

ORDINANCE NO. 2
2025 SERIES

AN ORDINANCE AMENDING THE FRANKLIN COUNTY CODE OF ORDINANCES CHAPTER 155, SECTIONS 155.10 (DEFINITIONS), SECTION 155.085 (TABLE OF PERMITTED USES), AND SECTION 155.089 (NOTED SPECIAL CONDITIONS) REGARDING THE REGULATION OF MEDICINAL CANNABIS BUSINESSES IN THE ZONING ORDINANCE

WHEREAS, The Franklin County Fiscal Court, having heretofore enacted an Ordinance relating to zoning regulations and zoning district maps in accordance with a Comprehensive Plan and Kentucky Revised Statutes Chapter 100; and

WHEREAS, the Franklin County Fiscal Court, having heretofore adopted the requirements of certain inspections, as required under KRS Chapter 19B; and

WHEREAS, the aforesaid Ordinance provides for amendments to the zoning ordinance text and maps and requires the Frankfort/Franklin County Planning Commission to forward their recommendations for approval or denial of the text amendment, along with their findings of fact, to the Franklin County Fiscal Court for action; and

WHEREAS, The Frankfort/Franklin County Planning Commission held a public hearing on January 9, 2025 and recommended approval of the text amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE FRANKLIN COUNTY FISCAL COURT AS FOLLOWS:

SECTION I. The Code of Ordinances Chapter 155 is hereby amended to include the following additions:

§ 155.010 DEFINITIONS.

MEDICINAL CANNABIS. Marijuana as defined in KRS 218A.010 when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with KRS 218B. This definition includes medicinal cannabis products and raw plant material; but does not include industrial hemp or industrial hemp products as defined in KRS 260.850.

CANNABIS BUSINESS. An entity licensed under KRS 218B as a cultivator, dispensary, processor, producer, or safety compliance facility. Such licensed cannabis businesses shall not be located within one thousand (1,000) feet of an existing elementary or secondary school or a daycare center.

MEDICINAL CANNABIS CULTIVATOR. A business that is licensed to grow medicinal cannabis in compliance with KRS 218B, more specifically to:

- (a) Acquire, possess, plant, cultivate, raise, harvest, trim, or store cannabis seeds, seedlings, plants, or raw plant material;
- (b) Deliver, transport, transfer, supply, or sell raw plant material or related supplies to other licensed cannabis businesses in this state; or
- (c) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction.

Medicinal cannabis cultivators are regulated in four tiers by KRS 218B, as follows:

- (1) A Tier I cultivator shall not exceed an indoor growth area of two thousand five hundred (2,500) square feet.
- (2) A Tier II cultivator shall not exceed an indoor growth area of ten thousand (10,000) square feet.
- (3) A Tier III cultivator shall not exceed an indoor growth area of twenty-five thousand (25,000) square feet.
- (4) A Tier IV cultivator shall not exceed an indoor growth area of fifty thousand (50,000) square feet.

MEDICINAL CANNABIS DISPENSARY. An establishment that is licensed in compliance with KRS 218B to:

- (a) Acquire or possess medicinal cannabis from a cultivator, processor, or producer in this state;
- (b) Acquire or possess medicinal cannabis accessories or educational material;
- (c) Supply, sell, dispense, distribute, or deliver medicinal cannabis, medicinal cannabis accessories, and educational material to cardholders or other dispensaries;
- (d) Sell cannabis seeds to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction; or
- (e) Acquire, accept, or receive medicinal cannabis products from a cardholder pursuant to KRS 218B.110.

MEDICINAL CANNABIS PROCESSOR. A business that is licensed in compliance with KRS 218B to:

- (a) Acquire or purchase raw plant material from a cultivator, processor, or producer in this state;
- (b) Possess, process, prepare, manufacture, manipulate, blend, or package medicinal cannabis;
- (c) Transfer, transport, supply, or sell medicinal cannabis and related supplies to other cannabis businesses in this state; or
- (d) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction.

