types, which is also borrowed from the Development Handbook.

	TYPE	Planning Staff		Committees			Decision-Making Bodies			
		Planning Services Staff	Mixed Planning Staff	Technical Review Committee (TRC)	Subdivision Committee	Zoning Committee	Board of Adjustment	Planning Commission at Subdivision Public Meeting	Planning Commission at Zoning Public Hearing	Council
	Variance, Conditional Use, Administrative Appeal	Review. Provide a recommendation to the BOA.	Review. Provide a recommendation to the BOA.	---	---	---	Review. Consider recommendations and produce a decision.	---	---	---
	Preliminary Subdivision Plan	Review. Provide a recommendation to the Committees and Planning Commission.	Review if associated with a Zone Change request. Provide a recommendation to the Committees and Planning Commission.	Review. Provide a recommendation to the Subdivision and/or Zoning Committees and Planning Commission.	Review. Provide a recommendation to Planning Commission.	Review. Provide a recommendation to Planning Commission.	---	Review. Consider recommendation and produce a decision.	Review if associated to a Zone Change Request. Consider recommendations and produce a decision.	---
	Final Subdivision Plat	Review. Provide a recommendation to TRC, Subdivision Committee, and Planning Commission.	---	Review. Provide a recommendation to Subdivision Committee and Planning Commission.	Review if land is agricultural or waivers are requested. Provide a recommendation to Planning Commission.	---	---	Review if land is agricultural or waivers are requested. Consider recommendations and produce a decision.	---	---
	Development Plan	Review. Provide a recommendation to the Committees and Planning Commission.	Review if associated to a Zone Change Request. Provide a recommendation to the Committees and Planning Commission.	Review. Provide a recommendation to the Subdivision and/or Zoning Committees and Planning Commission.	Review. Provide a recommendation to Planning Commission.	Review if associated to a Zone Change Request. Provide a recommendation to Planning Commission.	---	Review. Consider recommendations and produce a decision.	Review if associated with a Zone Change request. Consider recommendations and produce a decision.	---
	Zone Change Request & ZOTA	Review. Provide a recommendation to Zoning Committee and Planning Commission.	Review. Provide a recommendation to Zoning Committee and Planning Commission.	---	---	Review. Provide a recommendation to Planning Commission.	---	---	Review. Provide a recommendation to Council.	Review. Consider recommendations and produce a decision.

Source: Development Handbook – pg. 1-14 – 1-15.

### Zone Change Requests

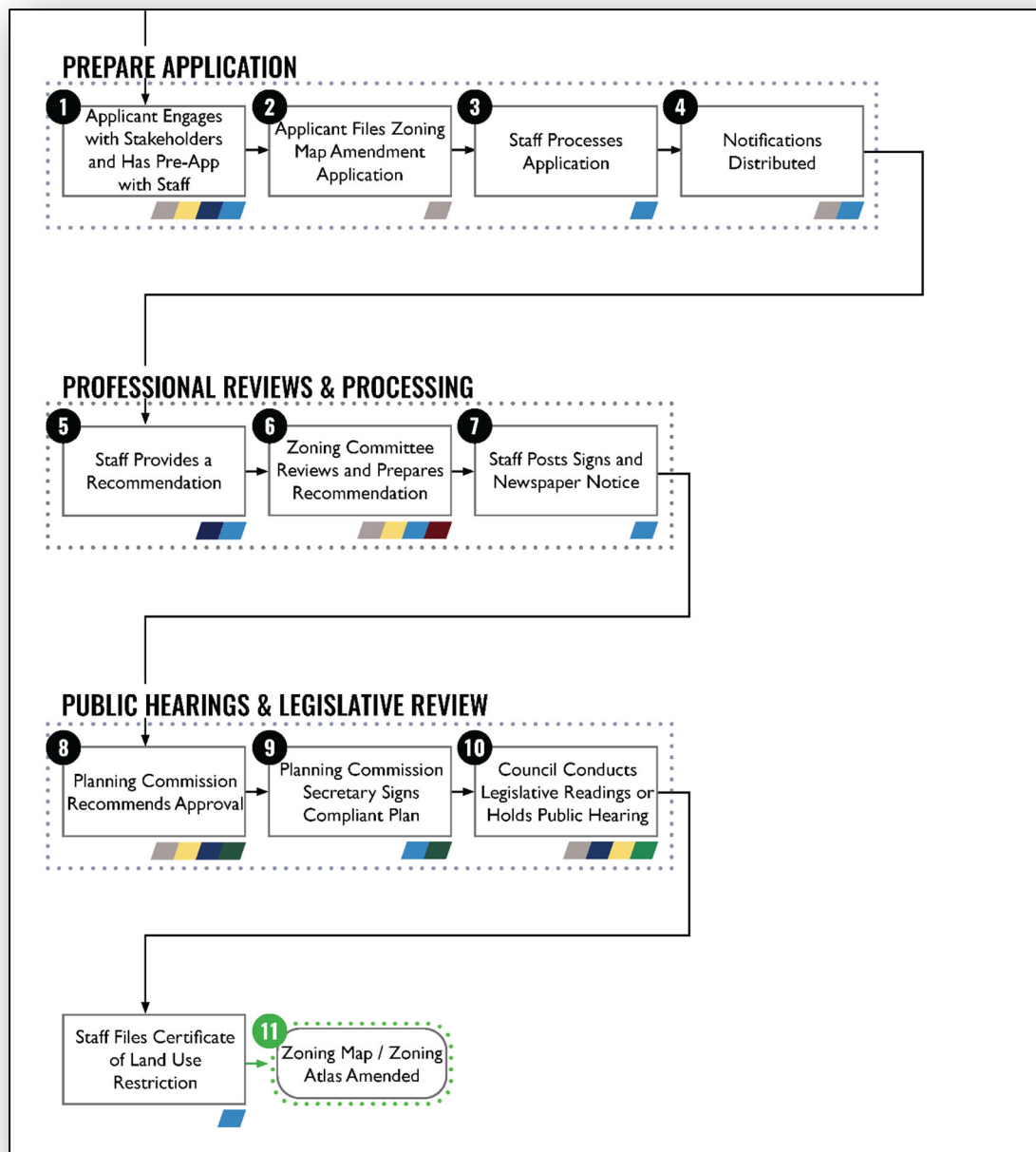
**Approving Body:** Urban County Council

**Approximate Process Duration:** 4-6 Months

**Process Summary:** A zone change, commonly referred to as a Map Amendment Request (MAR), provides the applicant a means to change the zone of a property to accommodate a desired use or different residential density. The proposed amendment may only originate with the Planning Commission, the Urban County Council, the owner of the subject property, or by a person having written authorization for the owner of the subject property. The most common types of zoning change requests involve site-specific rezoning, although there are procedures for potential area-wide rezonings as well. Such changes are subject to review by the Planning Commission, with final action on the rezoning resting with the Urban County Council.

In accordance with KRS 100 213, the applicant must effectively demonstrate to the Planning Commission that the map amendment is in agreement with the adopted Comprehensive Plan. In the absence of such a finding, the Commission must find that: 1) the existing zoning is inappropriate and the proposed zoning is appropriate; or 2) there have been major changes within the area that were not anticipated in the Comprehensive Plan. Principal permitted uses, accessory uses, conditional uses and prohibited uses are identified for each zone. Principal and accessory uses are generally allowed “by right”, and can be pursued once all of the requisite permitting has been accomplished through the Division of Building Inspection. There are also a few “overlay” zones that accompany the underlying zoning designations for some select areas, such as local historic districts and agricultural markets and corridors.

On the following page is a flow chart for the process for Zone Change applications. As emphasized in the source for this flow chart – the 2021 Development Handbook, this chart is only a very general illustration of the processes. Thus, the LFUCG should be consulted for details that may prove more complex than the process reflected below.



Source: Development Handbook – pg. 5-3.

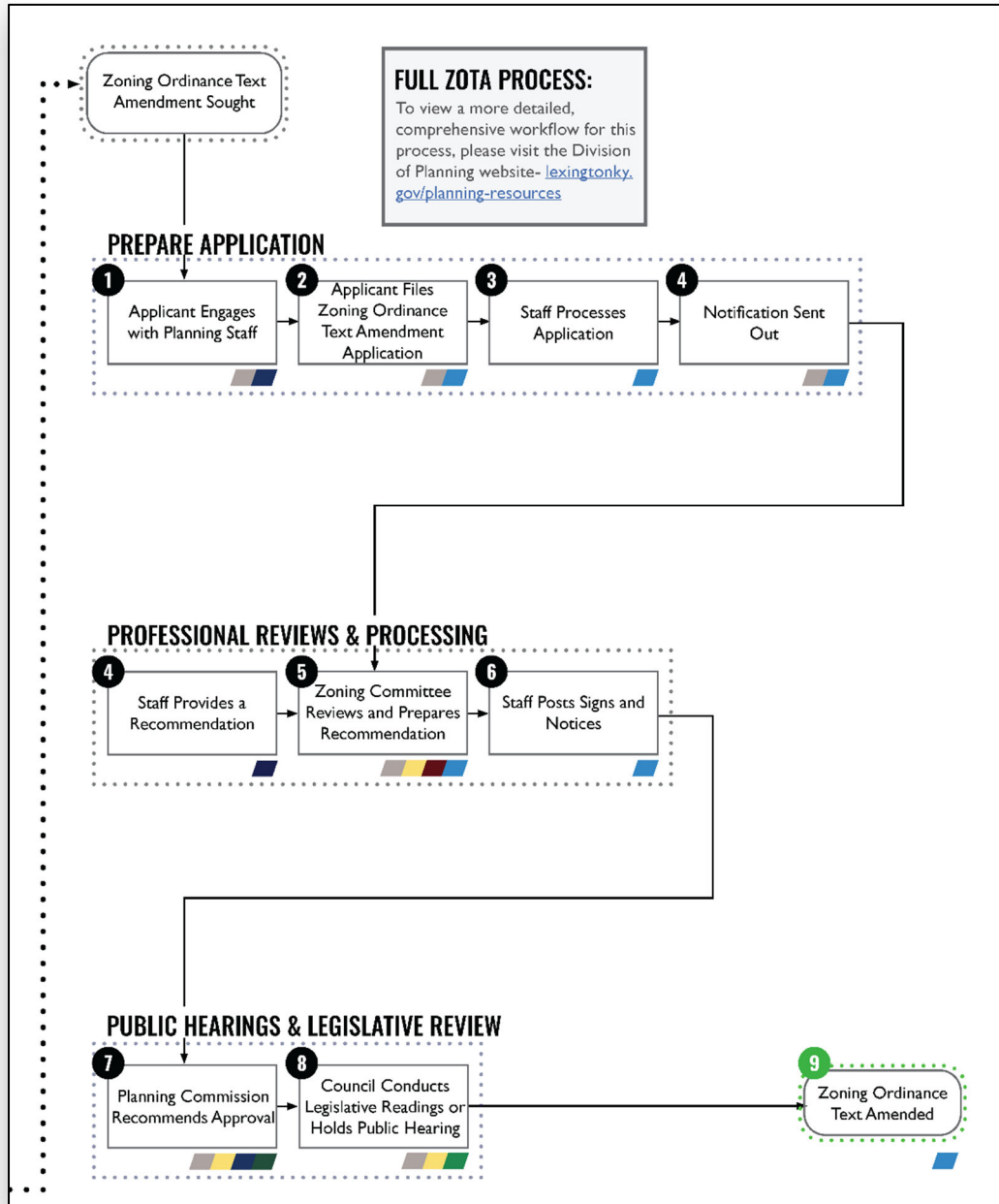
### Zoning Ordinance Text Amendments (ZOTA)

**Approving Body:** Urban County Council

**Approximate Process Duration:** 4-6+ months

**Process Summary:** Zoning Ordinance Text Amendments (ZOTAs) differ from zone changes in that they are typically broad policy changes within the Zoning Ordinance and are not tied to a specific property. These proposed changes are based on the needs of the community as a whole. Some examples of ZOTAs that were adopted in recent years include: A) Modifications to the allowable floor area ratio and lot coverage in multiple residential zones; and B) Changes to parking requirements for mixed-income housing developments. A proposal for a ZOTA may originate with any person or governmental body. Each application is subject to review by the Planning Commission, with final action on the amendment resting with the Urban County Council.

Below is a flow chart for applications for a ZOTA. As emphasized in the source for this flow chart – the 2021 Development Handbook, this chart is only a very general illustration of the processes. Thus, the LFUCG should be consulted for details that may prove more complex than the process reflected below.



Source: Development Handbook – pg. 6-3.

### Subdivisions

*Approving Body:* Minor Subdivisions – Staff / Major Subdivisions – Planning Commission

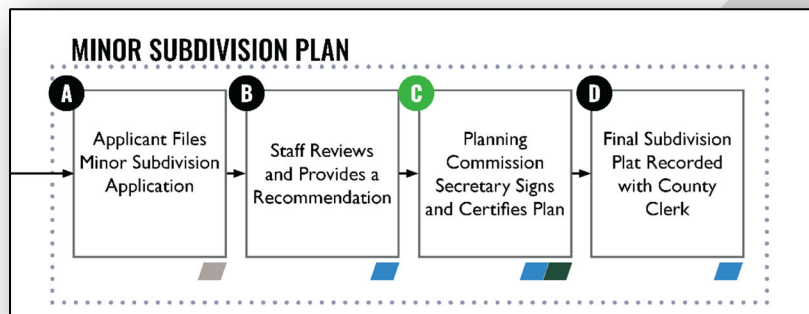
*Approximate Process Duration:* 1-3 months

*Process Summary:* A subdivision is the division of a parcel of land into two or more lots or parcels for the purpose of sale, lease, or building development. Subdivision plans contain lot layout and required infrastructure, such as



determine requirements for a project: major and minor subdivisions. *Major subdivision plans* depict changes to lotting or infrastructure that are significant to the community's development, whereas *minor subdivision plans* are not considered to be significant. There are two types of major subdivision plans – preliminary subdivision plans and final record plats (AKA final subdivision plans). A final record plat depicts all substantially complete infrastructure improvements and legal lotting on the site. Improvements plans are also a step in the process. They are reviewed and accepted by staff in the Division of Engineering, but they are not reviewed or approved by the Planning Commission.

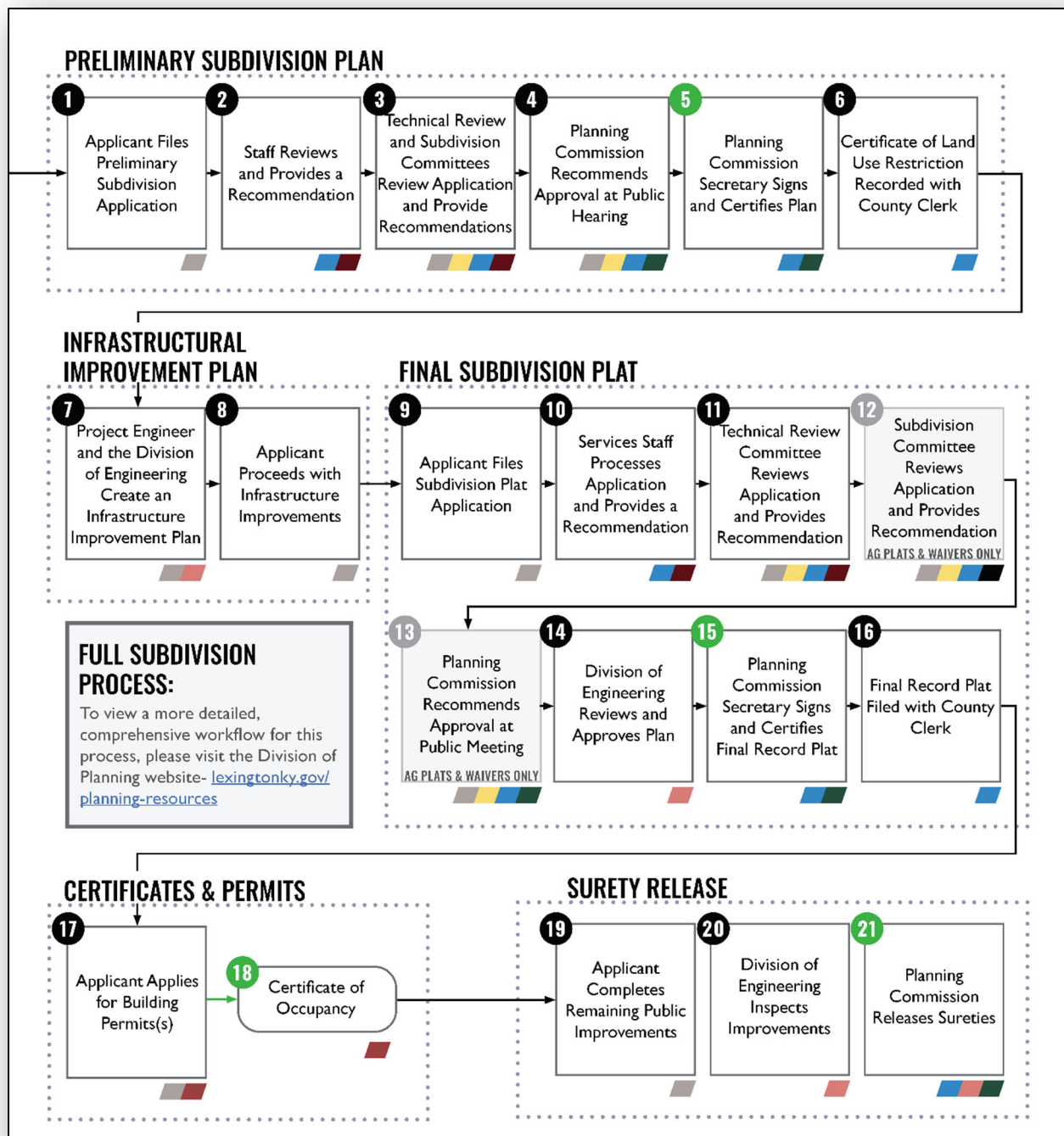
Below is a flow chart for Minor Subdivisions and a flow chart for Major Subdivisions is on the following page. As emphasized in the source for this flow chart – the 2021 Development Handbook, this chart is only a very general illustration of the processes. Thus, the LFUCG should be consulted for details that may prove more complex than the process reflected below.



Source: Development Handbook – pg. 3-2.



*The Polo Club Blvd. corridor extending south from the new Baptist Health site has experienced substantial growth during the past few years, including apartment developments.*



Source: Development Handbook – pg. 3-3.

### Development Plans

**Approving Body:** Planning Commission (staff can approve minor amendments)

**Approximate Process Duration:** 6 weeks – 3 months

**Process Summary:** A development plan may be utilized for a variety of planning related procedures. When required by the Zoning Ordinance, no building permits may be issued until a final development plan is approved by the Planning Commission, certified by the Secretary of the Commission, and passed on to the Division of Building



Inspection. Development Plans control the issuance of all building and occupancy permits, and restrict the construction, location, and use of all land and structures to the conditions as set forth in the plan. There are three types of plans:

Preliminary Development Plan – This type of plan is typically included with a zone change request. It provides a conceptual depiction of buildings, parking, open space, roads, access points, and other proposed features of a site proposed for rezoning.

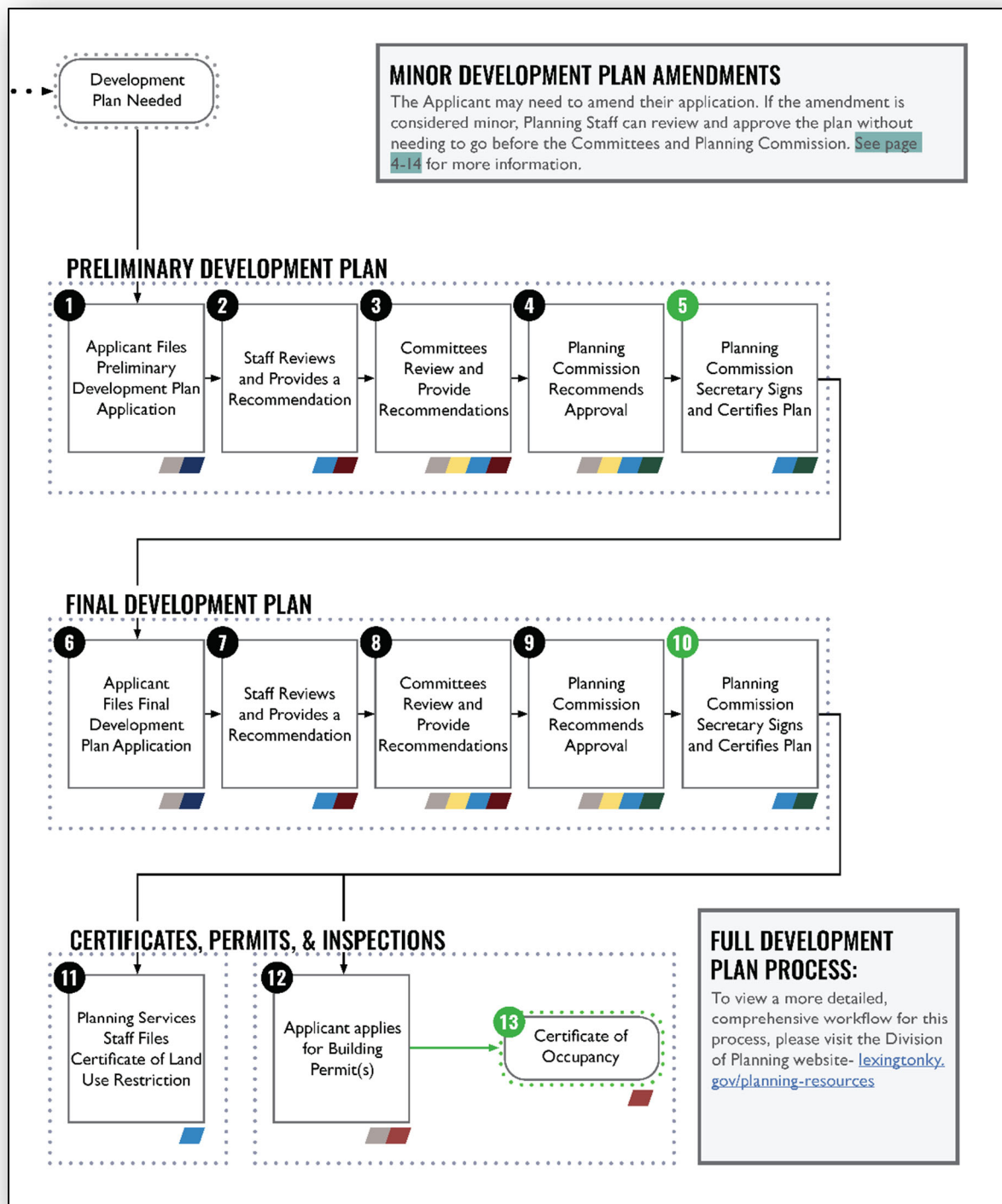
Final Development Plan – This type of plan provides an exact depiction of all property improvements, including buildings, parking, open space, roads, and access points, on the development site. No building or occupancy permits can be issued without a Planning Commission approved and certified plan.

Minor Development Plan Amendment – These amendments expedite approvals in those situations where amendments of a development plan are of minor significance and generally relate to the shifting of previously approved spaces.

On the following page is a flow chart for applications for Development Plans. As emphasized in the source for this flow chart – the 2021 Development Handbook, this chart is only a very general illustration of the process. Thus, the LFUCG should be consulted for details that may prove more complex than the process reflected on the next page.



*The Townley Center development at West New Circle Road and Leestown Road features a combination of housing and commercial development, including this “lifestyle center” with retail and dining.*



Source: Development Handbook – pg. 3-3.

#### Variances

*Approving Body:* Board of Adjustment

*Approximate Process Duration:* 1-3 months

**Process Summary:** A variance is requested to change a required dimensional element on a property. The critical question is whether there are any special circumstances unique to the subject property that justify the request to alter the standard Zoning Ordinance requirement(s). Commonly requested variances include: A) reductions in setback requirements for front, rear, or side yards for new construction; B) increases in the allowable height of buildings, fences, or signs; and C) reductions in the width of landscape buffers.

