

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
  - (a) Proponents (10 minute maximum OR 3 minutes each)
  - (b) Objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
  - (a) Petitioner's comments (5 minute maximum)
  - (b) Citizen objectors (5 minute maximum)
  - (c) Staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

**Note:** Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

**C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS**

1. **ZOTA 2019-5: AMENDMENT TO ARTICLES 1, 3, 8, 15, 22 and 23: ACCESSORY DWELLING UNITS** – a petition for a Zoning Ordinance text amendment to update Articles 1, 3, 8, 15, 22 and 23 of the LFUCG Zoning Ordinance to include general zoning provisions for the incorporation and regulation of Accessory Dwelling Units (ADU).

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: **Approval.**

The Staff Recommends: **Approval,** for the following reasons:

1. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan Theme A, Goals 1 to provide additional housing choice. Accessory dwelling units will provide a needed affordable and accessible housing type that supports aging in place.
2. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan Theme A, Goals 2 to support Infill and Redevelopment throughout the Urban Service Area as a strategic component of growth. Accessory dwelling units will provide an infill opportunity available throughout the Urban Service Boundary, offering equitable access to the entire community.
3. The proposed text amendment is in agreement with *Imagine Lexington*, the 2018 Comprehensive Plan Theme A, Goals 3.a to expand options for mixed-type housing throughout Lexington-Fayette County. Accessory Dwelling Units are a new housing product for Lexington that will provide greater flexibility to all residents.

*Note: Mr. Penn stated for the record that there will not be a vote taken today, that the Planning Commission is hearing public comments, and will reconvene on Monday, October 21, 2019, to respond to comments and take action at that time. He said that there are time limits shown on the first page of the agenda and that there hasn't been any requests made for additional time.*

Staff Text Amendment Presentation – Mr. Taylor presented and summarized the staff report and recommendations for this text amendment, and said that the staff had shared digital copies of correspondence received, and distributed new correspondence to the Planning Commission. He said that this text amendment was recommended for approval at the Zoning Committee meeting on September 5, 2019.

Mr. Taylor said that the City of Lexington has a unique growth challenge, because of the Urban Services Area boundary and that the 2018 Comprehensive Plan called for accessory dwelling units (ADUs) to address a specific housing need. He said that the staff has worked with community groups, including the Senior Services Commission, as well as neighborhoods, and professional organizations to discuss this concept. He added that the staff has researched national best practices for Accessory Dwelling Units and reviewed all of the challenges, failures, and successes of other communities across the country. He said that in this research, they have learned that communities are not finding problems resulting from ADUs, and they are revisiting their regulations in order to further promote them.

Mr. Taylor said that the City of Lexington is expecting the population to grow by an additional 80,000 people by the year 2035. He said that they are estimating approximately 30,000 of those will be senior citizens and studies from AARP indicate that 87% of seniors prefer to reside in their current homes. The Senior Services Commission stated that senior citizens require a continuum of care that ranges from your current home, 55 and older communities, independent living communities, assisted living facilities, to nursing home facilities. He said that the number of facilities at the early stages are the most affordable, but there are not many of them. The Senior Services Commission recommended ADUs as a way to keep senior citizens in their homes longer.

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Mr. Taylor said that an ADU is a smaller, secondary independent housekeeping establishment on the same lot as a principal dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. He said that there are four different types of ADUs. There are: new construction, alteration of a structure, addition to an existing structure, or conversion of an existing structure.

Mr. Taylor said that ADUs are currently allowed in the Expansion Area Residential (EAR) zones and the Community Center (CC) zone. He said that the proposed regulations would allow ADUs in all of the residential zones that allow, or that have a single family detached housing type as a principal permitted use, which are the R-1, R-2, R-3, and R-4 zones. He said that the proposed maximum number of units per lot will be one ADU per single family dwelling per lot. There isn't a minimum lot size restriction, so that it doesn't exclude lots that may be able to accommodate a small ADU. He said that the proposed maximum ADU size will be 800 square feet, attached or detached. The maximum floor area and lot coverage of the ADU will remain the same as the underlying zone. There are not any lot coverage and floor area restrictions in the single family zones, except in the Infill and Redevelopment Area. The maximum height restriction will also remain the same as the underlying zone of the principal structure. He said that the existing side and rear yard setbacks for accessory structures is 18 inches, which will remain.