MEDICINAL CANNABIS PRODUCER. A business that is licensed in compliance with KRS 218B to:

- (a) Acquire, possess, plant, cultivate, raise, harvest, trim, or store cannabis seeds, seedlings, plants, or raw plant material;
- (b) Deliver, transport, transfer, supply, or sell raw plant material, medicinal cannabis products, or related supplies to other licensed cannabis businesses in this state;
- (c) Sell cannabis seeds or seedlings to similar entities that are licensed to cultivate cannabis in this state or in any other jurisdiction;
- (d) Acquire or purchase raw plant material from a cultivator in this state; or
- (e) Possess, process, prepare, manufacture, manipulate, blend, or package medicinal cannabis.

MEDICINAL CANNABIS SAFETY COMPLIANCE FACILITY. An establishment licensed in compliance with KRS 218B to:

- (1) Acquire or possess medicinal cannabis obtained from cardholders or cannabis businesses in this state;
- (2) Return the medicinal cannabis to cardholders or cannabis businesses in this state;
- (3) Transport medicinal cannabis that was produced by cannabis businesses in this state;
- (4) Produce or sell approved educational materials related to the use of medicinal cannabis;
- (5) Produce, sell, or transport of equipment or materials other than medicinal cannabis, including but not limited to lab equipment and packaging materials that are used by cannabis businesses and cardholders, to cardholders or cannabis businesses licensed under this chapter;
- (6) Test medicinal cannabis produced in this state;
- (7) Train cardholders and cannabis business agents;
- (8) Receive compensation for actions allowed under this section; and
- (9) Engage in any noncannabis-related business activities that are not otherwise prohibited or restricted by state law.

MEDICINAL CANNABIS PRODUCT. Any compound, manufacture, salt, derivative, mixture, or preparation of any part of the plant Cannabis sp., its seeds or its resin; or any compound, mixture, or preparation which contains any quantity of these substances when cultivated, harvested, processed, produced, transported, dispensed, distributed, sold, possessed, or used in accordance with KRS 218B. This definition does not include industrial hemp products as defined in KRS 260.850.

CARDHOLDER. A registered qualified patient, designated caregiver, or visiting qualified patient who has applied for, obtained, and possesses a valid registry identification card issued by the Kentucky Cabinet for Health and Family Services for medicinal cannabis in compliance with KRS 218B; or a visiting qualified patient who has obtained and possesses (1) a valid out-of-state registry identification card, and (2) documentation of having been diagnosed with a qualifying medical condition.

§ 155.085 TABLE OF PERMITTED USES

Land Use	Code	AG	RR	RA	RB	RB	RS	RD	RL	RH	RM	PO	CL	CG	CH	IC	IG
<u>MEDICINAL CANNABIS</u>																	
<u>Cultivator</u>		<u>28</u>														<u>C</u>	<u>P</u>
<u>Dispensary</u>												<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>		
<u>Processor</u>																<u>C</u>	<u>P</u>
<u>Producer</u>																<u>C</u>	<u>P</u>
<u>Safety Compliance Facility</u>												<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>

§ 155.089 NOTED SPECIAL CONDITIONS.

The following notes correspond with the notes contained in the Permitted Use Table of §1 55.085 of this chapter:

(28) Only Tier I and Tier II Medicinal Cannabis Cultivators may be permitted as a conditional use in the Agricultural (AG) District.

SECTION II. CODIFICATION. The provisions of Section I of this Ordinance shall be published as appropriate in the Franklin County Code of Ordinances as soon as practicable.

SECTION III. SEVERABILITY CLAUSE. If any section, part or provision of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Franklin County Fiscal Court in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION IV. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

THIS ORDINANCE NO. 2, 2025 SERIES SHALL BECOME EFFECTIVE
ON March, 19 2025.

INTRODUCED AND GIVEN FIRST READING IN SUMMARY at a duly convened meeting of the Fiscal court of Franklin County, Kentucky, held on the 26th day of February, 2025.