#### Conditional Uses

**Approving Body:** Board of Adjustment

**Approximate Process Duration:** 1-3 months

**Process Summary:** Conditional use approvals are sought for a use that is specifically named in the Zoning Ordinance that may be suitable only in specific locations in the zone if certain conditions are met. Typically, conditions are placed on these uses regarding topics such as the construction of the facility or operational aspects of the use (hours of operation, etc.). Common conditional uses in many zones include places of religious assembly, home-based businesses, live entertainment, veterinary offices, and drive-through facilities.

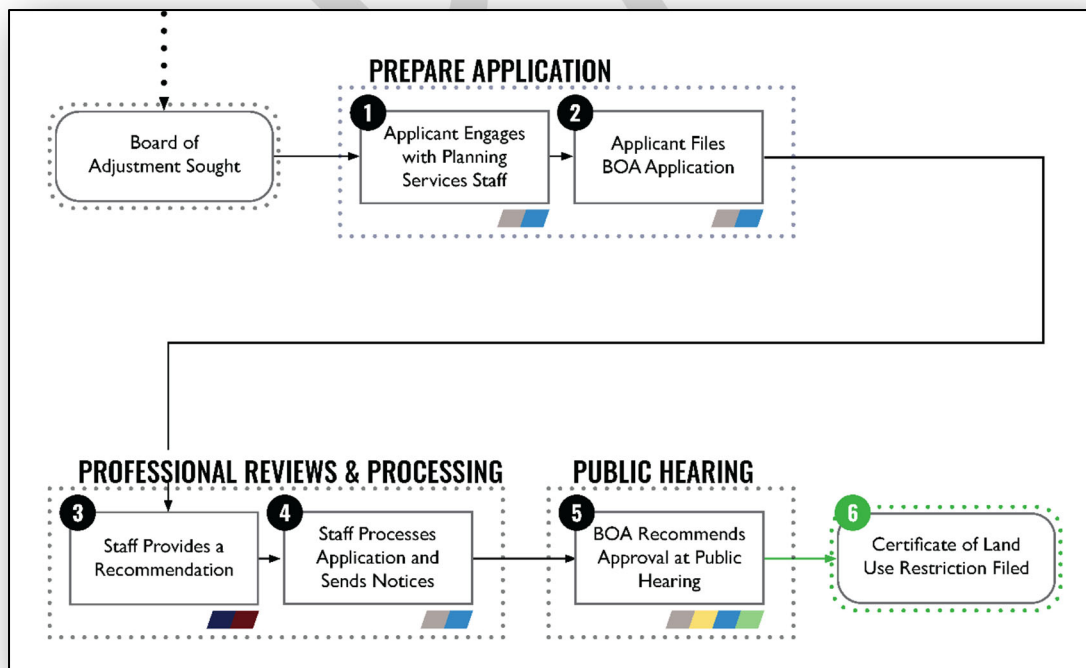
#### Administrative Appeals

**Approving Body:** Board of Adjustment

**Approximate Process Duration:** 1-3 months

**Process Summary:** Appeals to the Board of Adjustment may be initiated by any person or entity believing to be injuriously affected or aggrieved by an official action of the Division of Planning or Division of Building Inspection in the enforcement of the Zoning Ordinance. Applications for appeals must be filed within 30 days of receiving notice of such action. Appeals can be helpful in cases where the Zoning Ordinance does not provide a complete indication of how a particular use should be treated, thus requiring further informed interpretation.

Below is a flow chart for applications to the Board of Adjustment for Variances, Conditional Uses, and Administrative Appeals. As emphasized in the source for this flow chart – the 2021 Development Handbook, this chart is only a very general illustration of the processes. Thus, the LFUCG should be consulted for details that may prove more complex than the process reflected below.



Source: Development Handbook – pg. 2-3.

Note: This table will be revised per Planning Department clarifications provided on 6.20.23

Existing Zoning Ordinance and Subdivision Regulations Procedures							
D = Decision REC= Review/Recommendation R = Report A = Appeal <> = Public Hearing * = Pre-Application Conference [ ] = Note							
Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
<b>Discretionary Review</b>							
Comprehensive Plan Amendment		R				<D>	
Text Amendment		R*		R		<REC> [b]	D/<D> [b]
Amendment to Zoning Map (Rezoning) [a]		R*	[f]	<REC> [g]		<REC> [b] [d] [e]	D/<D> [b] [c] [d] [e]
<b>Planned Development</b>							
Preliminary Planned Development Plan for PUD- 1: Residential PUD Zone and PUD-3: Industrial Redevelopment PUD Zone [h] [i]		R*[j]				<REC> [k]	D/<D> [l]
Final Planned Development Plan for PUD-1 and PUD-3 [m]		R*[j]				<D>	
Conditional Uses		R			<D> [a]		
Preliminary Subdivision Plan		R				<D>	
<b>Development Plan</b>							
Preliminary Development Plan [n] [o] [p] [q]		R [r]				D [t]	
Final Development Plan [p] [u]		R [r]				D/<D> [s]	
<b>Historic Properties</b>							
Certificate of Appropriateness (Sec. 13-7(b))				<D> [v]		<A>	
Certificate of Appropriateness for Demolition (Sec. 13-7(c))				<D>		<A>	

## Existing Zoning Ordinance and Subdivision Regulations Procedures

D = Decision   REC= Review/Recommendation   R = Report   A = Appeal   <> = Public Hearing  
 \* = Pre-Application Conference   [ ] = Note

Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
<b>Permits</b>							
Division of Nonconforming Lot with two legally constructed Principal Structures into Two Lots for Purpose of Sale or Transfer						D	
Courthouse Area Overlay District Sec. 27-4	[w]	R/D					
Telecommunication Towers		R				<D>	
Special Permit in Floodplain (Sec. 19-8 and 19-9)	[x]						
Zoning Compliance Permit [c] (Sec. 5-2(a))		D [y]					
Zoning Permit for Existing Uses or Structures (Sec. 5-5(c))		D					
Land Disturbance Permit (Sec. 5-2(d ))		D [z]					
Mobile Home Location Permit (Sec. 5-2(e))	D						
Sign Permit (Sec. 5-2(f))	D						
Wrecking Permit (Sec. 5-2(c))	D						
Sanitary Sewer Capacity Permit (Sec. 5-2(h))	D [aa]						
Building Permit (Sec. 5-2(b) and [c])	D [bb]/[cc] [dd] [ee] [ff]						
Certificate of Occupancy	D [gg]						
Temporary Certificate of Occupancy (Sec 5-5(a))	D [hh]						
Certificate of Occupancy for Existing Uses of Structures (Sec. 5-5(b))	D [ii]						

Existing Zoning Ordinance and Subdivision Regulations Procedures							
D = Decision REC= Review/Recommendation R = Report A = Appeal <> = Public Hearing * = Pre-Application Conference [ ] = Note							
Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
Home-Based Business (Hours of operation, and frequency of customer visits)		R			D		
<b>Relief</b>							
Variance							
Zoning		R			<D> [jj]		
Floodplain	[kk]	R					
<b>Appeals</b>							
Administrative Review (Sec. 7-6 (d))		R			<A>		
Nonconforming Uses and Structures [l]		R			<A>		
All Other Appeals (Enforcement) (Sec. 7-6 (c)) [mm]		R			<A>[nn]		
<b>Interpretations</b>							
Text		D					
Zoning Map Boundaries		D			<A> [oo]		
Subdivision		D					
<b>Subdivision</b>							
Minor Subdivision [pp]		[qq]				D [qq]	
Major Subdivision							
Preliminary Subdivision Plan		R [rr]				D [ss]	
Improvement Plan [tt]							
Final Subdivision Plan (Final Record Plat)		R				D [uu]	
<b>NOTES:</b> [a] The Planning Commission may hear and act upon applications for conditional uses and variances associated with a Zoning Map amendment. If the Planning Commission considers such an application, the Planning Commission shall have all the powers and responsibilities of the Board of Adjustment in considering a conditional use or variance. [b] The Urban County Council may adopt the recommendations of the Planning Commission on either a text or Zoning Map amendment without a public hearing, or elect to conduct a public hearing on the request. It shall take a majority of the entire Council to override the recommendations of the Planning Commission, and it shall take a majority of the entire Council to adopt a zone map							



## Existing Zoning Ordinance and Subdivision Regulations Procedures

D = Decision   REC= Review/Recommendation   R = Report   A = Appeal   <> = Public Hearing  
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Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
<p>amendment whenever the Planning Commission forwards the application to the Council without a recommendation due to a tie vote.</p> <p>[c] The Urban County Council may impose conditions or restrictions on a Zoning Map amendment, if certain procedures are followed, that restrict the use of the property affected to a particular use, or a particular class of uses, or a specified density 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. Sec. 6-7. The Urban County Council is authorized to modify or remove such conditions or restrictions they impose through the same procedure used for the original adoption of the Zoning Map amendment. The Planning Commission has final authority to consider and act on modifications, removals, or amendments of all other conditions or restrictions (no Council action would be required for the Planning Commission's decision).</p> <p>[d] A preliminary development plan is required to be included with a proposed rezoning to the Mobile Home Park (M-1P), an Interchange Service Business (B-5P), or Commercial Center (B-6P) districts. A final development plan must be submitted for approval within two years of approval of an amendment, or an application to change the zoning back to its previous designation, may be filed by the Planning Commission. Secs. 10-11, 11-8, 12-10.</p> <p>[e] A Zoning Map amendment to Exclusive Use Zone (EX-1) Landfills, shall comply with the requirements of Sec. 14A.</p> <p>[f] The Historic Preservation Commission may propose an historic overlay (H-1) district. Sec. 13-6(b).</p> <p>[g] Review and recommendation of the Board of Architectural Review to the Planning Commission and Urban County Council only occurs for applications to designate structures, premises, and landmarks as historic overlay districts and landmarks (H-1). Sec. 13-5(a).</p> <p>[h] The Preliminary Planned Unit Development Plan is submitted for review and approval of a Zoning Map amendment for PUD for the PUD-1 and PUD-3 districts. It must comply with the informational and design requirements of a preliminary or final development plan under Article 21.</p> <p>[i] For a Luigart Planned Development Zone (PUD-2), if the proposed development complies with Column A in the Design Standards table in Sec. 22B-6, no Preliminary or Final PUD Plan is required. Instead, after the Zoning Map amendment, the applicant may proceed and get approval of a Zoning Compliance Permit. Sec 22B- (c )(1). If the proposed development does not comply with Column A in the Design Standards table in Sec. 22B-6, then the applicant must receive approval of a Preliminary PUD Plan and a Final PUD Plan. Sec 22B-(c )(2).</p> <p>[j] In its review of the application for a PUD, the Division of Planning shall meet as a Technical Committee to discuss the technical aspects of the physical design elements of the proposed development and try to resolve any conflicts. The Technical Committee shall make recommendations that shall be utilized in preparation of the staff's recommendation to the Planning Commission's Zoning Committee and Subdivision Committee. Sec. 22A-5(c ).</p> <p>[k] Before consideration by the Planning Commission:</p> <p style="padding-left: 40px;">(a) The Planning Commission's Subdivision Committee shall review the recommendations of the staff and shall evaluate the map amendment request to determine its compliance with the requirements of the PUD zone. The Subdivision Committee shall give special consideration to</p>							

## Existing Zoning Ordinance and Subdivision Regulations Procedures

D = Decision   REC= Review/Recommendation   R = Report   A = Appeal   <> = Public Hearing  
\* = Pre-Application Conference   [ ] = Note

Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
<p>the physical design aspects of the development proposal in making its recommendation to the Commission.</p> <p>(b) The Planning Commission's Zoning Committee shall review the recommendations of the staff and shall evaluate the map amendment request to determine its compliance with the requirements of the PUD zone. The Zoning Committee shall give special consideration to the land use aspects of the application but shall also consider all aspects of the development proposal in making its recommendation to the Commission. Sec 22A-5 (e ) and (f).</p> <p>[l] The Urban County Council may adopt the recommendation of the Planning Commission on a Zoning Map amendment for a Preliminary PUD Plan without a public hearing, or elect to conduct a public hearing on the request. Sec 22A-5 (h).</p> <p>[m] The approval and certification of the Final PUD Plan shall have the same effect as approval of a preliminary subdivision plan. Upon its approval, the applicant may proceed to prepare Improvement Plans and then a Final Subdivision Plan. Sec 22A-5(m),</p> <p>[n] A preliminary development plan is a site plan by which, at the early stages of development design, the Planning 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. Sec. 21-5(a). The following development applications require approval of a preliminary development plan:</p> <p>(a) All applications for zoning map amendments to the P-2, B-5P, B-6P, and M-1P zones;</p> <p>(b) Any Zoning Map amendment request from an A-R or A-U zone to any nonagricultural zone.</p> <p>(c) Any Zoning Map amendment request to any residential or business zone;</p> <p>(d) Any Zoning Map amendment request from a residential zone to a nonresidential zone district;</p> <p>(e) Any other Zoning Map amendment the Planning Commission determines needs to be reviewed as a development plan because of existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.</p> <p>(f) Development plans required to permit more than one principal structure and its accessory structures, unless the development is approved as a Group Residential Project or a Planned Unit Development. Sec 21- 3</p> <p>(g) Any Zoning Map amendment in an Expansion Area. Sec. 23B-2.</p> <p>(h) Any Zoning Map amendment to the Agricultural Market (AM-1) Overlay Zone. Appendix 24B.</p> <p>(i) Any Zoning Map amendment for a mixed-use district. Sec. 28-6.</p> <p>[o] The review of a development plan and a preliminary subdivision plan may be combined in instances where it is advantageous to both the developer and the Planning Commission. See Sec 21-8.</p>							

Existing Zoning Ordinance and Subdivision Regulations Procedures							
D = Decision REC= Review/Recommendation R = Report A = Appeal <> = Public Hearing * = Pre-Application Conference [ ] = Note							
Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
[p]							
A development plan for a Group Residential Project on More Than Five Acres shall be reviewed and decided at a public hearing (Sec. 9-5). A development plan for a Group Residential Project on less than five acres shall be reviewed and decided by the Division of Planning, administratively. Sec 9-5.							
[q]							
In certain cases, a preliminary subdivision plan may be substituted for a preliminary development plan in conjunction with a Zoning Map amendment. 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. Sec 21-8(d)							
(r)							
The Division of Planning and concerned agencies shall review the development plan, and then meet together as a Technical Committee to try to resolve all differences and to make recommendations to the Planning Commission's Subdivision Committee. The Subdivision Committee will review all recommendations, and then forward their recommendations to the Commission. Sec 21-4(c ).							
[s]							
A Final Development Plan for an Expansion Area requires a public hearing.							
[t]							
The Planning Commission may postpone the development plan until after the Urban County Council has made its decision on the map amendment request. Sec 21-4(d).							
[u]							
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- 5(b). The following development applications require approval of a preliminary development plan:							
(a)							
All applications for Zoning Map amendment to the P-2, B-5P, B-6P, and M-1P zones (that has received preliminary development plan approval at time of rezoning);							
(b)							
Any Zoning Map amendment request from an A-R or A-U zone to any nonagricultural zone (that has received preliminary development plan approval at time of rezoning);.							
(c)							
Any Zoning Map amendment request to any residential or business zone (that has received preliminary development plan approval at time of rezoning);							
(d)							
Any Zoning Map amendment request from a residential zoning to a nonresidential zone district (that has received preliminary development plan approval at time of rezoning);;							
(e)							
Any other Zoning Map amendment the Planning Commission determines needs to be reviewed as a development plan because of existing or potential substantial flood, drainage, traffic, topographic or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood.							
(f)							
Development plans required to permit more than one principal structure and its accessory structures, unless the development is approved as a Group Residential Project or a Planned Unit Development. Sec 21- 3							
(g)							
Any Zoning Map amendment in an Expansion Area. Sec. 23B-2.							
(h)							
Any Zoning Map amendment to the Agricultural Market (AM-1) Overlay Zone. Appendix 24B							

## Existing Zoning Ordinance and Subdivision Regulations Procedures

D = Decision   REC= Review/Recommendation   R = Report   A = Appeal   <> = Public Hearing  
\* = Pre-Application Conference   [ ] = Note

Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
<p>(i) Any Zoning Map amendment for a mixed-use district. Sec. 28-6.</p> <p>[v] The Board of Architectural Review may designate certain applications for a Certificate of Appropriateness to be reviewed by the Historic Preservation Officer, administratively. These items must be identified and reviewed by the Board at a public hearing, and published. Sec. 13-7 (2).</p> <p>[w] The Court House Area Design Review Board reviews and decides on authorization permits in the Courthouse Area Overlay District, after a public hearing. Sec. 27-4. An appeal of the Board's decision may be taken to the Planning Commission. Sec 27-7.</p> <p>[x] A special permit in the flood zone is reviewed and decided by the Division of Engineering. The Division of Engineering decision may be appealed to the Floodplain Appeals Committee, Sec. 19-10.</p> <p>[y] Permit issued by the Division of Planning. Sec. 5-2(a), Zoning Ordinance.</p> <p>[z] See Chapter 16 of the Code of Ordinances. Sec. 5-2(d), Zoning Ordinance. Review is by Division of Engineering, not Division of Planning.</p> <p>[aa] Permit issued by Division of Water Quality, in conformance with the LFUCG Capacity Assurance Program, documenting adequate sanitary sewer service is available.</p> <p>[bb] The building permit shall not be issued until the Division of Engineering has approved an erosion control plan. Sec. 5.4(a)(1), Zoning Ordinance.</p> <p>[cc] The building permit for an accessory dwelling unit shall not be issued unless and until the Division of Planning has issued a Zoning Compliance Permit.</p> <p>[dd] All applications for building permits, including associated paving permits, other than those for single-family or two family dwellings and their accessory buildings, shall be accompanied by a site plan, which shall be approved by the Division of Planning (which is approved only upon finding the proposed development complies with all relevant provisions of the Zoning Ordinance and Subdivision Regulations. Sec. 5-4(b), Zoning Ordinance.</p> <p>[ee] A building permit shall not be issued until landscape plan is approved by the Division of Environmental Services. Sec. 18-5(b).</p> <p>[ff] Special review is required for an Accessory Dwelling Unit (ADU), which requires pre-application conference for building permit (also see Homeowner's Guide to Accessory Dwelling Units (ADU Manual). Sec. 3-12</p> <p>[gg] A Certificate of Occupancy shall not be approved until the landscape plan is complete and certified by the Division of Environmental Services, or a temporary Certificate of Occupancy is issued and a full cash bond or irrevocable letter of credit is posted. Sec. 18-5(b).</p> <p>[hh] A temporary Certificate of Occupancy may be issued by the Division of Building Inspection for a period not exceeding six months during alterations or partial occupancy of a building, pending its completion, in accordance with general rules or regulations concerning such temporary certificate; and with such additional conditions or safeguards as are necessary in the circumstances of the case to protect the safety of the general public. Sec. 5-5(a).</p> <p>[ii] Upon request from the owner or tenant, and upon inspection to determine the facts in the case, the Division of Building Inspection shall issue a certificate of occupancy for any building, premises or use</p>							

## Existing Zoning Ordinance and Subdivision Regulations Procedures

D = Decision   REC= Review/Recommendation   R = Report   A = Appeal   <> = Public Hearing  
\* = Pre-Application Conference   [ ] = Note

Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
that is in conformity with the provisions of any applicable building codes, regulations or ordinances. Sec 5-5(b)							
[jj]	A Landscape Review Committee is authorized to be established by the Board of Adjustment, who shall review and make recommendations to the Board on request for variances to denial of landscape plans by the Division of Environmental Services. Sec. 18-7.						
[kk]	A Floodplain variance is reviewed and decided by the Floodplain Appeals Committee, Sec 19-11.						
[ll]	This includes: (1) a change of a nonconforming use to another nonconforming use, Sec. 7-6(c ), and (2) the relocation of a nonconforming structure to another location on the same Lot, Sec. 7-6.						
[mm]	These appeals may be taken by any person or entity claiming to be injuriously affected or aggrieved by an official action, order, requirement, interpretation, grant, refusal or decision of the Division of Planning or the Division of Building Inspection in the enforcement of the Zoning Ordinance.						
[nn]	Appeals on exactions goes to the Exaction Appeals Committee. Sec 23B-12						
[oo]	Except for interpretations of flood hazard boundaries, which shall be interpreted by the Urban County Engineer. Sec. 19-6.						
[pp]	Minor subdivisions include the following subdivision types, each which follows the same procedure:						
	(a) Consolidation Minor Subdivision						
	(b) Non-Building Minor Subdivision						
	(c) Corrected Amended Minor Subdivision						
	(d) Easement Minor Amendment						
	(e) Administrative Action Amendment						
	(f) Public Acquisition Minor Subdivision						
	(g) Display House Minor Subdivision						
	(h) Retracement Minor Subdivision						
	(i) Utility and Public Facility Minor Subdivision						
[qq]	There is no staff report for minor subdivision plans. The minor subdivision plan and minor development plans are reviewed by staff and certified if they meet the requirements. They are only presented to the Planning Commission if they are referred by the staff. The Planning Commission has given authority over these minor changes to staff.						
[rr]	Division of Planning and members of other divisions and agencies review and meet as a Technical Committee and transmit recommendation to the Planning Commission Subdivision Committee. The Subdivision Committee then reviews and forwards recommendations to the full Planning Commission.						
[ss]	The Planning Commission shall provide final approval, conditional approval, or disapproval within 90 days of the filing of the application for a preliminary subdivision plan.						
[tt]	Infrastructure development agreement entered into between the developer/project engineer and the LFUCG. At 50 percent completion of infrastructure design plans, preliminary report shall be sent to Planning Commission reporting how stormwater, sanitary sewer, and any environmental conditions						

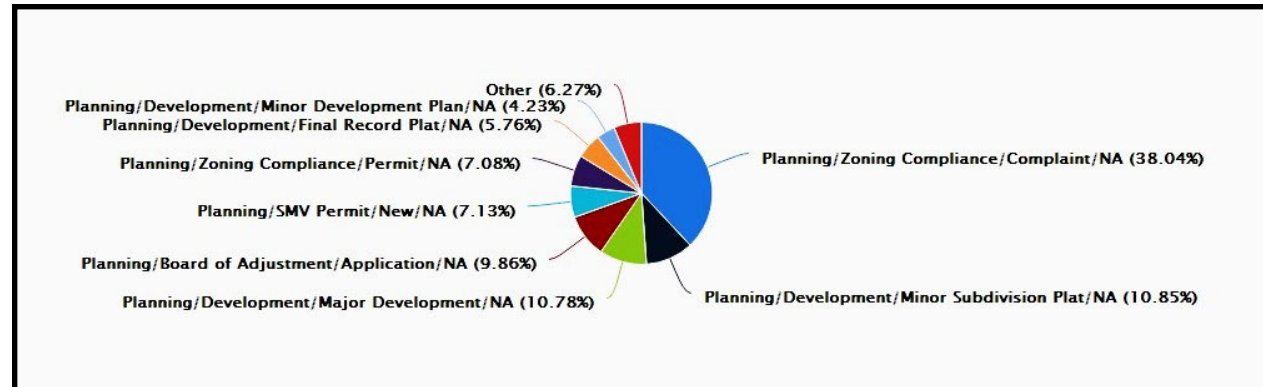
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Review Procedure	Division of Building Inspection	Division of Planning	Historic Preservation Commission	Board of Architectural Review	Board of Adjustment	Planning Commission	Urban County Council
<p>imposed by the Planning Commission will be addressed. When completed, the full infrastructure design plans shall be transmitted to Division of Engineering for Review. Within 10 working days of filing, Division of Engineering shall notify the developer/project engineering of the results of the administrative review, and Division of Engineering may provide a notice to proceed.</p> <p>[uu] A Final Subdivision Plan (Final Record Plat) is ministerial. It is not reviewed by the Planning Commission in a public meeting, unless it is in the agricultural area or there is a waiver or some other special finding required by the LSR or the ZO. It is certified by Planning Commission's secretary for approval.</p>							

## D. ANALYSIS OF PAST APPLICATION & APPROVAL DATA

Below is a summary of various approvals and compliance actions by type from Jan. 1 2018 to Jan. 1 2023, a five-year span. This information includes a pie chart quantified by application types, as well as a table of summary information. It is important to note that this information also includes statistics on compliance and dealing with complaints, which are not a focus of this study. Subsequent data and analysis does not address those issues.