Mr. Taylor said that the staff is recommending three design standards to minimize the visual impact to a single family residential neighborhood. There is a requirement that there be only one pedestrian entrance permitted off of the primary front wall plane, so that any access to the accessory structure will need to be on the side or the rear of the principal structure. He said that the second design standard is to preserve the existing front yards of single family neighborhoods, so that any detached ADU will need to be placed behind the primary wall plane. The third design standard is the location of exterior stairs to access an upper level ADU will need to be on the side or rear of the structure. He said that an additional parking space will not be required, but they would be permitted.

Mr. Taylor said that the elements relating to style and materials will not be included in the ordinance. The Access Dwelling Units manual has all of the best practices for determining the existing neighborhood character on a case-by-case basis as an applicant requests a zoning compliance permit. The staff would work with each applicant to address neighborhood context on the unit.

Mr. Taylor said that there is not an owner-occupancy requirement for ADUs unless either dwelling unit is used as short-term rental. He said that the City currently doesn't regulate any other housing type in terms of residential uses by ownership, which is to maintain consistency with other residential zones. He said that the City also wants to prevent significant barriers to financing; requiring owner-occupancy has been one of the biggest detriments nationwide. However, the staff is recommending that there be an owner-occupancy requirement for short-term rentals, which will be regulating the use of a property in a residential zone. There are currently regulations for bed-and-breakfasts that require an owner/operator to live on site.

Mr. Taylor said that these proposed regulations are based on national best practices, using lessons learned from a multitude of other cities across the country to ensure that our ADU regulations are equitable and consistent. The staff reviewed Durham, North Carolina, which is comparable to Lexington, and in 2012 that municipality had removed the owner occupancy requirement. They also reviewed Fayetteville, Arkansas, which is smaller than Lexington, and they also removed the owner occupancy requirement specifically to encourage the construction of more ADUs. Both are cities with large student populations.

Mr. Taylor displayed a timeline of the community response and public meetings and said that the idea for accessory dwelling units originated from discussions regarding Theme A of the 2018 Comprehensive Plan. He said that the ADU Manual was completed and released to the public in January 2019. He said that the Division of Planning and the Senior Services Commission had hosted several input meetings, which were advertised through 1,000 television commercials and social media posts. He said that a draft proposal was proposed to the Planning Commission. He said that some of the concerns raised were: students living in the ADUs, up to eight unrelated people living on a single family lot, no requirements for off-street parking, how they shouldn't be allowed to be detached from the principal residence, and that no other Kentucky community offers this. He added that none of these concerns have caused any issues in the other communities, which have almost a twenty year history of legal accessory dwelling units.

Mr. Taylor said that in regards to some of the neighbors' concerns, ADUs would be a small fraction of potential student housing and the other cities, that allow ADUs, have not reported any problem with student housing. He said that ADUs can also provide a stabilizing effect through incremental density for some existing neighborhoods. He said that short-term rentals are a separate issue and are regulated by the Code of Ordinances. The design and neighborhood context will be kept in scale to the existing single family neighborhood and the visual character will not be disrupted and that is why minimal design standards are included to make sure that the homeowner can conform to those characteristics. In regards to the storm and sanitary sewers, he said that they are also regulated by the Code of Ordinances and that additional bathrooms are currently allowed. However, constructing an accessory dwelling unit under the proposed regulations would need to go through the Capacity Assurance Program, because it will be adding a dwelling unit. He added that one of the largest problems related to storm and sanitary sewers throughout neighborhoods, is the number of improperly connected sump pumps. An ADU application would ensure that improperly connected sump pumps would be redirected.

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Mr. Taylor said that there were also comments about the demonstrated need for accessory dwelling units, ranging from the single person wanting to be able to afford to live in a certain neighborhood, to seniors and families that have disabled children, which makes it difficult to design a set of regulations that will be targeted to a certain group of people. He said that the real land use impact of ADUs is projected to be quite small, but allowing the development of these structures will have a significant impact for the people that need them to ensure their quality of life.

Chairman Penn invited citizens and members of the audience to share comments.