GIVEN SECOND READING AND ADOPTED at a duly convened meeting of the Fiscal Court of Franklin County, Kentucky, held on the 19 day of March, 2025, and of record in Fiscal Court Order Book 35, Page 489



Michael Mueller
Franklin County Judge/Executive

ATTESTED TO:



Kim Cox
Fiscal Court Clerk

REPORT AND RECOMMENDATION

TO: FRANKFORT-FRANKLIN COUNTY
PLANNING COMMISSION

FROM: County Planning Staff

SUBJECT: PUBLIC HEARING: Proposed Zoning Ordinance Text Amendment to the Franklin County Zoning Ordinance to amend Section 155.010 Definitions, Section 155.085 Permitted Use Table and Section 155.089 Noted Special Conditions regarding the regulation of Medicinal Cannabis businesses.

DATE: January 2, 2025

MEETING: January 9, 2025



GENERAL INFORMATION

In the fall of 2024, staff began development of a text amendment to the Zoning Ordinance in order to regulate medicinal cannabis businesses as a response to the adoption of HB 47 during the 2023 legislative session by the Kentucky General Assembly. The text amendment includes definitions from KRS 218B, and establishes principal and conditional uses in the Land Use Table for the five types of medicinal cannabis businesses: cultivators, processors, producers, safety compliance facilities, and dispensaries. The Zoning Update Committee (ZUC) met on November 21, 2024 and recommended that the Planning Commission hear and approve the proposed text amendment.

BACKGROUND

In 2023, HB 47 became law, with an effective date of January 1, 2025. HB 57 created KRS 218B in order to allow medicinal cannabis to be used to treat a limited number of qualifying medical conditions and for registered cardholders to legally access the medicinal cannabis in Kentucky (cannabis continues to be regulated as a controlled substance by federal regulation, thus all activities must be completed within the state). These newly created state regulations establish how cultivators, processors, producers, safety compliance facilities, and dispensaries will apply, become licensed, and operate in the Commonwealth. This includes establishing regions throughout the state and limiting the number of licenses available in each region. These businesses will be licensed and regulated at the state level by the Cabinet for Health and Family Services, and the Kentucky Medical Cannabis Program. In addition to establishing state-level regulations, KRS 218B allows local jurisdictions to establish zoning regulations to limit the "time, place and manner" of such businesses.

The state regulations include some restrictions related to land use including the requirement that any cultivator or producer must establish an indoor growing space, equipped with locks and other security devices. Additionally, medicinal cannabis businesses are not permitted within 1,000 feet of an elementary or secondary school, or a daycare center.

ANALYSIS

Staff reviewed the adopted state regulations and recommended to the Zoning Update Committee that the Zoning Ordinance be updated to specifically address the new businesses defined by the State. This will help to clarify the uses and alleviates the need for staff to make an interpretation as to which existing use category is most similar to a medicinal cannabis-related use on the fly. This amendment defines nine new terms related to medicinal cannabis businesses, using the definitions included in the current state regulations.

The cultivation and growing of medicinal cannabis are generally an agricultural use, however because the product can only be grown in an indoor setting with locks and security measures, staff and the ZUC agreed that there should be some limitations in the Agricultural (AG) zoning district. As proposed, only Tier I and II cultivators may be permitted as a conditional use in the AG zone. Cultivators up to 50,000 square feet (Tiers I-IV) will be allowed as a permitted use in the Industrial Commercial (IC) and General Industrial (IG) zones. Processors and Producers (those businesses that both cultivate and process) will both also be allowed in the IC and IG zones.

Safety compliance facilities, which ensure that the medicinal cannabis produced meets the state regulations related to health and safety, are most similar to a laboratory or office use. Therefore, that use is proposed to be a permitted use in the Professional Office (PO), Limited Commercial, General Commercial (CG), Highway Commercial (CH), Industrial Commercial (IC), and General Industrial (IG) zones.