RECORD TYPE ▲	TOTAL
Planning/Board of Adjustment/Application/NA	387
Planning/Cell Tower/NA/NA	12
Planning/Development/Final Record Plat/NA	226
Planning/Development/Major Development/NA	423
Planning/Development/Major Subdivision Final Plat/NA	74
Planning/Development/Minor Development Plan/NA	166
Planning/Development/Minor Subdivision Plat/NA	426
Planning/SMV Permit/New/NA	280
Planning/SMV Registration/New/NA	13
Planning/Zoning Compliance/Complaint/NA	1,493
Planning/Zoning Compliance/Permit/ADU	12
Planning/Zoning Compliance/Permit/NA	278
Planning/Zoning/Zone Change/NA	108
Planning/Zoning/ZOTA/NA	27
	<b>3,925</b>

The table below provided by LFUCG staff does not include complaint and compliance data, which makes it more relevant to this project to study the approvals process related to land use and development.

Application Type	Total Days	Total Count	Average Record Age
BOA Administrative Appeal	2956	65	45.48
BOA Application	1469	28	52.46
BOA Conditional Use	4306	88	48.93
BOA Variance	6027	104	57.95
Final Record Plat	31810	145	219.38
Major Development Plan	23199	151	153.64
Minor Development Plan	5332	93	57.33
Minor Subdivision Plat	18245	366	49.85
Preliminary Subdivision Plan	4261	14	304.36
Zone Change - (Map Amendment Request)	17116	69	248.06
Zoning Ordinance Text Amendment	1381	17	81.24



### Council Approvals

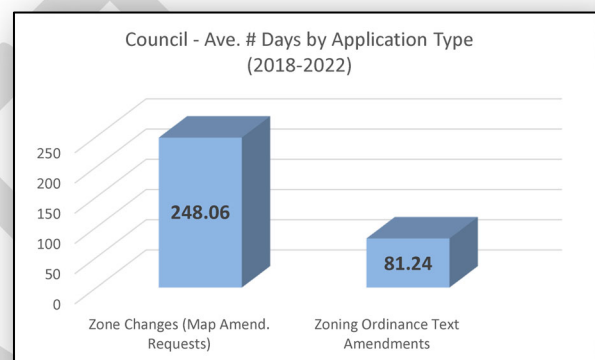
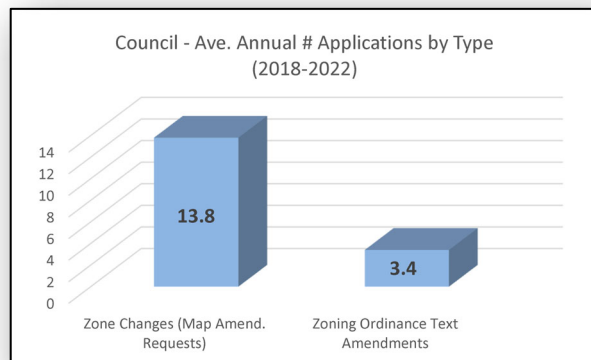
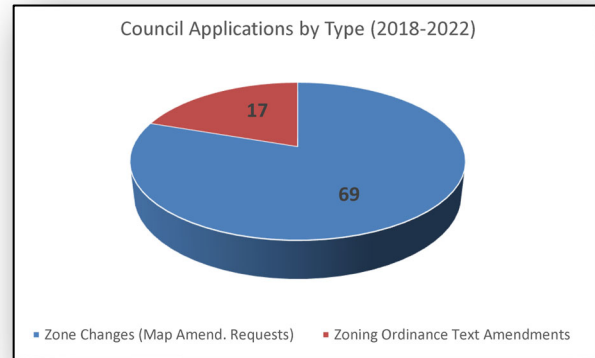
The LFUCG's Council decides on many more zoning changes than it does zoning ordinance text revisions:

#### Zone Change Requests

The Council decided on an average of nearly 14 zone changes annually during the past five years. The average number of days per application was 248.

#### Zoning Ordinance Text Amendments (ZOTA)

The Council decided on an average of only 3.4 ZOTA applications annually during the past five years. The average duration per application was about 81 days.

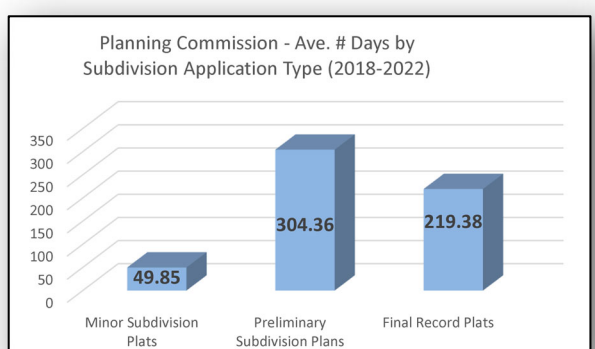
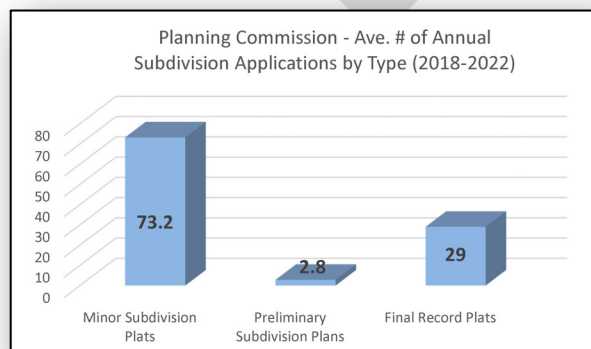
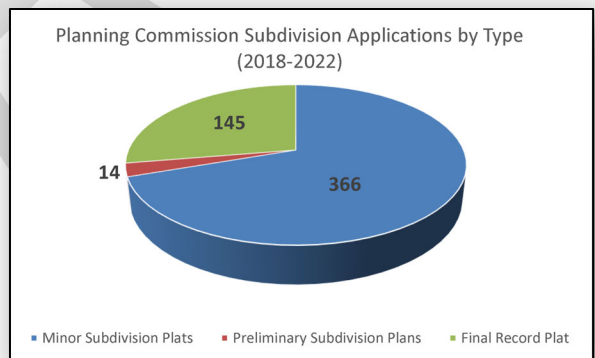


### Planning Commission Approvals

The Planning Commission decides on subdivisions involving waivers and agricultural land. Others are handled by the Technical Review Committee (TRC), which comprises the majority of applications:

#### Subdivisions

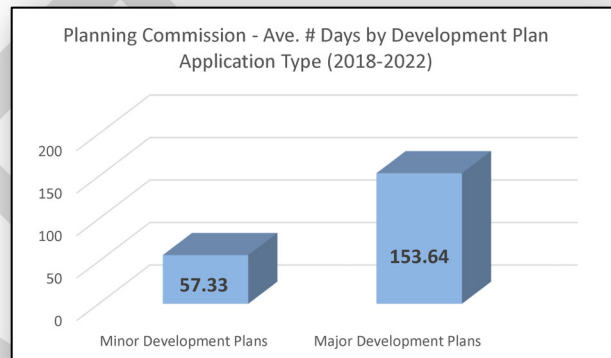
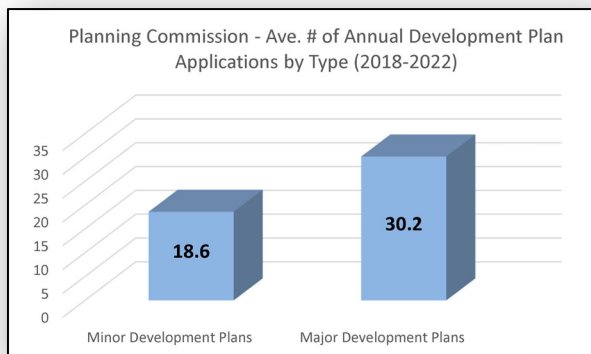
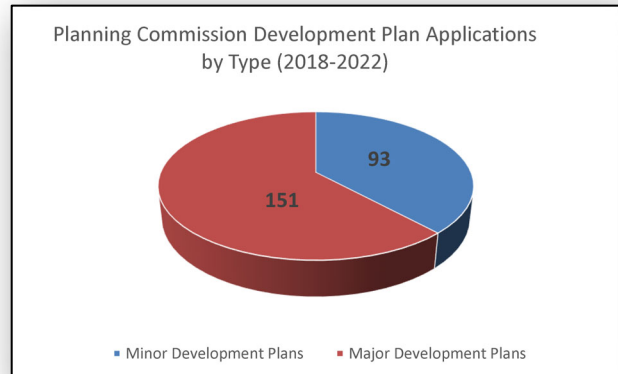
The Planning Commission or TRC decided on an average of just under 3 preliminary subdivision plans and 29 final record plats annually during the past five years. The average duration to the Certification stage was 304 days for preliminary subdivision plans and 219 for final record plats.





### Development Plans

The Planning Commission (PC) decides on major development plans, while most of the minor development plans are decided on by staff (Director signs off on behalf of the PC chair). Over the past five years, 93 minor development plans and 151 major development plans have been processed. Those figures translate into an average of 18.6 minor development plans and 30.2 major development plans annually. The average number of days for minor development plan applications is 57 days and 154 days for major development plans.



### Board of Adjustment Approvals

#### Variances

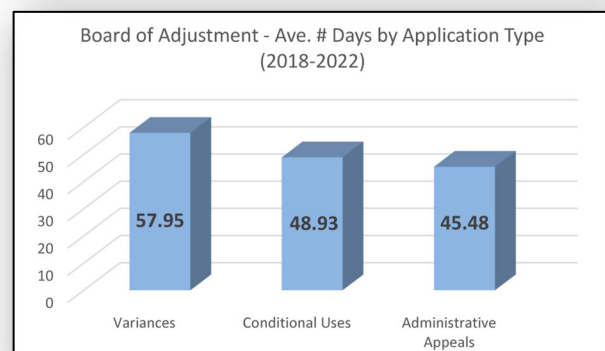
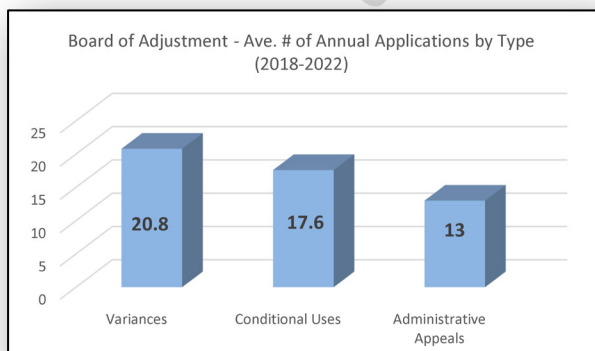
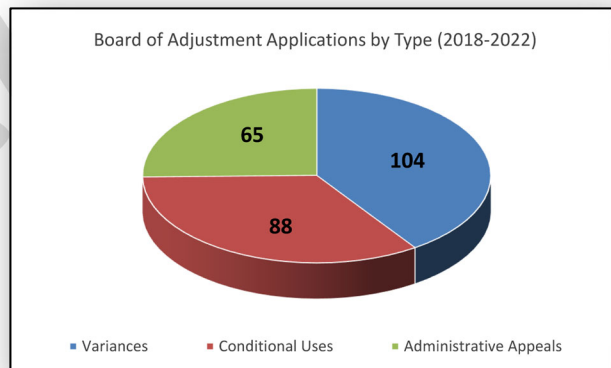
Over the last five years, most BOJ applications have been for variances (104). The average annual applications have been nearly 21 variances.

#### Conditional Use

This application type occurs an average of 18 times annually and takes an average of 49 days to play out.

#### Administrative Appeals

This application type occurs an average of 13 times annually and takes an average of 45 days to play out.



## E. CONCLUSIONS

The LFUCG's land use and development policies must exist within a range of parameters, including the Urban Services Area (USA) that was designated in 1958 and the Commonwealth's various statutes related to land use and development. Departments most involved with the land use and development process include the Division of Planning, the Division of Engineering, and Building Inspection, while the primary review and approval bodies are the Planning Commission, the Board of Adjustment, and the Urban County Council. However, there are also dozens of other commissions and committees involved with the approval process. In addition to the USA, there are other areas of designation, including the Rural Service Area, the Expansion Areas, Small Area Plan areas, and the Infill and Redevelopment Area located most centrally to Lexington. The primary application types include: Zone Change Requests and Zoning Ordinance Text Amendments decided upon by the Urban County Council; Subdivisions and Development Plans decided upon by the Planning Commission; and Variances, Conditional Uses and Administrative Appeals decided upon by the Board of Adjustment. While the review and approval processes generally tend to be relatively complex, the LFUCG has done an excellent job of creating tools such as the Development Handbook (see cover at right) to help navigate applicants through the process.



## **SECTION 2**

# **STAKEHOLDER INPUT RESULTS**

## A. STAKEHOLDER INPUT PROCESS

Stakeholder input was an important component throughout the life of this project, including the Consultant Team's presentation of key findings and recommendations, which included an open discussion after the presentations. However, stakeholder input was a primary focus during the early stages of the project and included the following:

### Stakeholder Kick-Off Meeting

Conducted on February 16, 2023, the week before the Consultant Team's first trip to Lexington, this videoconference meeting started with a presentation by the Consultant Team to address the following:

- Introduction of Consultant Team members and key LFUCG officials
- Description of the project intent and process
- Overview of initial findings by the Consultant Team

Following the brief presentation, a discussion was held with meeting participants.

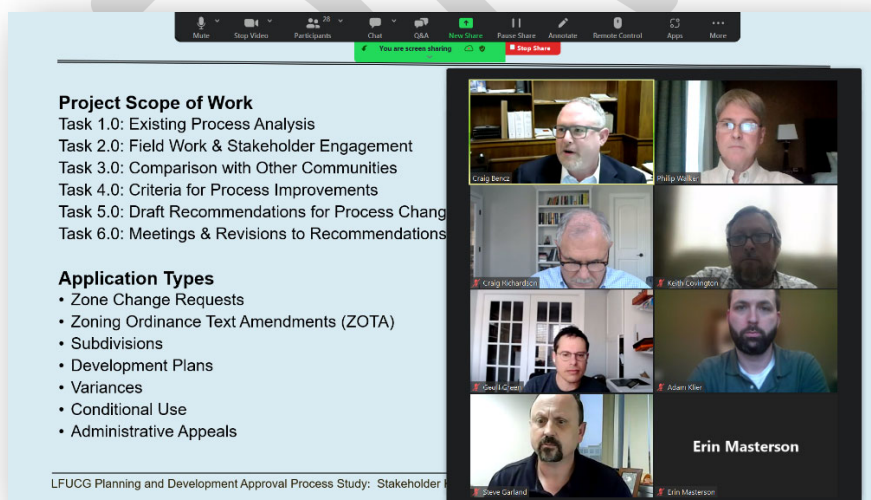
### Stakeholder Focus Group Meetings

Six (6) meetings occurred on February 21-22, 2023. Each meeting included up to ten (10) participants and lasted between one (1) and one-and-a-half (1.5) hours. Groups included the following:

- Land owners, developers and builders
- Planners and designers (engineers, architects, landscape architects, etc.)
- Land use attorneys and real estate professionals (brokers, sales agents, leasing agents, etc.)
- Neighborhood representatives
- Conservationists and historic preservationists
- Public officials

### Key Person Interviews

Consultant Team members also met with key stakeholders via telephone and/or videoconference following the initial trip to Lexington. These meetings were conducted with people who were not available during the trip or who warranted a more focused meeting to address their particular issues and concerns.



*The Stakeholder Kick-Off Meeting for this project was held on February 16, 2023. Conducted through videoconferencing, it included 28 participants.*

## B. THEME-BASED INPUT RESULTS

The synthesized comments from all stakeholder input are presented below. The input is organized by topics rather than by groups. Therefore, under any single topic, two or more comments may be contradictory due to differing perspectives from the diverse stakeholders. Some context and analysis is included where necessary to understand a comment. *The bulleted comments below reflect the consultant team's understanding of stakeholder perspectives and are not necessarily consistent with how the LFUCG approval processes actually operate or the ultimate recommendations of this report.*

### Transparency & Public Input

Much of the review and approvals process are intended to provide public oversight and input regarding development impacts on the broader community. Transparency and opportunities for input from community members is a critical component of that system.

*Comments from the broader community stakeholders included the following:*

- Decision making bodies are not representative. There are no requirements that all districts be represented. Members tend to be wealthy and/or professionals, and other socio-economics are not well represented.
- The public is not included in the process until the hearing. By then, many decisions have been made at Technical Review Committee (TRC) meetings or decision-making body members have made their minds up at a working session. Consequently, public comment input can seem to be futile.
- Agendas are sent out at the last minute and project changes are made after the agenda is released. Community members who come with comments prepared are surprised and feel frustrated.
- Most sub-committee meetings and work sessions are closed to public comment and are not recorded, much less made publicly available.
- The times of day for public hearings are difficult for the general public. Working group and sub-committee times are practically impossible. More suitable meeting times are needed. Better times would include the first thing in the morning or at the end of the workday for working and subcommittees, and evening times for true public hearings. Alternative methods of soliciting input should also be considered, such as pre-recorded statements at designated booths leading up to a public meeting.
- Public commentators are limited to 3 minutes, limiting expression of opposition or concerns, while developers are given ample time to discuss details and nuance.
- Zoning Ordinance Text Amendment (ZOTA) proposals are released as legal, in-text amendments with no summary and intent statements, and they require no additional notification period for review. This approach makes important changes seem opaque and inaccessible to the public.
- One stakeholder indicated that it is difficult to know who is who during various committee meetings and to follow the process. However, it was later indicated that name tags are now used.
- It was indicated that all relevant plans for the various areas of the community should be available on the LFUCG's website. Similarly, it was also recommended that materials by CivicLex should be on the LFUCG's website, such as their "legislative map" and their 2022 Public Input Research report (although it is focused more on the Council's overall activities than on development approvals).
- There is a general sense that the public is being purposely excluded. For further comments on that topic, see the sub-section below under "Tri-Part Communication."

*The LFUCG staff had the following comments on the subject:*

- Moving meeting times presents two complications: it may deter volunteers who are spending their free time serving on a board or committee, and there are limited meeting spaces which can accommodate such gatherings.
- Public commentators are time-limited because giving every commentator as much time as they wish would significantly lengthen meetings.
- Public participation was higher when meetings were virtual during COVID. The LFUCG is open to expanding public participation for hybrid meetings with a virtual component where possible.

**Tri-Part Communications**

For projects to be successful and further the goals of the community, quality communication between developers, the community, and the LFUCG must occur. Many comments revolved around issues of communication and clarity of expectations, needs, and concerns by all three parties.

*Development community stakeholders had the following comments:*

- Staff are not merely enforcing the LFUCG's standards. They seem to want to design the development projects.
- Staff resolutely support any decision or demand made and will not hear developers' objections. Additionally, no arbiter exists to resolve internal conflicts.
- It is generally felt that to even engage in the application process, you need a lawyer.
- Community voices seem to oppose any development project and can easily "kill" a project. Some feel that the LFUCG does an ineffective job of managing community expectations around redevelopment and rezoning issues.
- Development teams sometimes do not receive staff reports until they arrive at the meeting/hearing, giving them no opportunity to address staff concerns.
- Community engagement is effectively (but not statutorily) required, but there is no guidance on what that should look like or how that should occur. LFUCG staff rarely attend these engagement events. [Note: The lack of guidance comment is inaccurate given the Division of Planning's publication entitled "The Public Engagement Toolkit" prepared in June of 2020]
- Community versus Planning/LFUCG conflicts are played out at the development applicant's expense.
- The LFUCG reportedly exaggerates the amount of developable land within the Urban Services Area (USA) as a way to convey that the USA is not an actual constraint on growth. This statement is based upon the types of properties that are considered undeveloped or underdeveloped, including parking lots and floodplains.

*Community representatives had the following comments:*

- The LFUCG is overly permissive for developer's interests.
- The process and "maples" code requires a "lawyer-based" style of permitting. The LFUCG's legal team is very risk-averse, which leads them to acquiesce with any developer who pushes back. [Note: "Maple" is a general purpose tool for math, data analysis, visualization, and programming. It contains thousands of specialized functions that span all areas of engineering]
- Limited opportunities for, and the restricted scope of, public comments leaves the community feeling uninvolved and unheard.
- Some stakeholders would like to see notifications to residents impacted by proposed Zoning Ordinance Text Amendments.
- Stakeholders should meet together in meetings with planning staff rather than separately.
- Short-term advertising of public hearings, last-minute changes to project applications, and limited early engagement opportunities leaves the public feeling surprised by projects, which breeds resentment.
- Community representatives want a clearer way for people to engage. Suggestions were offered: a public engagement toolkit to guide both developers and members of the public [Note: this already exists]; a citizens advocate who could closely follow a project; and for citizens to be given enough time at hearings to effectively voice their concerns.

*LFUCG staff had the following perspectives on communication:*

- Informal, pre-application meetings with developers help to guide projects before expensive work is put in, application fees are paid, and more formal processes begin. Pre-application meetings are only required for rezonings, but are encouraged for all projects. Not many prospective applicants take advantage (roughly 10%).
- Applicants use hearing postponements to exhaust public opposition.
- Roughly ten years ago there was an appointed Commissioner to coordinate among the various departments and divisions. They had weekly staff meetings, reducing the "silo effect" and improving communications, but that person left and was not replaced when a new administration came in.

**Design Oversight**

Starting in 2018, the LFUCG implemented the “Placebuilder” tool to help guide development standards in the City. It was a result of the updated Comprehensive Plan. A significant part of this model was the elimination of a Future Land Use Map (FLU) in favor of the Placebuilder tool. Over the course of the stakeholder meetings, it was made apparent that the Placebuilder is central to some of the issues raised by all parties.

*The development community offered the following perspectives:*

- The Placebuilder tool has empowered approval staff to seek project changes based on personal preference rather than objective policy.
- As staff changes, or depending on which staff member reviews a given project, the expectations for a project can change. This situation results in unpredictability, as well as added time and costs for projects.
- Developers feel they are “extorted” by staff into changes beyond the minimum requirements, which is then used to support staff-initiated ZOTAs, reenforcing those requests. Effectively, Placebuilder allows staff to advance standards prior to formal code changes.
- Any suggested flexibility is only in favor of the LFUCG and developers are not allowed the same flexibility.
- The lack of clear and objective standards has resulted in instances where internal staff disagreements between LFUCG departments over design priorities and preferences have been played out with the developer’s project stuck between conflicting staff requests. One example cited was when a collector street was being developed and the LFUCG’s civil engineer and bike/ped planner disagreed on the design. Similarly, the bike/ped planner prefers street trees to be planted between the curb and sidewalk, while the traffic department prefers them in the front yard.
- The complexity of the processes and ambiguity of expectations makes the process less accessible for smaller or one-time developers, as well as the general public.
- The LFUCG’s traffic engineer now requires a parking mitigation plan for some developments, which is often a debated topic and needs added clarity.
- It was stated that Placebuilder has caused attorney and engineer costs to double. Starting attorney costs are \$5,000-\$10,000, and engineering costs start at the \$10,000-\$20,000 range.
- Sometimes planning staff wants trees included in an existing tree survey (per tree preservation ordinance) that are not required based upon their species and/or caliper size.
- One complaint was the Scott County Aquifer Committee’s review of some projects. It was indicated that the LFUCG’s Division of Water Quality is better suited to address those issues within the LFUCG.
- It was indicated that the area has a “vocal minority” of people who are generally against growth. They typically want to see increased environmental protections and better aesthetics in development.
- The idea of the LFUCG hiring an ombudsman to walk applications through the approval process was discussed. It was concluded that such a person should not be part of the Planning Division so that they could have some autonomy and authority. In fact, this idea was attempted a few years ago specifically for infill development, but because the person was part of the Planning Division, the approach was ineffective.

*Community representatives made the following comment:*

- Review and approval bodies, such as the Planning Commission, should include professionals with relevant expertise rather than only laypeople. Examples might include architects, engineers, landscape architects, environmentalists, preservationists, and similar disciplines.

*LFUCG staff had the following comments:*

- In the past, planning staff observed that the FLU map and zone-based development standards were too prescriptive and inflexible. Applicants or opponents would point to the map or minimum standards and use them to their own advantage.
- Placebuilder allows for design that is more context-sensitive and furthers the Comprehensive Plan.
- Placebuilder has resulted in better project outcomes. This statement was made several times by staff.
- As design and development considerations have been explored through the Placebuilder process, development regulations have been put into place to provide clarity moving forward.



- Most out-of-town developers are fine with the LFUCG's development requirements because they are used to equally demanding or even more demanding requirements in other states and communities.