Citizens in Support

The following individuals were in attendance:

Brittany Roethemeier, Fayette Alliance  
Blake Hall, 36 Richmond Avenue  
Kristi Stambaugh, Director of Aging and Disability Services  
Susan Bachner, 874 McMeekin Place  
Ginger Watkins, 259 Rand Avenue  
Chris Wininger, 259 Rand Avenue  
Kathleen Winter, 151 Kentucky Avenue  
Ginny Daley, 136 Burley Avenue  
Aimee Miles, 628 Price Avenue  
Gail Reece, 608 Lakeshore Drive  
Marie Allison, 1753 Appomattox Road  
Vicky Roark, 936 Gregory Way  
Wendy Wheeler-Mullins, 3881 Hidden Springs Drive  
Patty Logsdon, 3310 Coldstream Drive  
Patty Draus, 608 Allen Court

Those individuals in support of the text amendment, made the following comments:

- Community must be open to change and progress.
- More diverse housing is critical to support our growing city.
- ADUs are not intended to solve our housing needs, but could be an option.
- The City should do more to foster an inclusive culture by offering a variety of housing types and welcoming spaces for everybody.
- Need of flexible housing options for seniors and individuals with disabilities.
- Need for accessibility and affordability in housing for people with disabilities.
- ADUs can be expensive, which will keep the return of investment low.
- There are currently no restrictions from purchasing a house and renting it to students.
- Owner-occupancy is currently not required within the city.
- This ordinance is allowing the construction of ADUs, not mandating them.
- Allows housing without new infrastructure.
- Impacts will be minimal.
- Will be a benefit to the City of Lexington.
- Allowing ADUs will improve safety in construction, materials and practice.
- Will allow registering addresses to assist with emergency responses.
- Provide a home for the caregiver of elderly citizens living in the primary dwelling, so that they can keep their independence.
- Supplementing primary dwellings income.
- People face challenges at any time and age.
- Enables privacy to the individuals, while being close to be able to give or receive support.
- Improves community livability, housing affordability, environmental sustainability, and infrastructure efficiency.
- Preserve agricultural land, contributing to food security.
- Create more livable/vibrant neighborhoods.
- Diversity of ages, ethnicity and economic situations.
- Support walkable and bicycle lifestyles.
- Consider renters to be neighbors.
- New affordable housing.
- Offers way for family members to be able to support each other.
- Increased density can help maintain transportation.
- Another tool to address growth in the city without expanding the Urban Service Area boundary.
- Expand housing options in a responsible way.
- Homeowners would prefer to redevelopment their own property rather than sell it to a developer.
- Opposes any owner-occupancy requirement.
- Opportunity to age in place.

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- Necessity of density.
- Senior homeowners prefer single family homes, attached or detached, per Housing Demand Study.
- By 2025, the population will be heavily concentrated with senior households, per Kentucky State Data Center.
- Seniors living on fixed income and trying to afford the care they need.
- Lexington is a retirement destination, with regional medical care and regional shopping areas.
- Would like others to not need to petition and get approval to allow caregivers to live on property for their disabled children, to maintain stability and safety for them.
- Option to allow caregivers a place to live while caring for the aging population.
- Families should be kept together.
- Rentals are currently happening in neighborhoods already.
- Properly guided infill and redevelopment can relieve the pressure off the city and the Urban Service Area boundary.
- Need to regulate short-term rental of dwelling units, and require them pay licensing fees and occupancy taxes.
- New housing developments have covenants that don't allow ADUs.
- Prohibit the extra parking space, on-street parking only

#### Citizens in Opposition

The following individuals were in attendance:

Anne Graham, 1225 Providence Lane

Walt Gaffield, 2001 Bamboo Drive, President of Fayette County Neighborhood Council

Janet Cabaniss, 704 Cumberland Road, Stonewall Community Association Board of Directors

Sarah Smith, 307 Desha Road, vice president of the Ashland Park Neighborhood Association

Mary Campbell, 328 South Mill Street, Historic South Hill Neighborhood Association

Dana Manning, 1120 Slashes Road

Jennifer Braddock, 424 West Third Street, Northside Neighborhood Association

Mark Streety, 1020 Fincastle Road

Mike Kirwin, 1225 Cooper Drive

Kathy Simon, 237 Desha Road

Jean Jacobs, 1347 Strawberry Lane

Jack McKinney, 726 Melrose Avenue

Patricia Kwik Elperin, 1306 Fincastle Road, Member of the Ashland Neighborhood Association

Catherine Adams, 202 Tahoma Road

Beverly Salehi, 340 Cassidy Avenue

Gigi Bray, 3704 St. Andrews Walk

John Hackworth, 220 Market Street

Those individuals in opposition to the text amendment, made the following comments:

- Negative impact of neighborhoods becoming mostly rentals.
- Business opportunity.
- Increase demand on of stormwater and sanitary sewer infrastructure.
- Increase of parking, traffic and population.
- No requirement for owner occupancy, two rental units would be permitted per lot.
- Increase of density, renters.
- Lack of design standard requirements.
- Lack of adequate enforcement.
- Licensing and inspection of units is critical.
- ADU Manual only provides "guidelines" and not rules.
- Negative impact on the tree canopy.
- Minimum setback of 18 inches.
- Maintaining neighborhood character.
- This is a county-wide zone change, without the process of notification to neighbors.
- Renting of ADUs as short-term rentals, like hotels.
- Allow community to have input on materials being utilized, via a conditional use permit.
- Only a building permit will be required to construct an ADU, without any review of appropriateness.
- Not being restricted to elderly and children with special needs.
- Quality of life of adjacent homeowners will be impacted.
- Lack of public input.
- Need for a rental registry requirement.
- Should be offered as an "opt-in" proposal; if the neighborhood wishes to allow in their neighborhood, they can petition for it.
- Should not make this applicable to all residential areas without recognition of neighborhood conditions or their character.

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- Should be allowed with a conditional use permit and not city-wide.
- Lack of services, such as waste removal.
- Safety of apartment complexes vs. a stranger's backyard.
- Unrestricted design standards is irresponsible.
- Increase of impervious surfaces.
- Apartment renters have a credit and background check, which may not be asked for with these units.
- More burden on emergency services.
- Residential zoning is negated if the density is allowed to be doubled.

Note: Planning Commission took a recess at 3:25 p.m. until 3:35 p.m.

Mr. Penn closed the public hearing and stated they will reconvene on Monday, October 21, 2019. He said that up until that hearing, the public can send other comments to the staff, which will then be forwarded to the Planning Commission.

Commission Comments:

Mr. Nicol appreciated the staff for suggesting to hold the public hearing today, and then having the decision making at a later date. He said that Lexington is unique because of its passion of its citizens and with its geography. He said that with the constraints of the Urban Service Area boundary, unique challenges had been created, that include growth and affordability. He believes that the ADU text amendment is not a solution for the City's unique growth challenge, but it is a creative solution for the affordability problem. He added that he will be taking all of this into consideration over the three weeks.

Ms. Plumlee thanked citizens for attending today's hearing. She said that within the next three weeks they will carefully analyze all of the material and hopefully make the correct decision for what is best for Lexington going forward.

Mr. Mundy also thanked citizens for their opinions. She said that she has researched this and discovered that ADUs began in 1970. She said that she will continue to research with the public's comments in mind. She added that this is one of the Planning Commission's first decisions, to begin implementing the 2018 Comprehensive Plan. She believes that the original intent of ADUs is very important, but she is concerned with the rental side of them.

Mr. Penn said today's hearing is different than the City Council because the Planning Commission is an appointed body that tries to look at the City of Lexington and tries to do what is best for the overall community. We have the opportunity to look into the future and to try to make the best decision we can make based on looking at the entire City as a whole. The Planning Commission forwards their recommendation to the Urban County Council. He added that he appreciated the citizens input at today's hearing.

Zoning Action – A motion was made by Mr. Pohl, seconded by Mr. de Movellan, and carried 8-0 (Brewer, Owens and Wilson absent) to continue the ZOTA 2019-5: AMENDMENT TO ARTICLES 1, 3, 8, 15, 22 and 23: ACCESSORY DWELLING UNITS, to a special hearing on Monday, October 21, 2019, at 1:30 p.m.

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

**VII. STAFF ITEMS** – Mr. Duncan thanked the Planning Commission for participating in the public hearing today and for their willingness to hold a special hearing on Monday, October 21, 2019. He encouraged the citizens that came today and others who would want to attend to continue this conversation. He said that the staff will continue to take public comment through October 7, 2019, in order to be prepared for a discussion. The comments will be forwarded to the Planning Commission and will be incorporated into the report to be presented at that meeting.

Mr. Duncan also reminded the Planning Commission of the Committee meetings will be held next Thursday, October 3<sup>rd</sup>, in the Phoenix Building on the 3<sup>rd</sup> Floor.

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

**IX. MEETING DATES FOR OCTOBER 2019**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	October	3, 2019
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	October	3, 2019
<b>Subdivision and ND-1 Items Public Meeting, Thursday, 1:30 p.m., 2<sup>nd</sup> Floor Council Chambers.....</b>	<b>October</b>	<b>10, 2019</b>
Work Session, Thursday, 1:30 p.m., 3 <sup>rd</sup> Floor Phoenix Building.....	October	17, 2019
<b>Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....</b>	<b>October</b>	<b>24, 2019</b>
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	October	30, 2019
Work Session, Thursday, 1:30 p.m., 3 <sup>rd</sup> Floor Phoenix Building.....	October	31, 2019

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