Dispensaries distribute or dispense the cannabis to registered cardholders. According the state regulations, they can also sell or supply medicinal cannabis accessories and educational materials. They cannot be co-located with a typical pharmacy or any other medicinal cannabis business. This use most closely aligns with the retail sale of pharmaceuticals and medical supplies. As such, it is recommended that dispensaries be allowed in zones that generally permit retail sales of similar products, including the PO, CL, CG, and CH zones.

It is important to note that the proposed text amendment addresses only medicinal cannabis uses. Additional text amendments would be necessary to define and regulate any non-medical use of cannabis in our community should the State's regulations ever change.

RECOMMENDATION

Based on the findings and analysis within this report, staff recommends that the Frankfort/Franklin County Planning Commission **APPROVE the request and recommend the Fiscal Court approve** the Zoning Ordinance text amendment for the following reason:

1. The proposed Zoning Ordinance updates will ensure clear definition and regulation of the new medicinal cannabis businesses created due to the adoption of KRS 218B by the Kentucky General Assembly in 2023. The proposed text amendment will treat the new agricultural and business uses in a manner consistent with the regulation of similar uses in the Zoning Ordinance.

FRANKFORT/FRANKLIN COUNTY PLANNING COMMISSION

**January 9, 2025
5:30 PM**

Brent Sweger, Chairman, Presiding

The meeting was called to order at 5:30 p.m.

Chairman Sweger asked the Secretary to Call the Roll.

MEMBERS PRESENT:

Irma Johnson
Timothy Luscher
Todd McDaniel
Reed Mills
Michael Nickles
Darrel Sanderson
Charles Stewart

Brent Sweger, Chairman

(8)

Also Present:

Edwin Logan, Planning Commission Attorney
Eric Cockley, Director of City of Frankfort Planning & Community Development
Autumn Goderwis, Director, Franklin County Planning & Building Codes
Ben Judah, Planning Supervisor, Franklin County Planning & Building Codes

There being a quorum, the meeting was called to order.

Chairman Sweger indicated that the Agenda did not include Reports of Officers and Committees. He stated that those Committee items would be added after Staff Items/Reports.

Mr. Logan was asked if the Planning Commission could go into closed session. He stated that the Commission could, but that the Commission would have to report what had been discussed in the closed session.

Mr. Luscher asked if anyone would like to make the motion to go into closed session. Mr. Sanderson stated that he would make that motion. The motion was seconded by Mr. Mills and failed by a vote of five to three. Those voting in favor of the motion were Mr. Luscher, Mr. Mills and Mr. Sanderson. Those voting against the motion were Ms. Johnson, Chairman Sweger, Mr. Stewart, Mr. Nickles and Mr. McDaniel.

Mr. Luscher stated that the matter would now be discussed in the open meeting. Mr. Luscher stated that he was calling into question Chairman Sweger's validation of being on the Commission and asked him to formally resign at that time. He stated that, according to the Secretary of State's website, Mr. Sweger is a member of Envision Franklin County and is also a Director and the Vice President of Envision Franklin County. He then stated that Chairman

Sweger had called into question previous votes that he had made in connection with his membership in Envision Franklin County.

Mr. Sanderson seconded the motion to ask Chairman Sweger to resign.

Chairman Sweger stated that he would not resign from the Commission. He stated that, if Mr. Luscher wanted to pursue the matter, he should take the matter to the Ethics Board and let them make that determination.

Mr. Luscher stated that the filing by Envision Franklin County with the Secretary of State shows that he is listed as a Director and Vice President of Envision Franklin County, which has filed a lawsuit against the Planning Commission. Chairman Sweger stated that he has not been on the Board for a number of years.

Under the consideration and approval of the minutes, Chairman Sweger noted that he had additions to the minutes, noting that on page three, that Chairman Sweger had opened the item to discussion. He stated that on page four on the fifth paragraph, Chairman Sweger stated that the words “to the main motion” should be added to the minutes. The Chairman asked for a motion to approve the November 14, 2024 minutes, as amended. The motion passed unanimously. Mr. Luscher called in the question of Chairman Sweger participating in the vote.