### **Accela & Review Comments**

Accela is an approvals processing software used by the LFUCG to coordinate project approvals across departments, as well as with applicants. The intent is that all comments, updates, and approval activities take place within the portal so that all parties with access can see changes in real time. There were a number of comments voiced regarding this software and its use.

*Development community members indicated the following:*

- There is no system of notification currently available via Accela. New comments and activity on a given project can often be overlooked. Reviewers may need to be prompted by applicants. Applicants sometimes miss that their input or actions are needed. All of this leads to slower permitting, costly delays and miscommunications.
- Project metadata (applicant, owner, developer, etc.) is entered inconsistently, making searching projects, locating a specific project, and cataloging more difficult.
- Initial project commentors do not always follow along with a project. In some cases, a comment is addressed in one way prior to approval, such as at the Technical Review Committee (TRC) meeting. However, when seeking certification, the original commentor will reappear, holding up the project until the comment is addressed to their satisfaction.
- Review staff will often place boiler-plate comments on every project, regardless of the comment's applicability. Such comments are often anticipated, so designs are prepared accordingly prior to submission.
- Review staff will sometimes write a comment requiring action or compliance regarding subjects outside of their specific area of review and/or expertise.
- LFUCG staff do not coordinate prior to TRC meetings.
- Despite the Accela electronic review software/process, physical "hard" copies of plans are still required.

*Public community members had the following comments:*

- Accela is not accessible to the broader public, making it difficult for them to follow along with a project of interest.

*LFUCG staff had the following observation:*

- The existing development regulations indicate that all standards are minimum standards and it can be required that those standards be exceeded when necessary.

### **Rezoning**

The rezoning application process was specifically mentioned by all parties. While other comments cited here address all application types broadly, the following comments are specific to the rezoning process.

*The development community had the following comments:*

- Pre-application meetings are required for rezonings. It was stated that Louisville's pre-application process works better than the LFUCG's. It was also stated that Louisville assigns a case manager to help walk each application through the approval process (it was unclear, but that may apply to more than only rezonings).
- While preliminary development plans are a required exhibit for rezoning applications, staff expects a nearly final development plan.
- The LFUCG does not require that applicants for rezonings meet with neighbors, but some communities do.
- The staff often recommends postponements of approvals when they are uncomfortable with some design issue.
- There are many un-written use restrictions in the rezoning process. This includes heritage use restrictions tied to specific parcels, which requires costly legal research to uncover.
- With no FLU map, developers are unclear as to what zones the City is receptive to for any given property or even for a broader area.
- During the rezoning process, staff seem more interested in design and amenities than the property's proposed use. While intended development may be a relevant part of the context, design and amenities should not affect decisions on permitted land uses.

- If limiting future expansions of the Urban Services Boundary (USB) is the desired paradigm for the LFUCG, the rezoning process (and development approvals in general) needs to better facilitate redevelopment.

*Community representatives had the following comments:*

- Per state laws, Council members cannot legally discuss rezonings with their constituents since it is a quasi-judicial process. However, it was indicated that Louisville's approach is useful, which is to allow comments to be submitted online.
- When a rezoning case goes to the Planning Commission and Urban County Council, written comments about the application, both pro and con, should be posted on the LFUCG website accessible to the public.

*LFUCG staff offered the following comments:*

- An FLU map is too prescriptive. Both applicants and community members will cling to the FLU as sacred rather than entertaining alternative creative solutions.
- Architectural design is not a consideration for rezoning. In fact, the Planning Commission and Council have prohibited architectural renderings from being used as exhibits for their hearings.

### **Project Certification**

After Planning Commission (PC) approval, but prior to initiating construction, development plans must be certified by LFUCG staff. That final step can be lengthy and involve various changes relative to the approved plans.

*Members of the development community cited this step as creating major complications and frustrations, including the following comments:*

- Minor adjustments, such as siting an interior wall a foot or two off from approved plans, are treated as major changes requiring reapproval.
- One person estimated that roughly 90% of the challenges they face in finalizing their projects occurs after the approval process and during certification.
- Another stakeholder cited one of their projects that was in the fifth month of the certification process. It was stated that the process is theoretically supposed to take only two weeks.
- Staff members often take longer than the mandated timeframe to examine plans for certification.
- In some cases, staff use certification delays as leverage to exact subjective preferences in design and amenities beyond the required minimums.
- There is a one-year time limit for certifications, at which point it goes back to the Planning Commission.
- The certification process is used as an opportunity to rehash previously settled issues.
- Each sign-off should not require the involvement of a committee. It should be made by individual staff members.
- Staff members who submitted a comment early in the review process, which are addressed through the approvals process, hold up certification until their comment has been addressed to their satisfaction.
- Plans are expected to retroactively conform to updated regulations that were changed after plan submissions/approvals.
- For issues during the certification process regarding the *Accela* software, refer to the sub-section entitled "Accela & Review Comments."
- For issues regarding perceived subjectivity of expectations, see the sub-section entitled "Design Oversight."
- It was noted that the Planning Director and Engineer have the same level of authority, so that results in limitations to the Planning Director's leverage when disagreements between departments arise.

*LFUCG staff offered the following comments:*

- Certification is the outcome of the process when the conditions of approval are satisfied.
- Many of the certification delays are due to miscommunications and misunderstandings of (or outright disregard for) project expectations.
- If applicants feel that the staff are in the wrong, the recourse is to bring the project back to the PC.

**Bonding & Inspections**

Bonding the infrastructure of a project for both performance and warranty is a standard practice that allows municipalities to ensure that it is constructed to the correct specifications and so any needed repair costs are recuperated by the municipality.

*The LFUCG's specifications, inspections, and required bonding prompted the following comments from the development community:*

- The bond amounts are significantly higher than in other communities because they are based on unit price contracts rather than allowing the project to bond based on competitive bids.
- Bonds for some types of infrastructure, such as sanitary sewers, are required to be held for three years, when one-and-a-half years is more standard in other communities. Another inspection is required at the end of that three-year period.
- An alternative to timeframes suggested was to release increments of bonds based upon the percentage of houses built within a given subdivision.
- The release of bonds can be difficult because third-party inspectors are used, but LFUCG engineers need to accept their inspection. Minor defects can hold a bond for much longer than the otherwise required term.
- One complaint was that applicants have to hire the third-party inspectors.
- Traditional field inspections are still required despite the availability of new technology (video, sensors, etc.) that makes it easier to detect issues.
- The amount and duration of bonding increases the costs of development, which can be a barrier to market entry. One stakeholder shared that, despite operating in a broad region in multiple cities larger than Lexington, 45% of their bonded amounts were tied up in Lexington.

*The LFUCG staff had the following comment regarding bonding:*

- The warranty system is intended to allow construction to occur while permitting and certification processes are ongoing.

## **SECTION 3**

### **APPROACH BY OTHER COMMUNITIES**

## A. PURPOSE & METHODOLOGY

This portion of Section 3 addresses the purpose for studying peer communities regarding their land use and development approval processes, as well as the methodology employed to achieve that work.

### Purpose

The purpose of understanding what other communities do is to see how the LFUCG compares to them, and to potentially identify ideas for improving the process in Lexington. The original thinking was to split the comparisons into two different categories of communities, with three communities to be studied in each category:

- *Comparable Communities* - those that have many similarities to Lexington and Fayette County based upon their various existing conditions.
- *Model Communities* - those that Lexington and Fayette County might aspire to emulate.

However, this approach was ultimately abandoned for a few reasons. Most importantly, there really are no comparable communities to Lexington and Fayette County considering the horse farms, the Urban Service Area, and other unique characteristics. Also, there is no single community to be emulated. Instead, it was determined that it makes more sense for the LFUCG to consider adapting the best aspects of multiple communities, but only in a manner that retains Lexington and Fayette County's unique qualities. Thus, this part of the project was adjusted to think in terms of "peer communities" rather than comparable or model communities, which are less applicable.

### Methodology

The first step was to identify some of the primary characteristics of Lexington and Fayette County, including its location, the University of Kentucky, its reputation for high-quality planning, and the general population size. The population of Lexington and Fayette County is approximately 325,000, while the Metropolitan Statistical Area (MSA) is approximately 750,000. Next, a list of roughly a dozen communities having some similar characteristics were identified, including one or more of the following characteristics:

- Location in the South
- MSA ranging between 500,000 and 1,500,000
- Home to a major university
- Reputation for high-quality city planning

It was considered unnecessary for every community selected to meet each of those four considerations, but they should meet most of them. After considering several options, the following communities were selected for study:

- |                   |                  |                  |
|-------------------|------------------|------------------|
| • Chattanooga, TN | • Greenville, SC | • Louisville, KY |
| • Columbia, SC    | • Knoxville, TN  | • Madison, WI    |

Once a list was developed of the types of information needed from each peer community, that information was obtained. Much of it was available online via the internet. After the most basic information was assembled, interviews were conducted with planning staff from each community to achieve a deeper understanding of their approval processes, including the strengths and weaknesses of those processes.

## B. SAMPLE APPROVAL PROCESSES

It was originally planned that the approval processes for each of the six studied communities would be described in this report for each of the most fundamental application types. However, it was quickly realized that the processes for each of the communities was extremely similar, and often identical. Thus, providing many pages of that information for each community would have achieved little and would, in fact, dilute and distract from the more significant and useful information. Consequently, it was decided that a single good example community – Columbia, South Carolina - would be used as the model. Not only does it have several of prerequisite characteristics in common with Lexington, but a team member of this project's consultant team recently prepared Columbia's codes, which can help to provide insights into their processes. The next few pages provide an overview of Columbia's approval processes.

### Text Amendments

Amendments to the Zoning Ordinance

*Reviewing/Approving Body:* Planning Commission recommendation and City Council decision

#### Primary Steps of the Process

- Application submission
- Determination of application completeness
- Staff review and action
- Scheduling of public hearing and public notification
- Planning Commission review and recommendation
- City Council hearing, review, and decision
- Notification to applicant of decision
- Appeal (optional)

### Rezoning

Referred to as "Zoning Map Amendments," below is a summary of that application type.

*Reviewing/Approving Body:* Planning Commission recommendation and City Council decision

#### Primary Steps of the Process

- Pre-application conference (some exceptions)
- Application submission
- Determination of application completeness
- Staff review and action
- Scheduling of public hearing and public notification
- Planning Commission review and recommendation
- City Council hearing, review, and decision
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(b): Summary of Text Amendment Procedure

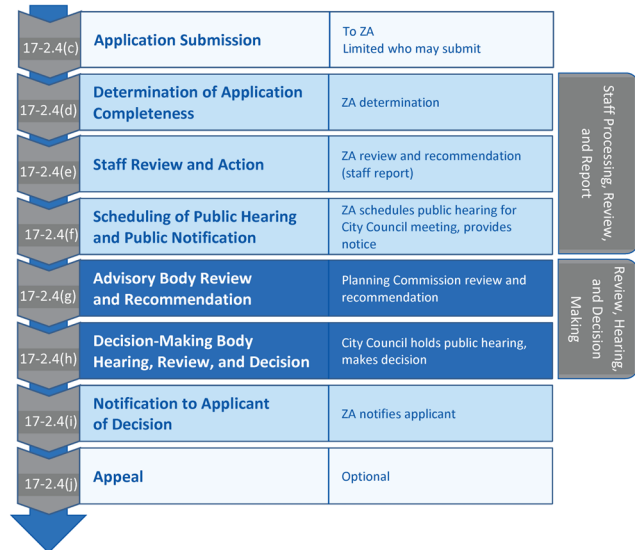
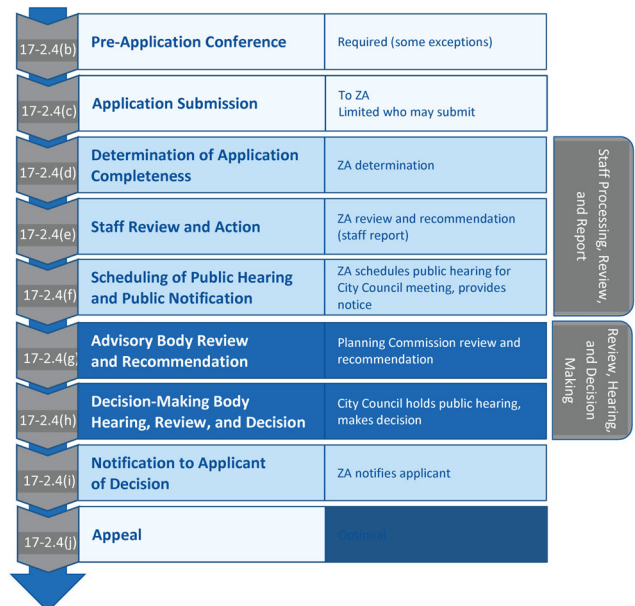


Figure 17-2.5(c): Summary of Zoning Map Amendment Procedure



### Planned Development Zoning

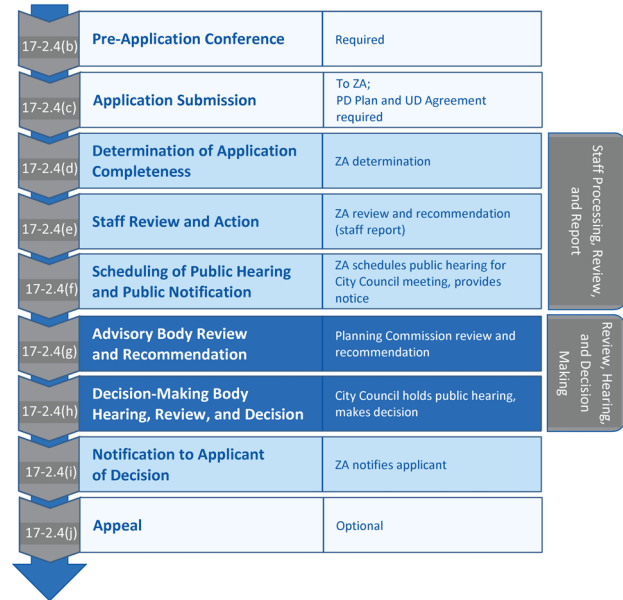
Referred to as “Planned Unit Developments (PUDs) in many communities.

*Reviewing/Approving Body:* Planning Commission recommendation and City Council decision

#### Primary Steps of the Process

- Pre-application conference
- Application submission
- Determination of application completeness
- Staff review and action
- Scheduling of public hearing and public notification
- Planning Commission review and recommendation
- City Council hearing, review, and decision
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(d): Summary of Planned Development Zoning Procedure



### Subdivisions

There are two types of Subdivision applications: Minor and Major. Minor Subdivisions entail all lots fronting on an existing street that does not involve the platting, construction, opening, or extension of:

- New streets
- Improvements to existing streets
- Water or sewer facilities
- Storm drainage systems, or
- Other supporting governmental or private utilities

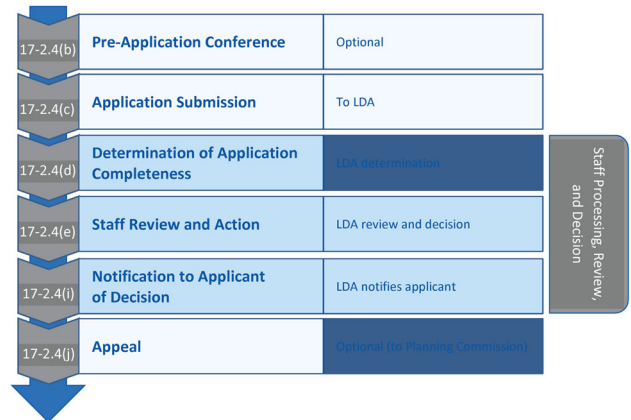
#### Minor Subdivisions

*Reviewing/Approving Body:* Planning staff

#### Primary Steps of the Process

- Pre-application conference (optional)
- Application submission
- Determination of application completeness
- Staff review and action
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(j)(4): Summary of Final Plat (Minor Subdivision) Procedure





Major Subdivisions consist of three distinct phases, as described below.

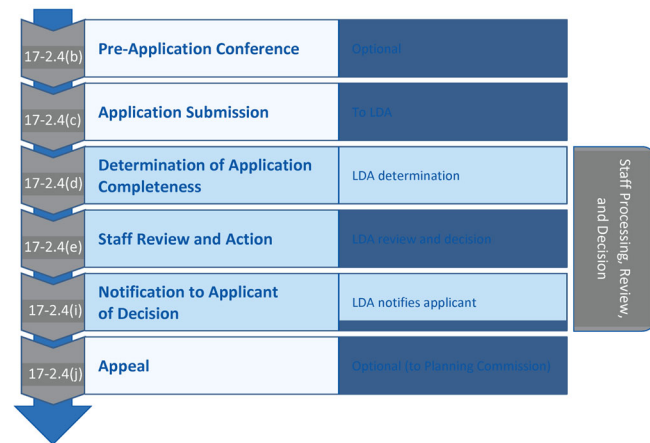
### Major Subdivisions: Sketch Plan Phase

*Reviewing/Approving Body:* Planning staff

#### Primary Steps of the Process

- Pre-application conference
- Application submission
- Determination of application completeness
- Staff review and action
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(j)(5)a: Summary of Sketch Plan Procedure



### Major Subdivisions: Preliminary Plat Phase

*Reviewing/Approving Body:* Planning Commission

#### Primary Steps of the Process

- Pre-application conference
- Application submission
- Determination of application completeness
- Staff review and action
- Planning Commission hearing, review and decision
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(j)(5)b: Summary of Preliminary Plat Procedure



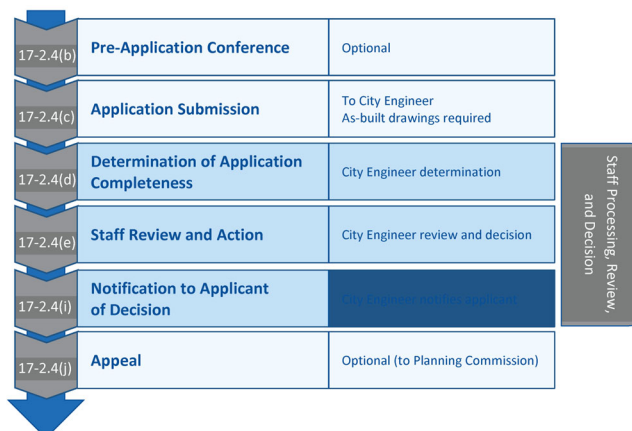
### Major Subdivisions: Final Plat Phase

*Reviewing/Approving Body:* City Engineer

#### Primary Steps of the Process

- Pre-application conference (optional)
- Application submission
- Determination of application completeness
- Staff review and action
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(j)(5)c: Summary of Final Plat (Major Subdivision) Procedure



### Site Plans

There are two types of Site Plan applications: Minor and Major. Minor Site Plans meet the following criteria:

- Involve accessory uses and structures
- Multi-family development with 25 or fewer units
- Non-residential development with less than 100,000 sq. ft.

#### Minor Site Plans

*Reviewing/Approving Body:* Planning staff

#### Primary Steps of the Process

- Pre-application conference
- Application submission
- Determination of application completeness
- Staff review and action
- Notification to applicant of decision
- Appeal (optional – Planning Commission)

**Major Site Plans:** Any Site Plan that is not exempted, and is not a Minor Site Plan

*Reviewing/Approving Body:*  
Planning Commission

#### Primary Steps of the Process

- Pre-application conference
- Application submission
- Determination of application completeness
- Staff review and action
- Planning Commission hearing, review and decision
- Notification to applicant of decision
- Appeal (optional)

### Conditional Uses

*Reviewing/Approving Body:*  
Zoning Administrator

#### Primary Steps of the Process

- Pre-application conference (optional)
- Application submission
- Determination of application completeness
- Staff review and action
- Notification to applicant of decision
- Appeal (optional)

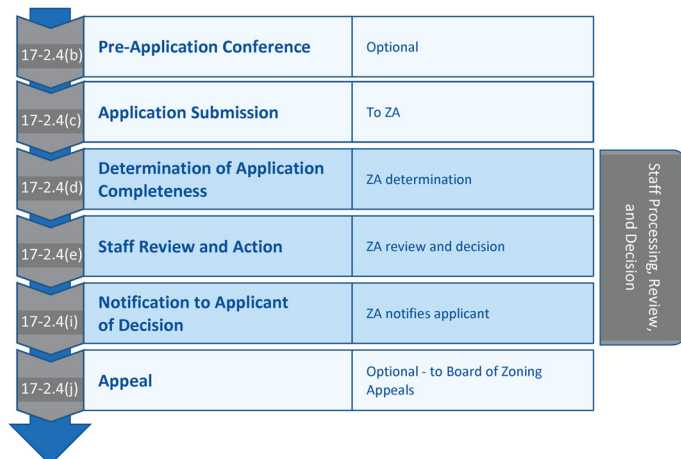
Figure 17-2.5(i)(4): Summary of Site Plan (Minor) Procedure



Figure 17-2.5(i)(5): Summary of Site Plan (Major) Procedure



Figure 17-2.5(l): Summary of Conditional Use Permit Procedure



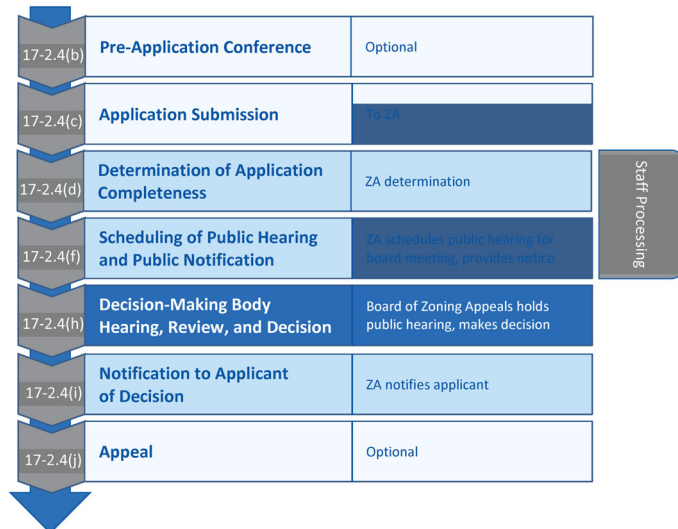
### Special Exceptions

*Reviewing/Approving Body:*  
Board of Zoning Appeals

#### Primary Steps of the Process

- Pre-application conference (optional)
- Application submission
- Determination of application completeness
- Scheduling of public hearing and public notification
- BZA review and recommendation
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(e): Summary of Special Exception Permit Procedure



### Administrative Adjustments

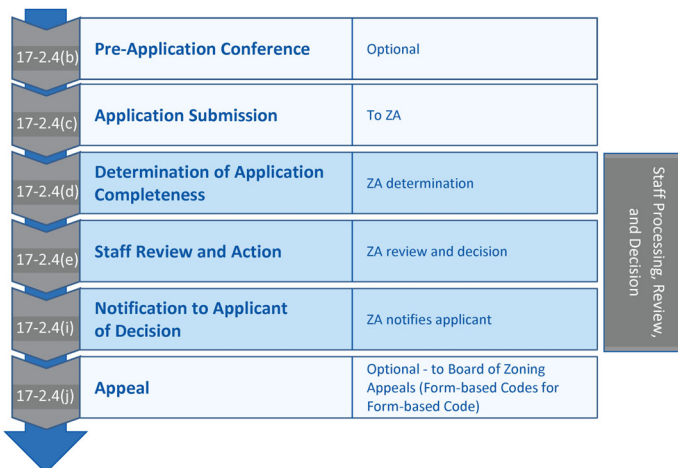
This procedure is to allow the Zoning Administrator to approve minor deviations from the dimensional or design standards of the Ordinance in specific circumstances.

*Reviewing/Approving Body:*  
Zoning Administrator

#### Primary Steps of the Process

- Pre-application conference (optional)
- Application submission
- Determination of application completeness
- Staff review and action
- Notification to applicant of decision
- Appeal (optional – BZA)

Figure 17-2.5(r): Summary of Administrative Adjustment Procedure



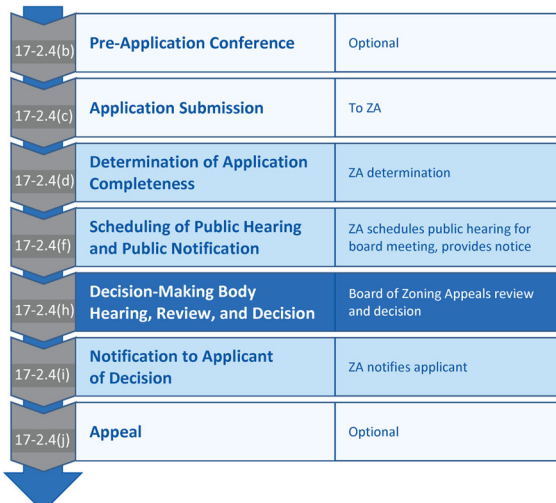
### Variances

*Reviewing/Approving Body:*  
Board of Zoning Appeals

#### Primary Steps of the Process

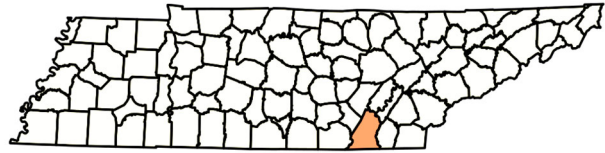
- Pre-application conference (optional)
- Application submission
- Determination of application completeness
- Scheduling of public hearing and public notification
- BZA hearing, review, and decision
- Notification to applicant of decision
- Appeal (optional)

Figure 17-2.5(s): Summary of Variance – Zoning Procedure



## C. PEER COMMUNITIES OVERVIEW

### CHATTANOOGA, TENNESSEE



#### General Characteristics

##### Location

Hamilton County – Southeast Tennessee

##### Population

- Current Population – Municipal: 182,113 / County: 369,135 / MSA: 574,407
- Population Growth in Last Decade – Municipal: 8% / County: 9.5% / MSA: 8.8%

##### Major Community Anchors/Factors

- Hamilton County seat
- Located on the Tennessee River
- Direct interstate access (I-24 & I-75)
- University of Tennessee at Chattanooga (11,283 enrollment)
- National reputation as a “come-back” city from environmental and economic challenges

#### Structure of Local Government

The City has a strong mayor form of government (the mayor functions as the chief administrator in charge of all City departments).

##### Review and/or Approval Bodies

- *City Council*: 9 members, each representing a district and serving 4-year terms.
- *Regional Planning Commission*: 15 members serving 4-year terms. Its stated role is “to make zoning and land use recommendations to the local legislative bodies and to make final decisions on subdivision requests for Hamilton County and all municipal governments” (except five).
- *Board of Zoning Appeals*: 9 members serving 3-year terms. Described as being “for variances and special permits, [it] has the power to make special exceptions to the zoning regulations in the following areas: Appeals from property owners on decisions or action by an administrative official in the enforcement of the Zoning Ordinance (setbacks, landscape, parking and building height), Interpretation of Zoning Maps; Review Conditional and other Special Permits; Hear appeals from applicants aggrieved in any decision of the Downtown Residential / Mixed Use District Review.”
- *Other Relevant Bodies*: Historic Zoning Commission, Stormwater Regulations Board, Tree Commission, Wastewater Regulations & Appeals Board, Community Advisory Committees (10), and Form-Based Code Committee.

##### Most Relevant Departments

- *Department of City Planning*: includes the Regional Planning Agency, Strategic Capital Planning, and Office of Sustainability
- *Department of Public Works*: among the seven units are the Land Development Office, Division of Transportation, GIS & Engineering, and Stormwater Division.
- *Department of Community Development*: among the four divisions is Code Enforcement.

Key Staff Contacts

- Regional Planning Commission Staff Manager: Dan Reuter - dreuter@chattanooga.gov - (423) 643-5900

**Key Statistics by Application Type**

Below is a summary of the average number of annual applications and amount of time required for approval for each application type.

Text Amendments\*

- Average annual applications: 2
- Average days for approval: 30

Rezoning\*

- Average annual applications: 150
- Average days for approval: 90

Planned Development Zoning\*

- Average annual applications: 5
- Average days for approval: 90

Subdivisions – Minor\*

- Average annual applications: 228
- Average days for approval: 10

Subdivisions – Major\*

- Average annual applications: 27
- Average days for approval: 45

Site Plans\*\*

- Average annual applications: Info. unavailable
- Average days for approval: Info. unavailable

Variances\*\*

- Average annual applications: Info. unavailable
- Average days for approval: Info. unavailable

Conditional Uses\*\*

- Average annual applications: Info. unavailable
- Average days for approval: Info. unavailable

**Additional Information**

- Does the community have a designated growth boundary or urban service area that restricts growth? *No*
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance? *No, their comprehensive plan is based on intensity levels, but they have Areas Plans that designate place types (so “yes”).*
- How extensive is the community’s use of committees to review development applications? *Their Form-Based Code Committee is the only significant committee and they only review Downtown applications.*
- Once an application is approved, how much leeway does staff have to adjust the approval requirements? *Info. unavailable*
- Does the community have any sort of ombudsman to help developers through the approval process? *No, but the idea has been discussed.*



*No single graphic could be found to summarize their overall approval processes, but this chart lists the process for one sample application type – subdivisions.*

Administrative Appeals\*\*

- Average annual applications: Info. unavailable
- Average days for approval: Info. unavailable

\* Approved by the Regional Planning Agency (RPA)

\*\*Approved by the City’s Land Development Office



**COLUMBIA, SOUTH CAROLINA****General Characteristics**Location

Richland County – Central South Carolina (“Midlands Region”)

Population

- Current Population – Municipal: 136,632 / County: 418,307 / MSA: 829,470
- Population Growth in Last Decade – Municipal: 8.4% / County: 8.4% / MSA: 15.5%

Major Community Anchors/Factors

- State Capitol and Richland County seat
- University of South Carolina (35,000 enrollment)
- Direct interstate access (I-20, I-26 & I-77)

**Structure of Local Government**

The City has a council-manager form of government (although the Mayor has the authority to veto draft ordinances, which is unusual for this form of government)

Review and/or Approval Bodies

- *City Council*: 6 members (4 representing districts and 2 at-large) serving 4-year terms.
- *Planning Commission*: 9 members. Its stated powers include: (a) Prepare and revise periodically plans and programs for the development, redevelopment, and regeneration of the City as provided in this chapter. (b) Prepare and recommend for adoption to the appropriate governing authority or authorities as a means for implementing the plans and programs in the City. They also review and decide on the following types of applications: Major Site Plans, Major Subdivisions, Preliminary Plats, Street or road name changes, Variances tied to Subdivisions, and Appeals from decisions of the Land Development Administrator or the City Engineer.
- *Board of Zoning Appeals*: 7 members serving no more than two 3-year terms. They decide on applications for Variances, Special Exceptions and Administrative Appeals.
- *Design/Development Review Commission*: It reviews and approves work proposed within the City’s historic districts, urban design areas, and upon designated landmarks.
- *Other Relevant Bodies*: Building Board of Adjustment & Appeals, Board of Zoning Appeals - Form Based Code.

Most Relevant Departments

- *Planning & Development Services*: includes four divisions – Development Review & Permitting, Building Inspections, Planning, and Land Development & Zoning.
- *Department of Public Works*: addresses streets and traffic control.
- *Department of Community Development*: primary focus is housing, neighborhoods, and economic development.

Key Staff Contact

- Planning Administrator / Principal Planner / Urban Design Planner: Lucinda Statler, AICP - Lucinda.Statler@ColumbiaSC.gov – (803) 545-0229

**Key Statistics by Application Type**

Below is a summary of the average number of annual applications and amount of time required for approval for each application type.

**Text Amendments**

- Average annual applications: 5.7
- Average days for approval: 90

**Rezoning**

- Average annual applications: 13.3
- Average days for approval: 90

**Planned Developments**

- Average annual applications: .2
- Average days for approval: 90

**Subdivisions - Minor**

- Average annual applications: 72
- Average days for approval: 15

**Subdivisions - Major**

- Average annual applications: 10
- Average days for approval: 105

**Site Plans\*\***

- Average annual applications: 15.6
- Average days for approval: 40

**Variances**

- Average annual applications: 16
- Average days for approval: 30

**Conditional Uses\*\*\***

- Average annual applications: 28
- Average days for approval: 30

**Administrative Appeals**

- Average annual applications: .2
- Average days for approval: 30

**Additional Information**

- Does the community have a designated growth boundary or urban service area that restricts growth? *No*
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance? *Yes*
- How extensive is the community's use of committees to review development applications? *They have a Development Review Team similar to the LFUCG's TRC, but that is the only committee.*
- Once an application is approved, how much leeway does staff have to adjust the approval requirements? *None*
- Does the community have any sort of ombudsman to help developers through the approval process? *Yes*

TABLE 17-2.2: SUMMARY OF DEVELOPMENT REVIEW RESPONSIBILITIES									
	D = DECISION	R = RECOMMENDATION	A = APPEAL	<D> = PUBLIC HEARING					
APPLICATION TYPE	CITY COUNCIL	PLANNING COMMISSION	BOARD OF ZONING APPEALS	BOARD OF ZONING APPEALS - FORM-BASED CODES	DESIGN DEVELOPMENT REVIEW COMMISSION	ZONING ADMINISTRATOR	LAND DEVELOPMENT ADMINISTRATOR	CITY ENGINEER	SITE PLAN REVIEW TEAM
<b>DISCRETIONARY APPROVALS</b>									
Text Amendment	<D>	R				R			
Zoning Map Amendment	<D>	R			R[1]	R			
Planned Development	<D>	R				R			
Special Exception Permit			<D>						
Development Agreement	<D>	<R>							
<b>HISTORIC PROPERTIES AND ARCHITECTURAL REVIEW</b>									
Certificate of Design Approval – Historic Districts and Landmarks									
Minor					<A>	D			
Major					<D>	R			
Certificate of Design Approval – Design Districts									
Minor					<A>	D			
Major					<D>	R			
Bailey Bill					<D>				
<b>LAND DEVELOPMENT</b>									
Site Plan									
Minor		A					D		R
Major		D							R
Subdivision									
Minor Subdivision – Final Plat		A					D		
Major Subdivision									
Sketch Plan		A					D		
Preliminary Plat		D					R		R
Final Plat		A						D	
Street or Road Name Change		<D>					R		
<b>PERMITS</b>									
Conditional Use Permit			<A>			D			
Tree Removal Permit			<A>			D			
Forestry Permit			<A>			D			
Sign Permit			<A>			D			
Temporary Use Permit			<A>			D			
Zoning Permit			<A>			D			
<b>RELIEF</b>									
Administrative Adjustment			<A>			D			
Variance – Zoning			<D>	<D>[2]					
Variance – Land Development (Subdivision and Site Plan)		<D>							
Appeal – Zoning			<A>	<A>[3]					
Appeal – Land Development (Subdivision and Site Plan)		A							
<b>INTERPRETATIONS</b>									
Interpretation – Zoning			<A>	<A>[3]		D			
Interpretation – Land Development (Subdivision and Site Plan)		<A>					D		

\* These figures are for City-prompted amendments; there have been no applicant-prompted amendment applications

\*\* These figures only include Major Site Plans

\*\*\* Referred to as a Special Exception in Columbia



**GREENVILLE, SOUTH CAROLINA****General Characteristics**Location

Greenville County – Northwest South Carolina  
 (“Upstate” or “Piedmont Region”)

Population

- Current Population - Municipal: 72,095 / County: 533,834 / MSA: 940,774
- Population Growth in Last Decade - Municipal: 17% / County: 14% / MSA: 11%

Major Community Anchors/Factors

- Greenville County seat
- Furman University (2,460 enrollment)
- Direct interstate access (I-85, I-185 & I-385)
- Located at the foot of the Blue Ridge Mountains

**Structure of Local Government**

The City has a council-manager form of government.

Review and/or Approval Bodies

- *City Council*: 6 members (4 representing districts and 2 at-large) serving 4-year terms.
- *Planning Commission*: 7 members serving 4-year terms. Their stated role is as follows: “makes recommendations to City Council on zoning and annexation issues; reviews and approves all new subdivisions; and is involved in comprehensive planning to improve the health and welfare of the public.”
- *Board of Zoning Appeals*: 7 members serving 3-year terms. They decide on applications for Variances, Special Uses, and Appeals of Zoning Administrator decisions.
- *Design Review Board – Neighborhood Panel*: It acts on applications for Certificate of Appropriateness in preservation overlay districts and Certification of Tax Assessment for Rehabilitated Historic Properties.
- *Design Review Board – Urban Panel*: It acts on applications for Certificate of Appropriateness within the C4 zoning (Central Business District). The Board uses the Greenville Downtown Design Guidelines for its reviews.
- *Other Relevant Bodies*: Construction and Maintenance Board of Adjustments & Appeals.

Most Relevant Departments

- *Planning & Development*: staff members work with various boards and commissions, including the Planning Commission, the Design Review Boards, and the Board of Zoning Appeals.
- *Department of Public Works*: this department’s divisions include Garbage/Recycling, Parking, Streets, Sidewalks, Stormwater, Sewers, Right of Way, Trees, Fleet and Engineering.
- *Department of Community Development*: primary focus is housing, neighborhoods, and economic development.

Key Staff Contact

- Senior Development Planner: Austin Rutherford, AICP - arutherford@greenvillesc.gov - (864) 467-4247



### Key Statistics by Application Type

Below is a summary of the average number of annual applications and amount of time required for approval for each application type.

#### Text Amendments

- Average annual applications: 5
- Average days for approval: 75

#### Rezoning

- Average annual applications: 3
- Average days for approval: 75

#### Planned Developments

- Average annual applications: 3
- Average days for approval: 120

#### Subdivisions - Minor

- Average annual applications: 100
- Average days for approval: 21

#### Subdivisions - Major

- Average annual applications: 25
- Average days for approval: 45

#### Site Plans

- Average annual applications: Info. unavailable
- Average days for approval: Info. unavailable

#### Variances

- Average annual applications: 0
- Average days for approval: NA

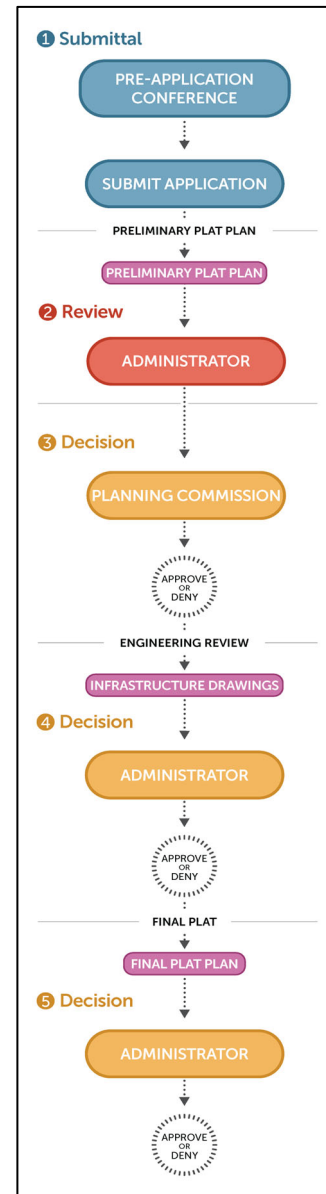
#### Conditional Uses & Special Exceptions

- Average annual applications: 50
- Average days for approval: 60

#### Administrative Appeals

- Average annual applications: 1
- Average days for approval: Info. unavailable

*No single graphic could be found to summarize Greenville's overall land use and development approval processes, but this graphic shows the process for one sample application type – subdivisions. It is from the City's draft 2023 Code.*



### Additional Information

- Does the community have a designated growth boundary or urban service area that restricts growth? *No*
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance? *Yes*
- How extensive is the community's use of committees to review development applications? *Not at all. They do not even utilize a technical review committee or any equivalent. Applications go directly to the approving body.*
- Once an application is approved, how much leeway does staff have to adjust the approval requirements? *None*
- Does the community have any sort of ombudsman to help developers through the approval process? *No*

*They are about to adopt a new hybrid form-based code that will streamline the approval process. There will be no more Planned Developments, and there will be more administrative approvals, including multi-family projects.*

**KNOXVILLE, TENNESSEE****General Characteristics**Location

Knox County – East Tennessee

Population

- Current Population - Municipal: 190,740 / County: 492,993 / MSA: 893,412
- Population Growth in Last Decade - Municipal: 6.6% / County: 9.5% / MSA: 8%

Major Community Anchors/Factors

- Knox County seat
- University of Tennessee (33,805 enrollment)
- Direct interstate access (I-40, I-75, I-275 & I-640)
- Located at the foot of the Smokey Mountains on the Tennessee River

**Structure of Local Government**

The City has a strong mayor form of government.

Review and/or Approval Bodies

- *City Council*: 9 members (6 representing districts and 3 at-large) serving 4-year terms.
- *Knoxville-Knox County Planning Commission*: 15 members serving 4-year terms with a maximum of two consecutive terms. Their stated role is to be “responsible for comprehensive county-wide planning and administration of zoning and land subdivision regulations” (except for the Town of Farragut).
- *Board of Zoning Appeals*: 5 members serving 5-year terms with a maximum of two consecutive terms. They decide on: certain appeals of denials of building permits by the City's Plans Review and Inspections Department; variances from Zoning Code requirements; and appeals of the administrative official's interpretation of the Zoning Code.
- *Design Review Board*: 10 members serving 3-year terms with a maximum of two consecutive terms. It decides on public projects and private development plans. It also advises the Mayor, City Council, Metropolitan Planning Commission and Historic Zoning Commission on means, incentives, and programs to improve downtown design.
- *Other Relevant Bodies*: Better Building Board (addresses building maintenance and demolitions), Board of Environmental Appeals (appeals of Department of Engineering decisions), Construction Appeals Board, Historic Zoning Commission.

Most Relevant Departments

- *Plans Review & Inspections*: staff the following bodies – Better Building Board, Board of Environmental Appeals, Board of Zoning Appeals, Construction Appeals Board, Design Review Board, Historic Zoning Commission.
- *Department of Engineering*: this department's divisions include: Civil Engineering, Engineering Development Services, Stormwater Engineering, and Transportation Engineering.
- *Department of Housing and Neighborhood Development*: primary focus is housing, neighborhoods, homelessness, grants, and economic development.
- *Office of Sustainability*: focuses on five key areas – climate, clean energy, transportation, buildings, and waste.

Key Staff Contact

- Deputy Director of Plans Review & Building Inspections: Bryan Berry, AICP - bberry@knoxvilletn.gov - (865) 215-2863

**Key Statistics by Application Type**

Below is a summary of the average number of annual applications and amount of time required for approval for each application type.

Text Amendments

- Average annual applications: 7.5
- Average days for approval: 90

Rezoning

- Average annual applications: 32.5
- Average days for approval: 90

Planned Development Zoning

- Average annual applications: NA
- Average days for approval: NA

Subdivisions\*

- Average annual applications: 12.5
- Average days for approval: 90

\* No distinction between minor and major

Site Plans – Info. unavailable

- Average annual applications:
- Average days for approval:

Variances

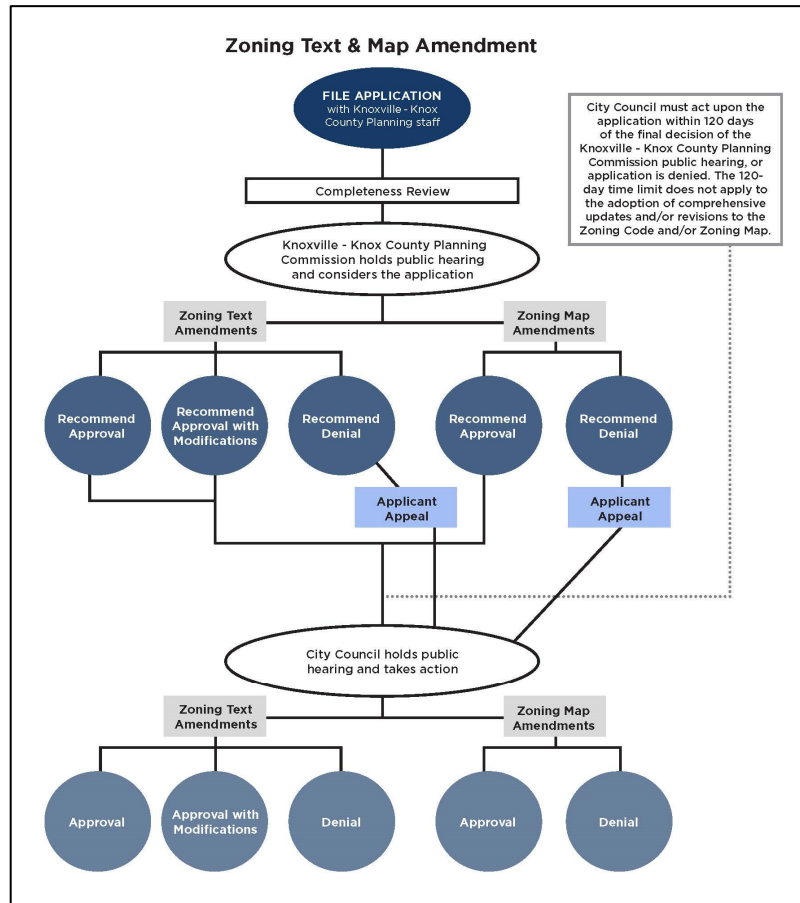
- Average annual applications: 80
- Average days for approval: 45

Conditional Uses

- Average annual applications: 40
- Average days for approval: 45

Administrative Appeals

- Average annual applications: 4
- Average days for approval: 45



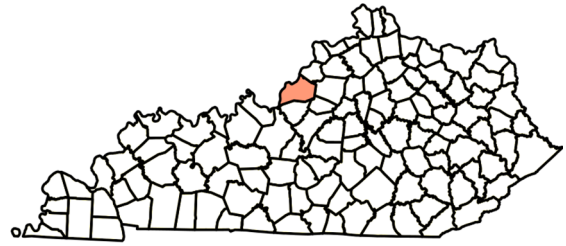
No single graphic could be found to summarize Knoxville's overall land use and development approval processes, but this graphic shows the process for one sample application type – zoning text and map amendments.

**Additional Information**

- Does the community have a designated growth boundary or urban service area that restricts growth? *No*
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance? *Yes*
- How extensive is the community's use of committees to review development applications? *It appears to be roughly average, including the use of an Administrative Review Committee of staff (same as the TRC in LFUCG).*
- Once an application is approved, how much leeway does staff have to adjust the approval requirements? *None*
- Does the community have any sort of ombudsman to help developers through the approval process? *No*

**LOUISVILLE, KENTUCKY****General Characteristics**Location

Jefferson County – Ohio River Valley

Population

- Current Population - Municipal: 782,969\* / County: 782,969\* / MSA: 1,116,000  
\* The city and county governments are combined
- Population Growth in Last Decade - Municipal: 4% / County: 4% / MSA: 9%

Major Community Anchors/Factors

- Jefferson County seat
- Largest city in the state
- University of Louisville (23,043 enrollment)
- Direct interstate access (I-64, I-65, I-71, I-264, I-265 & I-275)
- Located on the Ohio River
- Home of Churchill Downs and the Kentucky Derby

**Structure of Local Government**

The City has a strong mayor form of government and it has a city-county metro government.

Review and/or Approval Bodies

- *Metro Council*: 26 members, each representing a district, serving 4-year terms.
- *Planning Commission*: 10 members serving 3-year terms. Their stated role is to act “upon applications related to zoning changes, subdivisions, and waivers to zoning requirements in Louisville Metro/Jefferson County. In addition, the Commission makes recommendations to the legislative bodies concerning the comprehensive plan and zoning requirements.”
- *Board of Zoning Adjustment*: 7 members serving 3-year terms. They decide on: Conditional Use permits, Dimensional Variances, Administrative Appeals, and Changes in Non-conforming Uses. They may also review a Waiver and/or a Development Plan application if attached to a Conditional Use permit or Variance application.
- *Other Relevant Bodies*: Historic Landmarks & Preservation Districts Commission, Architectural Review Committees, Design Overlay Committees.

Most Relevant Departments

- *Planning & Design Services*: responsible for the following activities - development plan review, overseeing design overlays and historic preservation programs, and advising the Planning Commission, Board of Zoning Adjustment, Historic Landmarks and Preservation Districts Commission, and Design Overlay Committees. PDS is also responsible for monitoring compliance with the Land Development Code.
- *Department of Codes & Regulations*: this department conducts code enforcement.
- *Public Works*: this department addresses the following primary issues/programs – garbage pick-up, road maintenance and improvements, and engineering.