Chairman Sweger asked for a motion to approve the Payment of Bills. Mr. Stewart made a motion to approve the following bills:

Ed Logan (Legal Fees for December 2024)	\$1,500.00
Charles T. Mitchell (2023-2024 Audit)	\$4,500.00
Vickie Sewell (PC 11/14/24)	\$ 300.00

The motion was seconded by Mr. Sanderson and passed unanimously.

Under Committee Reports, Mr. Mills provided a report on the Budget Committee. He stated that the Committee had added some new line items. He stated that it is more like a reconciliation report, but would be added to monthly.

Ms. Johnson made a motion to approve the budget. The motion was seconded by Mr. Sanderson and passed unanimously.

Ms. Johnson, chair of the Nominating Committee gave the committee’s recommendation for officers for 2025. The Committee recommended Brent Sweger as Chairman, Charles Stewart as Vice Chairman and Reed Mills as Treasurer.

Chairman Sweger asked for nominations from the floor. Ms. Sanderson nominated Charles Stewart as Chair.

Mr. Luscher asked if any other members of the Commission were considered for the positions. Chairman Sweger stated that the Committee had not received any other recommendations.

A ballot vote was taken for the position of Chair. There were five votes for Charles Stewart and three votes for Brent Sweger.

Mr. Luscher made a motion to nominate Reed Mills as Vice Chair. The motion was seconded by Mr. Sanderson.

Chairman Sweger nominated himself as Vice Chair.

A ballot vote was taken for the position of Vice Chair. There were five votes for Reed Mills and three votes for Brent Sweger

Chairman Sweger asked for nominations for Secretary Treasurer. Mr. Luscher nominated Darrel Sanderson as Secretary Treasurer. The vote was unanimous.

The next item was the presentation of the Frankfort/Franklin County Planning Commission for Fiscal Year 2023-2024/

Mr. Greg Miklavcic with Charles T. Mitchell Company presented the audit. Mr. Miklavcic stated that the audit was a clean audit. He stated that the only difference between this audit and previous audits was the reduction in Consulting Services. Mr. Sanderson made a motion to accept the audit. The motion was seconded by Mr. Luscher and passed unanimously.

Mr. Luscher made a motion to hear more than two public hearings. The motion was seconded by Mr. Mills and passed unanimously.

Mr. Sanderson made a motion to combine Public Hearings 1 and 2 into one item. The motion was seconded Mr. Luscher and passed unanimously.

Chairman Sweger asked the Secretary to introduce the first two public hearings:

PUBLIC HEARING: Proposed Text Amendment to the City of Frankfort Zoning Ordinance to amend Article 3 Definitions, Article 4.05 Permitted Use Table and Article 4.06 Noted Special Conditions regarding the regulation of Medicinal Cannabis businesses. (City Item)

PUBLIC HEARING: Proposed Text Amendment to the Franklin County Zoning Ordinance to amend Section 155.010 Definitions, Section 155.085 Permitted Use Table and Section 155.089 Noted Special Conditions regarding the regulation of Medicinal Cannabis businesses. (County Item)

Eric Cockley, Director of City of Frankfort Planning & Community Development and Autumn Goderwis, Director, Franklin County Planning & Building Codes were sworn and each provided their education and background in the area of Planning.

Chairman Sweger asked for a summary of the text amendments. Mr. Cockley stated that the Commonwealth of Kentucky approved a bill that legalized Medicinal Cannabis businesses. He stated that most communities also added the use to the Zoning Regulations. He stated that there are four types of Medicinal Cannabis businesses.

Ms. Goderwis stated that one would think that the use would be an agricultural use, but the regulation adopted by the State requires the plants to be grown indoors, which makes it more of an industrial use. She stated that the dispensaries were placed into medical and commercial districts and the processors of the plants were put in the industrial uses, as well.