Key Staff Contact

- Director of Advanced Planning (Plan. & Design): Michael King – Michael.King3@louisvilleky.gov - (502) 574-0032



### Key Statistics by Application Type

Below is a summary of the average number of annual applications and amount of time required for approval for each application type.

#### Text Amendments

- Average annual applications: 6
- Average days for approval: 120

#### Rezoning

- Average annual applications: 63
- Average days for approval: 210

#### Planned Development Zoning

- Average annual applications: NA
- Average days for approval: NA

#### Subdivisions - Minor

- Average annual applications: 189
- Average days for approval: 56

#### Subdivisions - Major

- Average annual applications: 22
- Average days for approval: 105

#### Site Plans

- Average annual applications: 225
- Average days for approval: 56-120\*

#### Variances

- Average annual applications: 175
- Average days for approval: 90

#### Conditional Uses

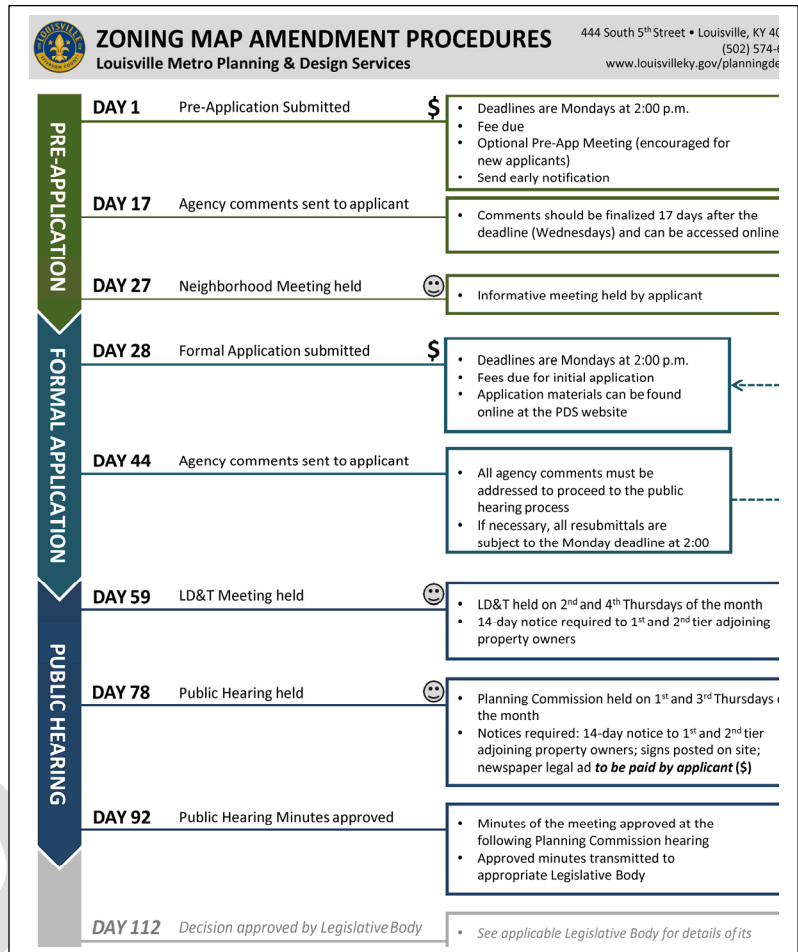
- Average annual applications: 144
- Average days for approval: 150

#### Administrative Appeals

- Average annual applications: 14
- Average days for approval: 60

### Additional Information

- Does the community have a designated growth boundary or urban service area that restricts growth? *No*
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance? *Yes*
- How extensive is the community's use of committees to review development applications? *Not very. They recently eliminated their Technical Review Committee because too many of their decisions were being appealed.*
- Once an application is approved, how much leeway does staff have to adjust the approval requirements? *None*
- Does the community have any sort of ombudsman to help developers through the approval process? *No, but they made a recent budget request to fund such a position. They are still waiting on a decision.*



*No single graphic could be found to summarize Louisville's overall land use and development approval processes, but this graphic shows the process for one sample application type – zoning map amendments. The timeframe represents the minimum days possible.*

\* Category 2 Site Plans get staff approval and take an average of 56 days  
Category 3 Site Plans require Plan. Com. approval and take an average of 90 days  
Detailed Development Plans require Plan. Com. approval and take an average of 120 days

**MADISON, WISCONSIN****General Characteristics**Location

Dane County – Southern Wisconsin

Population

- Current Population - Municipal: 269,196 / County: 563,951 / MSA: 507,000
- Population Growth in Last Decade - Municipal: 12% / County: 12% / MSA: 16%

Major Community Anchors/Factors

- State Capitol & Dane County seat
- University of Wisconsin (49,886 enrollment)
- Direct interstate access (I-90 & I-94)
- Located on Lakes Mendota, Monona and Waubesa

**Structure of Local Government**

The City has a strong mayor form of government.

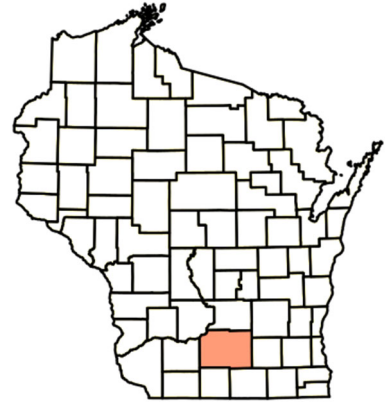
Review and/or Approval Bodies

- *Common Council*: 20 members, each representing a district, serving 2-year terms.
- *Plan Commission*: 8 members serving 3-year terms. In addition to overseeing the community's master plan preparation and making recommendations to the Common Council, it is stated that "The commission also reviews and makes recommendations on any sale or lease of land, rezoning requests, annexations of land, subdivision plats and ordinance text amendments. The Plan Commission has final approval authority on land divisions (certified survey maps), conditional use requests and appeals of certain Urban Design Commission decisions."
- *Capital Area Regional Planning Commission*: 4 members serving 3-year terms.
- *Zoning Board of Appeals*: 4 members serving 3-year terms. Hears and decide on: 1) appeals where it is alleged there is error in any order, requirement, decisions, or determination made by the Zoning Administrator in the enforcement of the ordinance; 2) applications for Variances from the terms provided in the ordinance; and 3) all other matters referred to it upon which it is required to act under the ordinance.
- *Other Relevant Bodies*: Community Development Authority, Ho-Chunk Nation / City of Madison Joint Planning Committee, Landmarks Commission, Transportation Commission, Urban Design Commission.

Most Relevant Departments

- *Department of Planning, Community & Economic Development*: the department's divisions include Building Inspection, Community Development, Economic Development, Housing, Planning and Permits.

Because the department cited above is so comprehensive, the most relevant services are provided by this single all-inclusive department. Within the Planning Division of that department is the Development Services Center, which is organized by the following issue categories: 1 & 2 Family Residential, Other Residential, Non-Residential, and Land Development.





**Key Staff Contact**

- Planning Division Director: Heather Stouder – [planning@cityofmadison.com](mailto:planning@cityofmadison.com) – (608) 266-4635

**Key Statistics by Application Type**

Below is a summary of the average number of annual applications and amount of time required for approval for each application type. *The City has not yet been able to provide any of this information, but we hope to get this information in the near future.*

**Text Amendments**

- Average annual applications:
- Average days for approval:

**Rezoning**

- Average annual applications:
- Average days for approval:

**Planned Development Zoning**

- Average annual applications:
- Average days for approval:

**Subdivisions**

- Average annual applications:
- Average days for approval:

**Site Plans**

- Average annual applications:
- Average days for approval:

**Variances**

- Average annual applications:
- Average days for approval:

**Conditional Uses**

- Average annual applications:
- Average days for approval:

**Administrative Appeals**

- Average annual applications:
- Average days for approval:

No useful tables or flow charts were found to help illustrate any of the development approval processes in the City of Madison.

**Additional Information**

- Does the community have a designated growth boundary or urban service area that restricts growth?
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance?
- How extensive is the community's use of committees to review development applications?
- Once an application is approved, how much leeway does staff have to adjust the approval requirements?
- Does the community have any sort of ombudsman to help developers through the approval process?

## D. CONCLUSIONS

Below is a summary of the findings from the study of other communities, including the number of annual applications and timeframes for approvals, as well as the other characteristics of their planning programs that might relate to the LFUCG's program. However, two important caveats must be kept in mind:

- *Not all of the six peer communities were able to provide all of the information sought.* In particular, information related to variances, conditional uses, and administrative appeals was unavailable for Chattanooga, and all of the information sought from Madison was never made available. However, that lack of information will have no significant negative impact of the outcome of this study.
- *Contrasting some of the application types is an “apples and oranges” comparison.* For example, the definition and use of site plan approvals can vary so greatly from community to community that comparisons are not very useful. The fact that Columbia averages only 15.6 annual site plan applications and Louisville averages 225 underscores the differences between that application type when comparing those two communities.

### Annual Applications & Days for Approval

This information was assembled for nine different basic application types for the six peer communities, as summarized in the table below and described on the following page.

KEY STATISTICS FOR COMMUNITIES BY APPLICATION TYPE							
APPLICATION TYPE	Lexington KY	Chattanooga TN	Columbia SC	Greenville SC	Knoxville TN	Louisville KY	Madison WI
<b>Ordinance Text Amendments</b>							
Average Annual Applications	3.4	2	5.7	5	7.5	6	
Average Days for Approval	81	60	90	75	90	120	
<b>Rezoning</b>							
Average Annual Applications	14	150	13.3	3	32.5	63	
Average Days for Approval	248	90	90	75	90	210	
<b>Planned Unit Developments</b>							
Average Annual Applications		5	0.2	3			
Average Days for Approval*		90	90	120			
<b>Site Plans / Development Plan</b>							
Average Annual Applications**	48.8		15.6			225	
Average Days for Approval*	57 / 154		40			56-120	
<b>Subdivisions: Minor****</b>							
Average Annual Applications	73.2	228	72	100		189	
Average Days for Approval	50	10	15	21		56	
<b>Subdivisions: Major</b>							
Average Annual Applications***	32	27	10	25	12.5	22	
Average Days for Approval *****	523	45	105	45	90	105	
<b>Variances</b>							
Average Annual Applications	21		16	0	80	175	
Average Days for Approval	58		30	NA	45	90	
<b>Conditional Uses *****</b>							
Average Annual Applications	18		28	50	40	144	
Average Days for Approval	49		30	60	45	150	
<b>Administrative Appeals</b>							
Average Annual Applications	13		0.2	1	4	14	
Average Days for Approval	45		30		45	60	
* This is split between minor and major applications for Lexington							
** Only includes Major Site Plans for Columbia							
*** Only includes Major Subdivisions <u>approved</u> in Columbia							
**** Referred to as Special Exceptions in Columbia and includes both Conditional Uses and Special Exceptions in Greenville							
***** Knoxville does not distinguish between minor and major subdivisions, so figures applied to majors							
***** For the LFUCG, this figure consists of an average of 304 days for preliminary subdivision plans and 219 for final plans							

### Average Annual Applications

Overall, the average annual applications for the LFUCG is relatively on par with that of most of the other communities, with a few particular exceptions. For example, the LFUCG is on the low side for average annual rezonings at 14 relative to Chattanooga with 150, but that may be (at least in part) because of the relative uncertainty with the LFUCG given the lack of a future land use plan. Likewise, the LFUCG's average annual conditional use applications is lower than the other communities at 18 relative to Louisville at 144, but the LFUCG likely has fewer uses eligible for conditional use consideration. Only Louisville has more average annual administrative appeals at 14 than the LFUCG's 13, and the other communities have either none or only a few annual appeals.

### Average Days for Approval

With respect to the average days required for approvals, the LFUCG is fairly similar to the other six peer communities with a few key exceptions. Both Louisville and the LFUCG require more than an average of 200 days for rezonings, while the other communities were in the 75 to 90 day range. The most significant difference between the LFUCG and the other communities for average days of approval is for major subdivisions. The average timeframe for the LFUCG is 523 days, while the next highest number of days was Columbia and Louisville, both at 105 days. However, it must be understood that the figure for the LFUCG is for the days to Certification. Because the other communities studied do not have the same process, "apples to apples" comparisons are not possible. *Finally, it is likely that some of the peer communities are being overly optimistic with their figures.* Some of them reported average timeframes of 30, 45, 60 or 90 days for approvals, but it is likely that those are more of best-case scenarios based upon meeting schedules versus the real-life experience of individual applicants.

### **Other Issues**

In addition to the quantifiable information provided by the peer communities and summarized above, there were more qualitative questions as well, as summarized below.

- Does the community have a designated growth boundary or urban service area that restricts growth?  
While some of the peer communities do have urban service areas or some similarly named designations, they are only tied to municipal services. None of them entail substantial restrictions on growth as occurs with the LFUCG. That finding is not surprising given the very small number of communities nationwide with such restrictions, and it is one important reason why it is difficult to contrast Lexington and Fayette County's planning and development context with that of other communities.
- Does the comprehensive plan feature a proposed land use or place types map for zoning guidance?  
Unlike the LFUCG, none of the peer communities lack a future land use or place types map. Technically speaking, Chattanooga's comprehensive plan conveys only proposed intensity levels for land use. However, there is a series of area plans covering the entire community that do propose specific place types. Thus, in this regard, the LFUCG is relatively unique, which is also one of the challenges to predictability with rezonings (notwithstanding the existence of the Placebuilders supplement to the LFUCG's comprehensive plan).
- How extensive is the community's use of committees to review development applications?  
While some of the peer communities will utilize a single committee comparable to the LFUCG's Technical Review Committee (TRC), none appear to utilize committees to the same degree as does the LFUCG. In fact, Louisville recently eliminated their TRC because it had the authority to approve smaller scale applications and too many of them were being appealed.
- Once an application is approved, how much leeway does staff have to adjust the approval requirements?  
All of the peer communities empower their staff with the authority to accommodate minor deviations between an application as approved and the actual execution. However, none allow their staff to actually increase the requirements beyond what was approved, as occurs at times with the LFUCG during the Certification process.

- Does the community have any sort of ombudsman to help developers through the approval process?

While a few of the peer communities have considered this idea and one has submitted a request for funding, only one actually has such a position. Columbia has a “Business Liaison” person who works closely with the City’s planning department, but is part of their economic development department. This person helps applicants work their applications through the approval process, and the planning department emphasizes that this arrangement works very well and there is “zero friction” between the liaison and the planning department. In fact, it may be the best model for the LFUCG to consider if it is interested in pursuing this idea.

DRAFT

## **SECTION 4**

### **CRITERIA FOR PROCESS CHANGES**

## A. PURPOSE

The purpose of this report section is to develop a set of criteria to apply to the various potential solutions that might be recommended for improving the approval processes for land use and development applications in Lexington and Fayette County. The goal is to strike a balance somewhere between two extreme ends of the spectrum: the most stringent conceivable process requirements and the most relaxed requirements. Given the unique character of Lexington and Fayette County, as well as the level of public concern with maintaining and reinforcing that character, it is likely that the optimal approval processes will always be closer to the more stringent end of the spectrum. However, it is also important that high-quality land uses and development that reinforce community character continue to occur, including that which features affordable housing, open space preservation, and walkability. The recommended criteria are described below.

## B. CRITERIA

The following criteria should be considered for all recommendations provided in the next section of this report.

### 1) Quality of land uses and development relative to community character

#### Why does this issue matter?

Lexington and Fayette County have one of the most unique, historic, and scenic landscapes in the country. Consequently, that character is treasured and strongly guarded by its citizens. Furthermore, that character has a strong economic value that is vital to the regional economy.



#### How might the LFUCG's approval processes impact this issue?

A long-held city planning principle is that *every increment of development either dilutes or reinforces community character*. Success in achieving development that reinforces community character depends largely upon careful and detailed planning, as well as associated regulations that keep that goal in mind. If a certain degree of rigor is not applied to implementing the LFUCG's policies, the quality of the resulting land uses and development can suffer, thereby putting community character at risk.

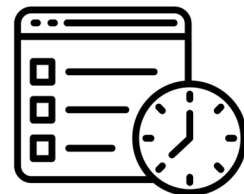
#### Question to apply to proposed approval process changes

Will these proposed approval process changes result in an increased or decreased quality of future land uses and development?

### 2) Predictability of the approval process and development outcomes

#### Why does this issue matter?

This criterion is important to all potential parties. For developers, predictability is extremely critical. They can budget for "knowns," but they cannot budget for the unknown. Therefore, surprises in the approval process can make or break a project. Similarly, neighborhood residents living near a proposed rezoning or development should be afforded some degree of predictability rather than feeling like they are at the mercy of decisions that they have no control over.



#### How might the LFUCG's approval processes impact this issue?

While this is less of an approval process issue and more of a planning issue, the LFUCG's lack of a Land Use Plan map or Place Types Plan map in its Comprehensive Plan creates a hurdle to predictability. While the Placebuilder

supplement to the Comprehensive Plan features criteria to consider for rezonings, it still results in less clarity than for communities with a Land Use Plan or Place Types Plan, which is the vast majority of communities. Another hurdle to predictability is the ability of planning staff to make decisions on various aspects of an approved application during the Certification phase. A common example conveyed by numerous stakeholders in meetings is an approved application that featured a 5-foot wide sidewalk that would later be required by staff to be wider.

Question to apply to proposed approval process changes

Will these proposed approval process changes result in an increased or decreased level of predictability for the process and outcome related to land uses and development?

### 3) Costs to applicants

Why does this issue matter?

If costs for applicants are too high, it may preclude certain land uses and development types that are desirable to the community because the projects are not financially viable. Even when projects are still financially viable, increased applicant costs for housing can result in increased housing costs for residents, thereby decreasing the availability of much needed affordable housing. Similarly, increased commercial development costs can translate into increased rental costs for tenants that may be an insurmountable hurdle for locally-owned businesses.



How might the LFUCG's approval processes impact this issue?

The more complex, time-consuming, and unpredictable that an approval process is, the more costly it is for the applicant because of the required effort and time. In fact, the complexity of the process may be the difference between an applicant needing to hire an attorney and not, in addition to other potential specialists that might be needed. Likewise, the adage "time is money" is particularly applicable to the world of real estate development.

Question to apply to proposed approval process changes

Will these proposed approval process changes increase or decrease costs to applicants?

### 4) Costs to the LFUCG

Why does this issue matter?

Relative to most local governments that rely heavily on property and retail sales tax revenues, the LFUCG relies more on occupational tax revenues. Regardless, when a local government's expenses increase, their revenues must keep pace. Most property owners and residents are not supportive of paying even slightly increased taxes, although approaches such as increased application fees are one way to offset increased review expenses without increasing taxes.



How might the LFUCG's approval processes impact this issue?

The more complex and time-consuming that an approval process is, the more labor-intensive it is for the LFUCG staff members who are part of the process. There is a direct correlation between the amount of time required for staff to deal with approvals and the number of positions that must be funded. The adage "time is money" is not limited to the private sector. Also, approval processes that discourage and lessen developer investment can likewise result in decreased property and sales tax revenues, even if that is only a minimal revenue source for the LFUCG.

Question to apply to proposed approval process changes

Will these proposed approval process changes increase or decrease costs to the LFUCG?



## 5) Protection of natural and cultural resources

### Why does this issue matter?

Lexington and Fayette County's natural and cultural resources are an important part of the equation for community character, which was addressed previously. Protecting natural resources is important because they have direct ties to air and water quality, wildlife, and scenic beauty, which all impact the quality of life for area residents. Primary cultural resources that can be impacted by development include archeological sites, dry-stack stone walls, and historic buildings, all of which have tangible ties to the area's rich heritage. Most citizens are in favor of protecting their history.



### How might the LFUCG's approval processes impact this issue?

The most obvious connection between protecting natural and cultural resources and development threats is planning and development regulations. The primary focus is typically placed on the *substantive* regulations that address issues such as existing mature vegetation, grading, wetlands, floodplains, open space, new landscaping, and the maintenance and preservation of historic buildings. However, the best-laid plans can be undermined by ineffective execution of those substantive regulations via the approval processes.

### Question to apply to proposed approval process changes

Will these proposed approval process changes enhance or weaken the protection of natural and cultural resources?

## 6) Opportunities for meaningful public engagement

### Why does this issue matter?

In previous decades, much of the planning and administration of development regulations was conducted with little to no public input. Many of the past city planning blunders ("urban renewal," construction of highways that destroyed neighborhoods, converting two-way streets to one-way, etc.) can be attributed to (at least in part) a lack of public engagement. Fortunately, in more recent years, public engagement has become a key element of planning. A variety of public engagement tools are typically used in the preparation of today's plans, and technology has made it much easier for citizens to remain informed and involved. In short, public input is at the very root of democracy.



### How might the LFUCG's approval processes impact this issue?

The way that approval processes are structured and carried out can either be more inclusive or more exclusive of public input. For example, when meetings are held during weekday working hours, it can be difficult for average citizens to attend meetings. Likewise, if ex parte communications between the public and Council members is prohibited prior to voting on a rezoning, that undermines public engagement. Also, time limits on members of the public to speak on applications at meetings can be viewed as an infringement on public input. However, the alternative of not having such limits is more problematic than having the limits.

### Question to apply to proposed approval process changes

Will these proposed approval process changes enhance or dampen opportunities for meaningful public engagement regarding land use and development issues?

## 7) Equity issues for disadvantaged stakeholders

### Why does this issue matter?

First, the Merriam-Webster dictionary defines "disadvantaged people" as: *Groups of persons that experience a*

*higher risk of poverty, social exclusion, discrimination, and violence than the general population, including, but not limited to, ethnic minorities, migrants, people with disabilities, isolated elderly people and children.* A fundamental principle of the city planning profession is to give special consideration to disadvantaged stakeholders and to factor them in all planning activities and policies. Because the merits of considering the disadvantaged are hopefully obvious to most people, that topic does not call for further elaboration here.



How might the LFUCG's approval processes impact this issue?

The four aspects of land use and development approval processes most relevant to this issue are public engagement, housing, economic opportunities, and the availability of resources. Public engagement is addressed separately above. Regarding housing, the disadvantaged are often challenged by the location and/or affordability of housing. More applicant-friendly approval processes that are less expensive might result in more conveniently-located and/or affordably-priced housing. Also, approval processes that discourage commercial development might result in fewer employment opportunities for the disadvantaged population. Lastly, difficult approval processes might discourage the introduction of new businesses such as grocery stores, which might otherwise remedy the problem of "food deserts" experienced by many low-income neighborhoods.

Question to apply to proposed approval process changes

Will these proposed approval process changes improve or worsen the condition of Lexington and Fayette County's disadvantaged stakeholders?

## C. ASSUMPTIONS & ADDITIONAL CONSIDERATIONS

This final part of this section of the report addresses assumptions that have been made in creating the criteria described above, as well as additional considerations to all of this.

### Assumptions

It is recognized that, to explain the criteria created here for considering potential changes to the approval processes, certain assumptions have been made. For example, it has been assumed in criterion #3 regarding the costs to applicants that increased expenses for housing developers might result in increased housing costs. Some might argue that those increased expenses would not really be passed onto the consumers because developers can only charge as much as the market will bear. In reality, there is typically a combination of the two factors combined. When the housing market is strong and demand is great, more of those extra expenses incurred by developers can be passed on to consumers in the form of higher rents and sales prices. When market conditions are soft and housing demand is weaker, the developer may have to "eat" more of their increased expenses that are caused by the approval process. In short, there may be exceptions to many of the assumptions made in this report. However, making assumptions is necessary to effectively address these types of land use and development issues in a manner that is clear and understandable to most people.

### Additional Considerations

One criterion that was initially considered for potential changes to the approval processes *was the impact on the area's primary identity-defining industries: horses, bourbon, and UK*. There are plenty of reasons as to why that issue has significance. Horse farms/racing, bourbon distilleries and the University of Kentucky are vital to Lexington, Fayette County, and the outlying region for both identity and economic reasons. While they are separate issues on one level, there is also a direct link between a place's identity and its economy. When competing with other communities for new businesses, residents, students, and tourists, most communities go to great lengths to somehow distinguish themselves from the rest of the pack so that they are the place selected. Thus, a strong identity, so long as it is positive, can translate into a stronger economy.

However, it was eventually realized that the potential impacts of the approval processes are very specific to each of these three industries. Horse farms might benefit from difficult approval processes since that might discourage development. Dampening the development potential for lands near horse farms (and even encompassing horse farms) might keep land values down, thereby reducing the likelihood that horse farms are encroached upon or even lost. On the other hand, the bourbon industry might benefit from less rigorous approval processes to the extent that they might want to expand their distilling and/or touring operations. Because, as a State entity, UK is immune to local regulations, the impacts of approval processes are only secondary to that institution. On one hand, approval processes that are too loose might result in land uses and development that negatively impact community character, which might make the university less appealing to prospective students and faculty. On the other hand, more streamlined approvals for housing development might result in more affordable off-campus housing for students. Therefore, it is a mixed bag when considering UK.

Because of these various conflicting considerations, it was ultimately decided that trying to apply this potential criterion to the proposed approval process changes would result in confusing and unclear results. Thus, it was consciously not included here.

## **SECTION 5**

# **RECOMMENDATIONS FOR PROCESS CHANGES**

## A. PLANNING PROGRAM OVERVIEW

Before entering a discussion of what can be improved for the approval processes for land use and development in Lexington and Fayette County, the aspects of it that are working should first be recognized and considered.

### **Number, relevance, and quality of plans**

Numerous high-quality plans and studies have been prepared by the Planning Department over the past decade and earlier. The primary planning document is the 2018 Comprehensive Plan – “imagine Lexington.” That plan was based upon extensive research into existing conditions and public input, is comprehensive and detailed, with strong graphics that help the reader envision the planning concepts being addressed. Many other communities that are fortunate to have well-written comprehensive plans, may not have plans that are current. The LFUCG’s plan, however, is only five years old, making it quite relevant and valid. Just a few of the other important recent plans include the 2021 *Sustainable Growth Study*, the 2018 *Parks and Recreation System Master Plan*, and the 2017 *Rural Land Management Plan*, as well as numerous *Small Area Plans* prepared over the years (often as part of earlier comprehensive planning projects). While not prepared by the LFUCG, the community also benefits from the many plans and studies related to mobility that have been conducted in recent years by the Lexington Area Metropolitan Planning Organization (MPO).

### **Progressive nature of planning philosophy**

Even though planning movements such as “Smart Growth” and “New Urbanism” have been around for a few decades now, and are widely embraced by the vast majority of city planners, not all communities have followed those sound planning philosophies. In some cases, older planners may have cut their teeth in planning prior to the widespread following of more progressive planning practices, and that lack of progressive thinking can be continued even today by their proteges. That dilemma is clearly not a problem for Lexington. The 2018 Comprehensive Plan follows the most contemporary and informed planning philosophies by advocating for objectives such as environmental protection, open space preservation, mixed-use walkable places, a wide range of mobility options, affordable housing, historic preservation, and reinforcing community character, to name just a few. That following of “best practices” is further underscored by the *Placebuilder* component of the Comprehensive Plan.

### **Quality of regulations**

The LFUCG’s regulations that implement the plans cited above are also very well written, detailed, and forward thinking. In addition to the most fundamental tools – the zoning ordinance and subdivision regulations, there are also several helpful supplemental policy documents. Examples include the *Big Box Retail Design Guidelines* adopted in 2010, the *Major Roadway Corridor Ordinances* for six key corridors that extend outward from Lexington’s core, the *Multi-Family Design Standards*, and the *Neighborhood Character Design (ND-1) Overlay Zones*. Those regulations that are supplemental to the more basic zoning ordinance and subdivision regulations are very detailed and well-illustrated for easy comprehension by those who use them.

### **Helpful tools for relevant professionals and citizens**

It must be acknowledged that the many plans and regulations summarized above result in a relatively complex and sometimes confusing system of policies. However, the Planning Department has also created several helpful tools to navigate users through those regulations and processes. In particular, the 2021 *Development Handbook* and the 2020 *Public Engagement Toolkit* are invaluable tools for both developers and citizens alike. Both documents are well-organized, easy to follow, and heavily illustrated in a way that makes them highly effective. None of the other “peer communities” studied as part of this project have tools that can match what the LFUCG’s Planning Department has created.

### **Robust public engagement processes**

Last, but not least, the LFUCG’s public engagement process is very strong, affording citizens opportunities to provide meaningful input on land use and development issues. In addition to the typical meetings available for residents of most communities, the previously-mentioned *Public Engagement Toolkit* is a tremendous resource for

citizens who want to engage in the planning and approval processes. The Accela online portal also allows citizens to follow the review and approval status of proposed land uses and development in Lexington and Fayette County. And finally, while not tied to the LFUCG, the non-profit CivicLex is important to the success of public engagement. In addition to keeping citizens informed, they have developed helpful tools such as their “Legislative Map” that illustrates how legislation is created by the Lexington Urban County Council.

## B. RECOMMENDATIONS

The following set of recommendations are based upon extensive research into the current land use and development approval process, input from various stakeholders, and research into what other “peer communities” are doing. Also, as described in the previous section of this report, a set of criteria have been developed to consider the potential pros and cons of these recommendations. Please see *Appendix A* for the application of the criteria to each of the recommendations below.

### 1) Propose future land uses in the Comprehensive Plan.

#### Background

The vast majority of communities across the state and the country have communitywide comprehensive plans that include a future land use or place types map. When rezonings are considered, those maps are important because they provide an indication of the appropriate zoning district to be applied for any given property. However, the current LFUCG’s Comprehensive Plan lacks such a map. In fact, there has been no future land use map since 2013.

According to the 2018 “Imagine Lexington Comprehensive Plan,” the purpose of eliminating the future land use map back in 2013 was to allow for “innovation and creativity through flexibility.” However, the plan goes on to state that its removal “left too much ambiguity and uncertainty.” Despite the desire by some to bring back the future land use map, that notion of flexibility reportedly still resonated with most people. Thus, the tool known as “Placebuilder” was created as a centerpiece of the 2018 plan update. The intent was to bridge the gap between providing flexibility, while still guiding good planning and design within an appropriate context. The plan clearly states that: 1) Placebuilder is only applicable for Rezonings; and 2) It does not take the place of specific land use and development codes and standards.

#### Challenges with Placebuilder

The Placebuilder policies are consistent with thoughtful planning philosophies. However, the tool can be rather complex because the policies are tied back to each of the Comprehensive Plan themes. The Comprehensive Plan makes clear that Placebuilder is not a checklist and that the list of policies is not mandatory for all developments, but it is the Applicant’s responsibility to prove why a proposed development or rezoning is appropriate, or why the policies of a particular place type should not apply to a proposed development (Justification Statement). This situation may be, at least in part, why attorneys play such a large role in rezoning cases. Those applications can be time-consuming and expensive, particularly for smaller developments where financial margins are tight (more on that below). While innovative and comprehensive, the Placebuilder tool makes the development process difficult and uncertain, when greater clarity is needed.

#### Potential Solutions

There are various ways in which this issue might be addressed:

##### *A. Create a Place Types Map*

One obvious solution is to revive the map previously contained in the Comprehensive Plan. However, instead of focusing primarily on land use, utilize the Placebuilder place types to reinforce all of the policies beyond land

use. Addressing land use, density, development form and character, the notion of place types is becoming more and more prevalent in modern comprehensive planning. The Place Types map would be based on the observation, trends, analysis, and public input that already occurred in the most recent comprehensive planning process. For the very same reasons that the LFUCG adopted the Placebuilder tool, communities across the country are placing an emphasis on the design and character of development and its relationship to streets, parks, and natural features over land use. The rationale for this approach is that it establishes a clear vision and creates predictability for the public, developers, and decision-makers because it is easily translated into the implementing zoning. Conversely, the argument against it is that conditions continuously change, so a process should be in place to amend the place types map more frequently than the typical comprehensive planning cycles.

*B. Create an “Ideal” Place Types Map*

In lieu of adopting a Place Types Map, another option is to create a map that identifies the areas where particular place types are most appropriate, but not at the complete exclusion of other potential place types. As with the Place Types map suggested in the recommendation above, the “Ideal” Place Types map would be based on the observation, trends, analysis, and public input that already achieved in the most recent comprehensive planning effort. With the amount of analysis completed for the 2018 Comprehensive Plan, a draft for such a map should be fairly easy to create. Once adopted, perhaps the process for development proposed in appropriate locations on the map has an easier process, particularly if all, or most, of the policies are being met. This approach could generally direct specific development types in the most appropriate locations, while still allowing flexibility for innovation and creativity if the Applicant can make their case.

*C. Expand Small Area Planning*

Another approach would be to increase the frequency of completing or updating Small Area Plans. This approach would allow for deeper dives into a specific area with the goal of establishing clear, desired patterns of development based, in part, on public engagement. Placebuilder would remain as the framework for place types. The Chattanooga-Hamilton County (TN) Regional Planning Commission (CHCRPA) takes this type of approach. Their 2018 Comprehensive Plan is more general and they use a “place types” model in developing multiple detailed area plans for the entire County. Small Area Plans have the benefit of focus and detail, but can be costly in terms of time and money that needs to be committed to prepare the plans, especially if the goal is to cover the entire planning area. Relying on in-house staff, only three Area Plans have been completed in Chattanooga-Hamilton County since adoption of their updated Comprehensive Plan. This situation prompted Chattanooga-Hamilton County to set aside funds in their municipal budgets to hire consultants beginning in 2023 to complete or update all of their Area Plans within two years using the same place types model.

*D. Prioritize Placebuilder Policies*

Finally, a simpler approach may be to break the current Placebuilder policies for each place type into categories of priority, such as: required, most important, and important. For Rezoning and Development Plans, this may be helpful to both the applicant and staff. For staff, it can provide guidance on what to prioritize during review. For applicants, it can provide clear direction on what is expected, and it can potentially reduce the need to request relief from policies that are critical to Smart Growth. Another potential benefit is a reduction in time and cost of defending why certain policies should not apply. The downside to this approach is the risk that determining what is required and what is important might be rather contentious, and it also may not go far enough in providing the degree of predictability that is actually needed.

In summary, Placebuilder is a very useful tool, but there are shortcomings to its ease of use. There may not be a single solution, but perhaps instead a combination of the options outlined above.



## 2) Limit Placebuilder's use to supplementing the codes.

### Background

As noted previously, the 2018 Comprehensive Plan states that Placebuilder applies only to zone change applications. However, Development Plans are required for zone changes, so Placebuilder can be applied to such plans when tied to a proposed rezoning. It also indicates that, in the event of conflicts between Placebuilder and adopted development regulations, the regulations will prevail. Reportedly, however, Placebuilder is being used to exact requirements over and above the development regulations. In the words of one stakeholder, this practice "injects subjectivity into what should otherwise be an objective process."

### Potential Solution

When reviewing Rezoning requests and Development Plans, the zoning and development regulations should be the gauge for compliance. If current development regulations fall substantially short of meeting the policies within Placebuilder or the broader Comprehensive Plan, then a priority of the LFUCG should be to update them to be in line with the plan. It is not unusual for communities to fail to keep their zoning and other regulations on pace with their plans. Doing so takes time and funding, but is absolutely critical in providing clarity to the public and developers on what is required and avoiding the back and forth of trying to get Applicants to go above and beyond what is actually required. Additionally, the LFUCG should avoid updating regulations in a piecemeal manner. That approach only adds time, and inconsistencies can arise when a change to one section affects another. A holistic review and update is preferable, and Placebuilder can provide the framework to accomplish that objective.

## 3) Establish a streamlined process for infill approval.

### Background

The 2018 "Imagine Lexington Comprehensive Plan" acknowledges a difference of opinion on Placebuilder and its effect on small infill development. Some stakeholders felt that tighter regulations were necessary for small-scale infill to ensure compatibility with surrounding neighborhoods, while others felt the Placebuilder tool would be too burdensome on small-scale infill affecting financial feasibility. Both perspectives are likely valid. However, the LFUCG should avoid the unintended consequence of stifling creativity in small-scale infill development by exacting a heavy hand, or forcing an Applicant to spend a great deal of time and money in making the case for their project. As noted previously, the financial margins for small-scale infill are tight, so a streamlined, straightforward process is critical.

### Potential Solutions

There are multiple potential solutions to streamline the approval process for small infill development. It is important to understand that these are not alternative options in which only one can be selected. Instead, one or more of them can be adopted to address this issue. They are not mutually exclusive.

#### *A. Encourage and Expand Mixed Housing Districts*

Lexington should continue to promote a mixture of housing types "by right" in certain districts, and encourage the expansion of those districts where appropriate. Most of the LFUCG's residential districts already permit Accessory Dwelling Units (ADUs), and districts such as R-3 and R-4 permit a mixture of housing types. The flexibility to increase density by right without changing the design and character of the neighborhood could minimize the need for rezonings, which could expedite the approval process.

#### *B. Prioritize Placebuilder Policies*

For infill projects that require a Rezoning, consider "Placebuilder-lite" for small infill development where the most important policies of infill development are defined rather than an exhaustive list of policies that are better applied to larger developments with greater individual impact. An example for leniency would be reduced parking requirements. This approach could reduce the amount of time and cost to get such infill developments approved. Money savings could be invested in the physical development or, at the very least, could help to make the project more feasible financially.

*C. Utilize the Group Residential Project Tool to the Fullest Extent*

Lexington's development regulations are more flexible than some communities in that there are multiple districts that permit a variety of housing types, from accessory dwelling units (ADUs) to multi-family units. There is also a provision for group residential projects in several zones that would permit multiple buildings on a single lot. While a Development Plan and public hearing are required, there are specific standards relative to this option. Some of the standards may need to be revisited in the near future to maximize flexibility and continue to protect surrounding properties. Perhaps this option could be expanded to areas within neighborhoods that have business zoning, but would benefit from expanding residential uses. Alternatively, an Infill Overlay tool could be created and applied to certain areas with specific standards for a variety of housing types. The purpose of this idea would be to increase opportunities for by-right residential uses that, through good standards, could move through the approval process quicker.

*D. Consider Administrative Approvals for Infill Projects*

Incentivize small infill projects by allowing administrative approvals of small-scale infill projects that meet very specific design criteria at the beginning of the process. The scale threshold for "small-scale" projects will need to be defined by quantifiable standards (size of site, number of residential units, square footage of non-residential building space, etc.). Also, one alternative might be to utilize the Technical Review Committee (TRC) to decide on such applications, as they already review Subdivision and Development Plan applications. Care must be taken to ensure the compatibility of small infill developments with their context, but it is equally important to minimize unnecessary bureaucracy to help get such projects off the ground.

**4) Reduce the workload of the Subcommittees.**

Background

Relative to the other peer communities studied, the LFUCG has more committees involved in the review and approval processes for land use and development applications. It appears that the more committees that are involved, the more time that is required of Applicants and their professionals. The Zoning and Subdivision subcommittees (ZSC & SSC) of the Planning Commission (PC) have been identified as the best options to reduce the time requirements for approvals. The Technical Review Committee (TRC) provides administrative/staff oversight and provides a platform for intergovernmental coordination across all affected jurisdictions. Planning Commission is the primary body of discretionary review. The ZSC and SSC add an additional layer of discretionary review between TRC and PC.

Potential Solutions

Two potential solutions have been identified, as follows:

*A. Reduce the number of applications that go before the Zoning & Subdivision Subcommittees*

This approach would allow smaller and less complex applications to bypass the Subcommittees and to instead be handled administratively. However, as noted with the recommendation for more streamlined approvals for small infill developments, the threshold for small-scale projects would need to be defined with quantifiable standards (size of site, number of residential units, square footage of non-residential building space, etc.). For smaller projects, this approach would result in one less meeting for Applicants and their professionals.

*B. Provide the Zoning & Subdivision Subcommittees with Limited Approval Authority*

An alternative solution would be to grant the ZSC and SSC limited approval authority. For applications that are small in scale, the Subcommittee could provide approval without the need for further hearings before the PC. As in the case of option A above, the threshold between what does and does not go before the Subcommittees would need to be defined in a quantifiable manner. This approach would reduce the PC's workload to only address applications that require additional public scrutiny and consideration.

One other option that might be explored in the future would be the complete elimination of the Zoning & Subdivision Subcommittees. This approach might require creating PC-appointed seats on the TRC.

**5) Utilize videoconferencing and record meetings.**Background

Public hearings for land use and development applications before the LFUCG are currently televised. However, the availability of remote observation, such as television or virtual broadcasting, for work sessions is not required. Regardless, some committees, such as the Bicycle and Pedestrian Committee, elect to host their meetings with a virtual platform supplementing the in-person sessions. Additionally, the means to access either the live feed or recordings of previous meetings for review is not made clear.

Potential Solutions

To encourage greater public participation and transparency, without straining the capacity of existing meeting spaces, the following new approaches should be considered:

- Provide virtual broadcasting for all public meetings and work sessions
- Record all public meetings and work sessions
- Provide clear instructions for the public on how to access both virtual broadcasting and recorded meetings

**6) Change the time for Planning Commission meetings.**Background

The LFUCG Planning Commission meetings currently occur on the second and fourth Thursday of each month at 1:30 PM. While that day and time works well for professionals whose jobs require them to attend, it can be difficult for others, including citizens who are following a particular application. Most communities hold such meetings after “working hours.” For example, Madison (WI) holds their Planning Commission meetings at 5:00 PM and Greenville (SC) holds theirs at 4:00 PM. Such meeting times allow more participants to effectively engage.

Potential Solution

It is recommended that, at a minimum, the Planning Commission meetings be changed from the current time to the late afternoon, such as 5:00 or 6:00 PM. Likewise, the LFUCG should consider holding committee and work session meetings closer to the end of the work day. It is recognized that meeting space limitations may be the biggest hurdle to this recommendation.

**7) Utilize the Accela portal in a more effective manner.**Background

Accela is an online portal that allows LFUCG staff, Applicants, and the public to track the progress of land use and development applications. There are various levels of access permitted, with LFUCG having the greatest amount of access and the general public having the least access. For any given application, the information is periodically updated as additional reviews and information evolve. However, many developers have complained that there is no reliable mechanism within the system to alert them of all staff requirements tied to their application.

Model for Consideration

Andrea Lauago, the Planning Supervisor with the City of Louisville’s Office of Planning and Design Services, was consulted on their use of the Accela system. Key findings included the following:

Automatic Notifications

Accela has automatic notifications that can be turned on or off in the “back office” of the software. Louisville’s planning department has it turned off, as has the LFUCG’s planning department. Louisville’s building inspection department has this option turned on. The automatic notifications can generate quite a bit of

email traffic because every upload or email saves a copy to the official record, making the record extremely lengthy.

#### *Periodic Reports*

Louisville utilizes a case management system with weekly reports. The staff dedicates time and checks the status of applications weekly. To do this, Accela generates a series of reports (they use a range of dates), and any new revisions via the activity log feature and note the workflow task. The Louisville IT department wrote a script to take the Accela data and generate a usable report. It was accomplished over a three-year period with temporary workarounds, including spreadsheets.

#### *Staffing Requirements*

Louisville's methodology is for their planning staff to compile and email out staff comments weekly. Comments from staff are due into the Accela program by Thursday at noon. Louisville also has a team of four or five IT personnel dedicated solely to Accela issues. Each department or agency has an Accela point person who meets monthly as a group to discuss and troubleshoot any issues.

#### *Other Issues*

- Accela cannot communicate with outside agencies.
- As with the LFUCG, they have experienced issues of staff not being notified of new uploads.
- When generating an email, the Communication tab does not tell who the sender is, so the sender must include their information.

#### Potential Solutions

Because this issue is so specific to information technology (IT), as opposed to city planning, improving Accela for the LFUCG and its Applicants will require the expertise of IT professionals and others who utilize Accela on a regular basis. It is recommended that the LFUCG reach out to both Accela representatives and other communities that use Accela to identify potential improvements. However, based upon the experience of Louisville and other communities researched, the following two ideas should be explored, among many others:

- *Generation of weekly reports* – Although it took Louisville quite a while to perfect the script required to generate these reports, it appears that they have benefited the review and approval process for land use and development applications.
- *Dedication of more staffing to Accela* – As noted previously, Louisville has a team of four or five IT personnel dedicated solely to Accela issues. Each department or agency has an Accela point person who meets monthly as a group to discuss and troubleshoot any issues

### **8) Tighten Certification to lock in the requirements.**

#### Background

At present, development applications often receive formal approval, but when finalizing the details in the final steps of the process (Certification), the LFUCG staff may increase the requirements. The most common example cited by Applicants is the requirement that a sidewalk originally approved at a certain width is later proposed by staff at a greater width. In such a scenario, the only option for an Applicant not wanting to comply with the staff's suggestion is to "get back in line" and go before the approving body again. Changes to the approval process are needed to avoid that scenario in the future.

#### Current Approval Process

The current process, in very general terms, typically features the following primary steps:

1. *Application Submission*: The first step is for the Applicant to submit their application to the planning department, including all related plans.

2. *Technical Review Committee Meeting:* At this meeting, staff members bring up issues that they would like to see addressed, which might result in plan revisions. Although the issue might be discussed, there are notes made and the Applicant typically follows up on the issue with the relevant staff member. Often, staff members are listed as “sign offs” on a plan for TRC when they should not be listed because the issues are not relevant to their areas of responsibility and/or expertise. During this meeting, the Applicant can request that a particular department be removed from “sign off” because it is not relevant to the application. However, if no representative of the department is present, the request is not considered. If a representative is present and they indicate that they want to stay on as a sign off, they can do so without stating a reason.
3. *Post-Meeting Communications:* Discussions between the Applicant and relevant staff members sometimes results in the staff members changing their opinion on an issue, but not always.
4. *First Revised Plan Submission:* Based upon the TRC meeting and subsequent discussions with staff, a revised plan is typically submitted by the Applicant prior to the Subdivision and/or Zoning Subcommittee meeting.
5. *Subcommittee Meeting:* At this meeting of the Subdivision and/or Zoning Subcommittee, the plan is recommended by the Subcommittee for either approval, postponement, or denial.
6. *Second Revised Plan Submission:* Based upon the results of the Subcommittee meeting(s), a revised plan is submitted prior to the Planning Commission meeting.
7. *Planning Commission Meeting:* At this meeting, the staff presents their report to the Planning Commission. Unless the Applicant brings up an issue specifically to discuss from the staff report, a vote for approval is then taken, and it may include conditions from the staff report.

#### Certification Process

Following the application approval process, the final key step – Certification – must occur.

#### *Typical List of Conditions*

A typical list of conditions for approval often includes the following:

- A. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
- B. Urban County Traffic Engineer's approval of street cross-sections and access.
- C. Landscape Examiner's approval of landscaping and landscape buffers.
- D. Addressing Office's approval of street names and addresses.
- E. Urban Forester's approval of tree preservation plan.
- F. Department of Environmental Quality's approval of environmentally sensitive areas.
- G. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
- H. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
- I. Division of Waste Management's approval of refuse collection locations.
- J. United States Postal Service Office's approval of kiosk locations or easement.

#### *Project Sign-Off Phase*

Based upon the list of conditions, staff members with “sign off” authority must be satisfied. Relative to the specific standards required by the land use and development regulations, conditions might include additional landscaping, wider sidewalks, additional buffers, additional easement widths, and similar increased requirements. The Applicant's options at this point are to:

- Accept the conditions as determined by staff;
- Negotiate with staff to avoid any increased requirements of one or more conditions of approval; or
- Go back to the Planning Commission for relief from the staff's requested increase in requirements.



### Potential Solution

The following recommendations are offered to improve the Certification process:

- *Limit staff members who are on the “sign off” list* to those whose expertise is directly related to a substantive issue for the application.
- *Require TRC meeting attendance by at least one representative of all departments* that will be reviewing and commenting on the application. A policy might even be considered in which, if a department representative is not in attendance, the department waives its right to review the application.
- *New issues should not be raised by staff after an application’s plans have been revised* based upon the results of the TRC meeting. An exception is if the plan revisions have created legitimate new issues for consideration.
- *Limit conditions for approvals to quantifiable specifics* (five-foot wide sidewalk, etc.) rather than open-ended conditions such as satisfying the requirements of a staff member. Achieving this new approach will require that submitted plans be closer to their final version by the time of the meeting for approval. For issues that must be resolved at a time following approval, consider utilizing the TRC to make final decisions on those issues.
- *Adopt a policy that prohibits increasing development standards/requirements* for any given application after it has been approved. That policy should include instances in which the standards/requirements have been formally revised since the application’s approval. Such “grandfathering” of the standards/requirements might be accompanied by some time limitation, such as one or two years.
- *Allow Applicants to request and get administrative approval for minor modifications* to specific technical requirements if they do not affect the general character of the development.