Under Commission questioning, Mr. Luscher asked if the proposals followed the state regulations and if they had added any additional requirements. Ms. Goderwis stated that they did follow the state regulations and no additional requirements had been added.

Mr. Sanderson asked about security at the facilities. Ms. Goderwis stated that the state regulations required security measures at each of the facilities.

Ms. Johnson asked if the high tunnels and those types of facilities would be permitted. Ms. Goderwis stated that it would depend upon the size of the building and which tier it would be placed in.

Mr. Sanderson asked about theft of the product. Mr. Cockley stated that, at especially the industrial level, the facilities would most likely have controlled access. He stated that the zoning ordinance proposals do allow for the larger industrial level facilities, he expected that the City and County would more likely be Dispensaries.

Mr. Sanderson asked who would be approving the facilities. Ms. Goderwis stated that they would be a Conditional Use, which would require approval by the Board of Zoning Adjustments.

Mr. Luscher asked if there are state guidelines to address emissions. Ms. Goderwis stated that there were state requirements, which was why those facilities were limited to Tiers one and two.

Chairman Sweger asked for separate motions on the two public hearings. Mr. Mills made a motion to recommend to the City of Frankfort Board of Commissioners that the proposed Text Amendment for the regulations of Medicinal Cannabis businesses be approved. The motion was seconded by Mr. Luscher and passed unanimously.

Mr. Nickles made a motion to recommend to the Franklin County Fiscal Court that the proposed Text Amendment for the regulations of Medicinal Cannabis businesses be approved. The motion was seconded by Mr. Mills and passed unanimously.

Mr. Sweger asked the Secretary to introduce the next item:

PUBLIC HEARING: Bourbon Trail Holdings LLC is requesting a zone map amendment from Two Dwelling District "RD" to Limited Commercial District "CL" for the property located at 607 Taylor Avenue. The property is more specifically identified as PVA Map Number 062-13-01-009.00 (City Item)

Mr. Logan qualified Mr. Cockley. Under questioning, Mr. Cockley stated that he had reviewed the requested zone map amendment and had prepared the staff report for the request and that his review was based upon his education, training and experience in the field of planning.

Mr. Logan asked that the Staff Report be entered into the record. Without objection, the Staff Report was entered into the record.

Mr. Cockley stated that he had positive findings as outlined in the Staff Report. He stated that this was the fifth request for the neighborhood and that he was recommending approval of the request.

Mr. Sanderson asked what the property would be used for. Mr. Cockley stated that it would be used as a short-term rental. He stated that any other commercial use would be reviewed to determine if there was adequate parking.

Ms. Courtney Baskin, applicant, was present and was sworn in. She stated that she had read the staff report and agreed with its findings.

Mr. Sanderson asked her what her plans were for the property. Ms. Baskin stated that, currently, there was a long-term tenant in the property, but her future use would be for a short-term rental.

Mr. Luscher asked if the building was one or two units. Mr. Baskin stated that there is one unit.

Chairman Sweger asked for statements from the audience.

Mr. Ronnie Perkins, a resident of Lawrenceburg, stated that he was appearing on behalf of his sister, who lives directly across the street from the property. Mr. Perkins asked if there would ever be a liquor license issued for the property. Mr. Logan stated that the Planning Commission does not issue liquor licenses.

Mr. Perkins stated that there currently exists problems with the business at the entrance to Taylor Avenue. He stated that there are intoxicated people walking in the street and throwing up and urinating on his sister's fence. He stated that they had spoken with other groups and had no success with getting anything done about the problem.

Mr. Cockley stated that the zoning of the property would require that a Conditional Use Permit for the use be issued. He stated that the request would be considered by the Board of Adjustments and that the adjoining would be notified of the request.

Ms. Baskin asked to speak. She stated that she had no plans to have a liquor business at that location.