### **9) Adopt a new policy for ex parte communications.**

#### Overview

At present, the LFUCG has taken a position that ex parte communications between the public and Council members are prohibited prior to voting based on several decisions of Kentucky appellate courts. The LFUCG’s position may be based on the decision in *Louisville v. McDonald*, 470 S.W.2d 173 (Ky. 1971) where the Kentucky Court of Appeals (the state’s only appellate court at the time) noted that a legislative body like the LFUCG is required to demonstrate that its decision on a rezoning request is not arbitrary and to provide “trial-type due process” and act “on the basis of a record and on the basis of substantial evidence.” Consequently, the public is frustrated at not being able to convey their concerns regarding proposed rezonings to Council members prior to public hearings. A careful review of both the laws and court decisions in Kentucky related to ex parte communications, however, suggests that ex parte communications between members of the public and Council members are acceptable as long as the elected officials do not have “any bias or prejudicial conduct which demonstrates ‘malice, fraud, or corruption,’” and their decision is not “tainted by conflicts of interest or blatant favoritism.” See *Land Use and Zoning in Kentucky* (5<sup>th</sup> ed) at 6-9. Also, see *Appendix B* of this report for a detailed memorandum on this topic.

#### Relevant Case Law

In *Hilltop Basic Res., Inc. v County of Boone*, 180 S.W.3d 464 (Ky. 2005), the Kentucky Supreme Court noted that, while Applicants for a rezoning are entitled to elements of “procedural due process” such as a fair hearing and a decision based on substantial evidence, they are not entitled to an impartial decisionmaker. So long as the elected officials do not have “any bias or prejudicial conduct which demonstrates ‘malice, fraud, or corruption,’” and their decision is not “tainted by conflicts of interest or blatant favoritism,” their due process rights have not been violated. One example is *Hougham v. Lexington-Fayette Urban County Gov’t*, 29 S.W.3d 370 (Ky Ct. App. 1999), which involved an Applicant who sought to rezone their 40-acre piece of land from an agricultural urban district to a light industrial district. The request was rejected, and the Applicant complained that two members of the LFUCG

had acted improperly by “attending neighborhood meetings at which the proposed zone change was discussed, requesting information from city staff concerning the site in question, and receiving letters from opponents of the zone change.” Both the trial court and appeals court rejected the Applicant’s argument. The trial court concluded: “There is no evidence in the record that any Council members made improper statements or promises in their dealings with constituents. There is no indication that the contacts at issue tainted the decision making process so as to make it unfair to the parties or contrary to the public interest.” The appeals court agreed:

*“[M]embers of council do not live in a vacuum nor are they required to. They are elected officials who represent the community and will be subjected from time to time to contact from constituents concerning issues, upon which they must ultimately decide. The mere fact that they are exposed to various information from competing groups does not make it impossible for them to serve and vote. Mere contact with neighborhood groups, letters from constituents, information gathered from staff, etc. does not, by itself, constitute ‘improper ex parte contact.’ If this were the case, seldom could an elected official make an informed decision without being accused of improper ex parte conduct.”*

#### Potential Solutions

It is recommended that the LFUCG allow ex parte communications to occur subject to a set of rules established to prevent bias, prejudicial conduct, malice, fraud, and corruption, and to provide assurance that the decision is not tainted by conflicts of interest and blatant favoritism. The minimum rules that should be applied include the following:

- The elected officials should make all reasonable efforts to meet with any members of the public that want to meet with them about a proposed development application (those in favor and those opposed), with the understanding that the meeting would focus on the merits of the application. Time limits might be placed on the length of the meeting (e.g., 30 or 45 minutes).
- The meeting should take place at a specific location.
- Each ex parte meeting held should be documented in writing, including the location of the meeting, the length of the meeting, and documents or materials provided to the elected official, which should become part of the hearing record. This information should be announced at the beginning of the public hearing.
- A list should be maintained of any ex parte meetings requested by a member of the public that were denied by the elected official, and the reason why the meeting was not held should be stated. This information should also be announced at the beginning of the public hearing.
- Each elected official should identify any potential conflict of interest that they might have with respect to the development application. This information should also be announced at the beginning of the public hearing.
- A procedure should be established for members of the public to submit comments about the application, which should become part of the hearing record. Louisville, for example, uses an online portal for comments.

#### **10) Establish a Development Liaison position.**

##### Background

The LFUCG currently lacks a “Development Liaison” position, which is a position established by some local governments. The purpose of such a new position would be to help Applicants for various types of land use and development application types walk their applications through the approval process. The goal would be for applications to be less time consuming and less costly for both the Applicant and the LFUCG.

A few of the peer communities studied for this project have considered an ombudsman type of position, including Chattanooga and Louisville. The latter made a recent budget request for such a position, but is waiting for



approval of it. Columbia has established a “Business Liaison” professional staff person who works closely with the City’s planning department, but is part of their economic development department. Specifically, this staff person assists Applicants who request assistance in working their applications through the approval process. This position involves:

- Providing information and assistance with application preparation and submissions
- Monitoring staff and board review of the application to ensure it is reviewed in a timely way

The Columbia planning department emphasizes that this arrangement works very well, and there is “zero friction” between the Business Liaison person and the planning department. As Columbia Planning Director Krista Hampton stated “We have been very pleased with the Business Liaison. He provides assistance to both staff and customers and eases the lines of communication. I highly recommend the position to other local governments.”

#### Potential Solution

It is recommended that the new Development Review Liaison position be housed in a department that is allied to the Planning Department, but not actually within that department so they can have more autonomy. The most likely department would be the Office of the Chief Development Officer. Below are additional details for consideration.

#### *Qualifications*

This person should have a city planning background, including knowledge and experience with development review processes. The minimum of a planning degree and at least a few years of relevant experience should be required.

#### *Duties*

This position should include the following duties:

- Meet with Applicants and their professionals to educate them about the development review process and the options that are available to develop their property under the current codes;
- Offer Applicants suggestions about the most appropriate types of applications to submit to meet their needs;
- Assist Applicants in completing their application forms and submitting required information;
- Function as a liaison between the Applicant (and/or their representatives) and the LFUCG development review staff, including insuring that applications are moving efficiently through the process;
- Inform members of the development community on any changes in the development review process or regulations;
- Respond to any questions or concerns members of the development community may have; and
- Attend the monthly meetings of the local chapter of the Building Industry Association of Central Kentucky (BIA), as a representative of Louisville’s planning staff does currently.

# **APPENDICES**

- A. Application of Criteria to Recommendations**
- B. Memo on Ex Parte Communications**
- C. Example Business Liaison Position Description**

# **APPENDIX A**

## **Application of Criteria to Recommendations**

<b>Rec. #1: Propose future land uses in the Comprehensive Plan.</b>	<b>Very Negative Impact</b>	<b>Somewhat Negative Impact</b>	<b>Neutral Impact</b>	<b>Somewhat Positive Impact</b>	<b>Very Positive Impact</b>	<b>Total Score</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
<i>Criterion #1: Quality of land uses and development</i>	0	0	3	0	0	3
<i>Criterion #2: Predictability of the process and outcomes</i>	0	0	0	0	5	5
<i>Criterion #3: Costs to applicants</i>	0	0	0	0	5	5
<i>Criterion #4: Costs to the LFUCG</i>	0	0	0	0	5	5
<i>Criterion #5: Protection of natural and cultural resources</i>	0	0	3	0	0	3
<i>Criterion #6: Opportunities for meaningful public engagement</i>	0	0	3	0	0	3
<i>Criterion #7: Equity issues for disadvantaged stakeholders</i>	0	0	0	4	0	4
<b>Total Score</b>	0	0	9	4	15	28
<b>Rec. #2: Limit Placebuilder's use to supplementing the codes.</b>	<b>Very Negative Impact</b>	<b>Somewhat Negative Impact</b>	<b>Neutral Impact</b>	<b>Somewhat Positive Impact</b>	<b>Very Positive Impact</b>	<b>Total Score</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
<i>Criterion #1: Quality of land uses and development</i>	0	0	3	0	0	3
<i>Criterion #2: Predictability of the process and outcomes</i>	0	0	0	0	5	5
<i>Criterion #3: Costs to applicants</i>	0	0	0	4	0	4
<i>Criterion #4: Costs to the LFUCG</i>	0	0	0	4	0	4
<i>Criterion #5: Protection of natural and cultural resources</i>	0	0	3	0	0	3
<i>Criterion #6: Opportunities for meaningful public engagement</i>	0	0	3	0	0	3
<i>Criterion #7: Equity issues for disadvantaged stakeholders</i>	0	0	3	0	0	3
<b>Total Score</b>	0	0	12	8	5	25
<b>Rec. #3: Establish a streamlined process for infill approval.</b>	<b>Very Negative Impact</b>	<b>Somewhat Negative Impact</b>	<b>Neutral Impact</b>	<b>Somewhat Positive Impact</b>	<b>Very Positive Impact</b>	<b>Total Score</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
<i>Criterion #1: Quality of land uses and development</i>	0	0	3	0	0	3
<i>Criterion #2: Predictability of the process and outcomes</i>	0	0	0	0	5	5
<i>Criterion #3: Costs to applicants</i>	0	0	0	0	5	5
<i>Criterion #4: Costs to the LFUCG</i>	0	0	0	0	5	5
<i>Criterion #5: Protection of natural and cultural resources</i>	0	2	0	0	0	2
<i>Criterion #6: Opportunities for meaningful public engagement</i>	0	2	0	0	0	2
<i>Criterion #7: Equity issues for disadvantaged stakeholders</i>	0	0	0	4	0	4
<b>Total Score</b>	0	4	3	4	15	26

<b>Rec. #4: Reduce the workload of the Subcommittees.</b>	<b>Very Negative Impact 1</b>	<b>Somewhat Negative Impact 2</b>	<b>Neutral Impact 3</b>	<b>Somewhat Positive Impact 4</b>	<b>Very Positive Impact 5</b>	<b>Total Score</b>
<i>Criterion #1: Quality of land uses and development</i>	0	2	0	0	0	2
<i>Criterion #2: Predictability of the process and outcomes</i>	0	0	0	4	0	4
<i>Criterion #3: Costs to applicants</i>	0	0	0	0	5	5
<i>Criterion #4: Costs to the LFUCG</i>	0	0	0	0	5	5
<i>Criterion #5: Protection of natural and cultural resources</i>	0	2	0	0	0	2
<i>Criterion #6: Opportunities for meaningful public engagement</i>	0	0	3	0	0	3
<i>Criterion #7: Equity issues for disadvantaged stakeholders</i>	0	0	0	4	0	4
<b>Total Score</b>	0	4	3	8	10	25
<b>Rec. #5: Utilize videoconferencing and record meetings.</b>	<b>Very Negative Impact 1</b>	<b>Somewhat Negative Impact 2</b>	<b>Neutral Impact 3</b>	<b>Somewhat Positive Impact 4</b>	<b>Very Positive Impact 5</b>	<b>Total Score</b>
<i>Criterion #1: Quality of land uses and development</i>	0	0	3	0	0	3
<i>Criterion #2: Predictability of the process and outcomes</i>	0	0	3	0	0	3
<i>Criterion #3: Costs to applicants</i>	0	0	3	0	0	3
<i>Criterion #4: Costs to the LFUCG</i>	0	2	0	0	0	2
<i>Criterion #5: Protection of natural and cultural resources</i>	0	0	3	0	0	3
<i>Criterion #6: Opportunities for meaningful public engagement</i>	0	0	0	0	5	5
<i>Criterion #7: Equity issues for disadvantaged stakeholders</i>	0	0	0	0	5	5
<b>Total Score</b>	0	2	12	0	10	24
<b>Rec. #6: Change the time for Planning Commission meetings.</b>	<b>Very Negative Impact 1</b>	<b>Somewhat Negative Impact 2</b>	<b>Neutral Impact 3</b>	<b>Somewhat Positive Impact 4</b>	<b>Very Positive Impact 5</b>	<b>Total Score</b>
<i>Criterion #1: Quality of land uses and development</i>	0	0	3	0	0	3
<i>Criterion #2: Predictability of the process and outcomes</i>	0	2	0	0	0	2
<i>Criterion #3: Costs to applicants</i>	0	2	0	0	0	2
<i>Criterion #4: Costs to the LFUCG</i>	0	2	0	0	0	2
<i>Criterion #5: Protection of natural and cultural resources</i>	0	0	0	4	0	4
<i>Criterion #6: Opportunities for meaningful public engagement</i>	0	0	0	0	5	5
<i>Criterion #7: Equity issues for disadvantaged stakeholders</i>	0	0	0	0	5	5
<b>Total Score</b>	0	6	3	4	10	23

<b>Rec. #7: Utilize the Accela portal in a more effective manner.</b>	<b>Very Negative Impact 1</b>	<b>Somewhat Negative Impact 2</b>	<b>Neutral Impact 3</b>	<b>Somewhat Positive Impact 4</b>	<b>Very Positive Impact 5</b>	<b>Total Score</b>
Criterion #1: Quality of land uses and development	0	0	3	0	0	3
Criterion #2: Predictability of the process and outcomes	0	0	0	0	5	5
Criterion #3: Costs to applicants	0	0	0	4	0	4
Criterion #4: Costs to the LFUCG	0	0	0	4	0	4
Criterion #5: Protection of natural and cultural resources	0	0	3	0	0	3
Criterion #6: Opportunities for meaningful public engagement	0	0	0	4	0	4
Criterion #7: Equity issues for disadvantaged stakeholders	0	0	3	0	0	3
<b>Total Score</b>	0	0	9	12	5	26
<b>Rec. #8: Tighten Certification to lock in the requirements.</b>	<b>Very Negative Impact 1</b>	<b>Somewhat Negative Impact 2</b>	<b>Neutral Impact 3</b>	<b>Somewhat Positive Impact 4</b>	<b>Very Positive Impact 5</b>	<b>Total Score</b>
Criterion #1: Quality of land uses and development	0	2	0	0	0	2
Criterion #2: Predictability of the process and outcomes	0	0	0	0	5	5
Criterion #3: Costs to applicants	0	0	0	0	5	5
Criterion #4: Costs to the LFUCG	0	0	0	4	0	4
Criterion #5: Protection of natural and cultural resources	0	0	3	0	0	3
Criterion #6: Opportunities for meaningful public engagement	0	0	3	0	0	3
Criterion #7: Equity issues for disadvantaged stakeholders	0	0	0	4	0	4
<b>Total Score</b>	0	2	6	8	10	26
<b>Rec. #9: Adopt a new policy for ex parte communications.</b>	<b>Very Negative Impact 1</b>	<b>Somewhat Negative Impact 2</b>	<b>Neutral Impact 3</b>	<b>Somewhat Positive Impact 4</b>	<b>Very Positive Impact 5</b>	<b>Total Score</b>
Criterion #1: Quality of land uses and development	0	0	0	4	0	4
Criterion #2: Predictability of the process and outcomes	0	2	0	0	0	2
Criterion #3: Costs to applicants	0	2	0	0	0	2
Criterion #4: Costs to the LFUCG	0	2	0	0	0	2
Criterion #5: Protection of natural and cultural resources	0	0	0	4	0	4
Criterion #6: Opportunities for meaningful public engagement	0	0	0	0	5	5
Criterion #7: Equity issues for disadvantaged stakeholders	0	0	0	4	0	4
<b>Total Score</b>	0	6	0	12	5	23

<b>Rec. #10: Establish a Development Liaison position.</b>	<b>Very</b>	<b>Somewhat</b>		<b>Somewhat</b>	<b>Very</b>	
	<b>Negative</b>	<b>Negative</b>	<b>Neutral</b>	<b>Positive</b>	<b>Positive</b>	<b>Total</b>
	<b>Impact</b>	<b>Impact</b>	<b>Impact</b>	<b>Impact</b>	<b>Impact</b>	<b>Score</b>
	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	
<i>Criterion #1:</i> Quality of land uses and development	0	0	3	0	0	3
<i>Criterion #2:</i> Predictability of the process and outcomes	0	0	0	0	5	5
<i>Criterion #3:</i> Costs to applicants	0	0	0	0	5	5
<i>Criterion #4:</i> Costs to the LFUCG	0	2	0	0	0	2
<i>Criterion #5:</i> Protection of natural and cultural resources	0	0	3	0	0	3
<i>Criterion #6:</i> Opportunities for meaningful public engagement	0	0	3	0	0	3
<i>Criterion #7:</i> Equity issues for disadvantaged stakeholders	0	0	3	0	0	3
<b>Total Score</b>	0	2	12	0	10	24



## **APPENDIX B**

### **Memo on Ex Parte Communications**

## Memorandum on *Ex Parte* Communications with Elected Officials on Zoning Map Amendment Applications

In Lexington-Fayette County, as in other communities in Kentucky (such as [Louisville](#)<sup>1</sup>), citizens are limited in their ability to discuss pending rezoning applications with local elected officials. According to staff and citizens, members of the Lexington Fayette Urban County Council (LFUCC) are not permitted to have *ex parte* contacts with members of the public regarding the application.

This prohibition on *ex parte* contacts is not included in the Kentucky Revised Statutes but derives from decisions of the Kentucky Supreme Court. In *Louisville v. McDonald*, 470 S.W.2d 173 (Ky. 1971), the state's highest court stated that a legislative body like the LFUCC is required to demonstrate that its decision on a rezoning request is not arbitrary and to provide "trial-type due process" and to act "on the basis of a record and on the basis of substantial evidence."

However, the requirement for a trial-like proceeding is more relaxed than what is required in a judicial proceeding, such as a criminal trial. Murphy, R. and Price Jr., G, Land Use and Zoning in Kentucky, 5th ed. § 6.9 (UK/CLE) (2018). Land Use and Zoning in Kentucky references *Hilltop Basic Res., Inc. v. County of Boone*, 180 S.W.3d 464 (Ky. 2005), where the Kentucky Supreme Court noted that while applicants for a rezoning are entitled to elements of "procedural due process" such as a fair hearing and a decision based on substantial evidence, they are not entitled to an impartial decisionmaker. So long as the elected officials do not have "any bias or prejudicial conduct which demonstrates 'malice, fraud, or corruption,'" and their decision is not "tainted by conflicts of interest or blatant favoritism," their due process has not been violated.

Land Use and Zoning in Kentucky cites to an earlier case in Lexington-Fayette County decided by the Kentucky Court of Appeals that provides a specific example regarding *ex parte* communications. *Hougham v. Lexington-Fayette Urban County Gov't*, 29 S.W.3d 370 (Ky Ct. App. 1999) involved an applicant who sought to rezone their 40-acre piece of land from an agricultural urban district to a light industrial district. The request was rejected, and the applicant complained that two members of the LFUCC had acted improperly by "attending neighborhood meetings at which the proposed zone change was discussed, requesting information from city staff concerning the site in question, and receiving letters from opponents of the zone change." Both the trial court and appeals court rejected the

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<sup>1</sup> The Louisville city government website includes a Citizen User Guide for rezonings which states "Once the rezoning application is filed, Metro Council members and Planning Commissioners are not allowed to discuss the matter with any interested party (including the developer, attorney, or citizens)."

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applicant's argument. The trial court concluded that "There is no evidence in the record that any Council members made improper statements or promises in their dealings with constituents. There is no indication that the contacts at issue tainted the decision making process so as to make it unfair to the parties or contrary to the public interest." The appeals court agreed:

"Members of council do not live in a vacuum nor are they required to. They are elected officials who represent the community and will be subjected from time to time to contact from constituents concerning issues, upon which they must ultimately decide. The mere fact that they are exposed to various information from competing groups does not make it impossible for them to serve and vote. Mere contact with neighborhood groups, letters from constituents, information gathered from staff, etc. does not, by itself, constitute "improper *ex parte* contact." If this were the case, seldom could an elected official make an informed decision without being accused of improper *ex parte* conduct."

There is no clear guidance in either state law or court decisions about the extent of permissible communications between council members (and Planning Commission members) and members of the public. The state statutes provide no clarity, and there are no court cases that address the types of communications that are appropriate, and those that are not.

## **APPENDIX C**

### **Example Business Liaison Position Description**



## Position Description

*To perform this job successfully, an individual must be able to perform the essential job functions satisfactorily. Reasonable accommodations may be made to enable individuals with disabilities to perform the primary job functions herein described. Since every duty associated with this position may not be described herein, employees may be required to perform duties not specifically spelled out in the job description, but which may be reasonably considered to be incidental in the performing of their duties just as though they were actually written out in this job description.*

**Job Title:** **Business Liaison**

**Department:** Economic Development/City Administration

**Pay Grade:** 115

**FLSA Status:** Exempt

### **JOB SUMMARY**

This position provides business support and development expertise to new and expanding businesses operating in the City of Columbia; functions as an interdepartmental coordinator of business development projects; responsible for ensuring that coordinated efforts between departments yields a smooth development process; responsible for fostering a positive, supportive environment for businesses in the community to be successful; and performs related work as assigned. The incumbent works within broad policy and organizational guidelines and does independent planning and implementation, reporting progress of major activities through periodic conferences and meetings.

### **ESSENTIAL JOB FUNCTIONS:**

- Acts as liaison between various departments and staff in dealing with developers and businesses to aid in streamlining the process and ensuring compliance; assists with internal development project coordination by working to maximize ease and use and functionality both internally and externally;
- Provides guidance and assistance to businesses and developers in navigating the City's development process; acts as a central point of contact for business development applications; provides information on what other public agencies are involved in the development process and the point of contact for those agencies;
- Initiates and maintains relationships with small and large businesses in the community and provides guidance and assistance as possible to support and grow their business; identifies new businesses, welcome them on behalf of the City and provides support with "start-up" issues that relate to the City or other public agencies; works with other departments on business support programs to ensure the City has a friendly and streamlined approach;

- Monitors national and regional business trends and the community business climate; identifies community type “gaps” and develops ideas on how to fill them; develops and offers programming to encourage new and relevant businesses to open; evaluates City regulations, policies and procedures and recommends revisions to improve the success of businesses in the City;
- Works closely with representatives from outside interties such as, the S.C. Chamber of Commerce, the Columbia Chamber of Commerce, Richland County, etc. to inventory and monitor businesses and vacancies in commercial centers; provides assistance through research and marketing to help fill vacant spaces;
- Serves as a resource to potential businesses on various incentive options available; generates ideas for new incentives; researches, drafts policies and makes presentations on incentives ideas and options;
- Manages projects related to business development; prepares reports, analyses, responses, proposals and presentations;
- Gathers and analyzes data on proposals for new programs, services and equipment, and other issues, policies, or proposals;
- Assists with surveys and proposals including financing, staffing and organization requirements and prepares comparative analysis when appropriate;
- Represents the City at local, regional and national meetings; serves as the face of the City at Council meetings, Planning Commission, Chamber, City and other business events which are often held on evenings and weekends; and
- Performs other related duties as assigned.

**MINIMUM REQUIREMENTS TO PERFORM WORK:**

- Bachelor’s degree in business administration, finance, marketing, or closely related field;
- Five (5) years of relevant prior experience in marketing, business development, local government planning and development, redevelopment, public relations or other related experience;
- Valid South Carolina Class “D” Driver’s License.

**Knowledge, Skills and Abilities:**

- Knowledge of public land development and public policy; construction practices and techniques; municipal ordinance interpretation development reviews;
- Knowledge of personal computer equipment with skill in the use of Microsoft Office preferred, utilizing Outlook, word processing, project management applications and database software programs;
- Ability to develop establish and maintain effective working relationships with employees, citizens, and elected officials; handle sensitive information and situations with tact and diplomacy; Strong interpersonal, analytical and negotiation skills;
- Ability to communicate effectively both verbally and in writing;
- Ability to perform as a project manager; plan and schedule team operations; mediate and resolve conflicts; and
- Ability to handle or use machines, requiring moderate instruction and experience such as computers, and software programs such as word processing, spreadsheets or custom applications;

**PHYSICAL DEMANDS:**

The work is considered sedentary in nature and involves walking or standing some of the time and involves exerting up to 10 pounds of force on a recurring basis, and routine keyboard

operations. The work requires the following physical abilities to perform the essential job functions: mental acuity, speaking, and talking.

**WORKING CONDITIONS:**

Work environment involves exposure to no known environmental hazards; and is dynamic that requires sensitivity to change and responsiveness to changing goals, priorities and needs.

*The City of Columbia has the right to revise this position description at any time, and does not represent in any way a contract of employment.*

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Supervisor (or HR) Signature

\_\_\_\_\_  
Date