Mr. Sanderson made a motion to accept the Staff Report as the Summary of the meeting and to adopt the three Findings of Fact contained in the Staff Report and to recommend to the City of Frankfort Board of Commissioners that the Zone Map Amendment request from Two Dwelling District "RD" to Limited Commercial District "CL" for the property located at 607 Taylor Avenue be approved. Mr. Luscher seconded the motion. The motion passed unanimously.

Chairman Sweger asked the Secretary to introduce the next item:

In accordance with Part 7, Section 7.10.00 of the Franklin County Subdivision Regulations, P & N Development, LLC is requesting a Modification of Standards of Part 3, Section 3.07.02 Streetscape Requirements of the Franklin County Subdivision and Site Plan Regulations for property located at 301 Copperleaf Blvd. (County Item)

Mr. Ben Judah, Planning Supervisor for Franklin County, provided the Staff Report for the item. Mr. Judah stated that, during the development plan review process, the Sewer Department found that some of the proposed trees would interfere with the Sewer Lines. He stated that, based upon the review and analysis of the request staff was recommending a partial approval of the applicant request to allow for no street trees to be installed in the platted street tree easement along Lots 28 – 32 on Cobalt Lane; Lots 39-45 on Silvermist Drive; Lots 1 -22 on Platinum Drive and 23-26 and 54-81 on Copperfield Way, with the following conditions:

1. Street trees shall be provided in accordance with Section 3.07.02 along Lots 33 – 38 on Cobalt Lane; Lots 46 – 53 on Silvermist Drive, and lots 27 and 82 – 93 on Copperfield Way.
2. Trees shall be planted in the front yard outside of the street tree easement at Lots 28 – 32 on Cobalt Lane, Lots 39 – 45 on Silvermist Drive, Lots 1 – 22 on Platinum Drive and lots 23 – 25 and 54 – 81 on Copperfield Way, as depicted on the site plan submitted with the application.
3. Approval of the partial modification of standards shall be noted on the final development plans for Phases 2 and 3.

Chairman Sweger asked if Street trees were required on side yards. Mr. Judah stated that Street trees would be required anywhere where there was no conflict with Sewers. Chairman Sweger asked if street trees were required on side yards. Mr. Judah stated that it requires street trees, but not where there is not a street.

Mr. Luscher asked how the reduction would be applied, based upon the Sewer Department's recommendation of a separation of 56 feet.

Mr. Sanderson asked if the sewers came from the front of the property or the back of the property. Mr. Judah stated that it depended on where the property was located. He added that the

sewer lines came out of the front and some came out of the back. Mr. Judah stated that the most conflicts were along Silvermist Drive and Cobalt Lane.

Mr. Judah stated that 70% of the lots were affected. Mr. Sanderson asked if the street trees could be located somewhere else on the property. Mr. Judah stated that staff would be okay with placing them in other areas. Mr. Judah stated that the applicant wanted to reduce the number of trees to sixty, but he stated that staff was looking at a higher number. Ms. Goderwis stated that the staff did not have a specific number, but that they had looked at placement by lot throughout the entire development and made a recommendation based upon there not being a conflict with sewer.

Mr. Stewart asked what the size of the tree would be. Mr. Judah stated that the trees had to be 1 ½" to 2" caliper (trunk size) and 12' tall at the at time of planting

Ms. Johnson asked if Mr. Judah knew what tree would be planted. He stated that he did not know the specific name, but along each street, all trees had to be the same species.

Mr. Paul Maddox, the owner of P & N Development stated that he had built the similar development in Georgetown and had planted trees on every other lot. He said that he felt it made a nice development. He stated that the trees bring value to the community, but he didn't want it to be overdone. He stated that he could work with staff.

Chairman Sweger asked if he was in agreement with staff's recommendation. Mr. Maddox stated he felt he could work with them.

Chairman Sweger made a motion to approve the modification request for 301 Copperleaf Boulevard., with the three conditions staff outlined in their report. Mr. Mills seconded the motion, which passed unanimously.

There being no further business, the meeting was adjourn ed.

Brent Sweger, Chairman

Anna Whitaker, Recording Secretary