

AN ORDINANCE CREATING ARTICLE 22, APPENDIX C OF THE ZONING ORDINANCE TO CREATE A NEW PLANNED UNIT DEVELOPMENT (PUD-3) ZONE TO ALLOW A MIXED-USE DEVELOPMENT THAT WOULD PERMIT A BLEND OF RESIDENTIAL, COMMERCIAL, ENTERTAINMENT, AND INDUSTRIAL USES. (TURNER PROPERTY 4, LLC).

WHEREAS, the applicants, Turner Property 4, LLC, have initiated a text amendment to Article 22, Appendix C of the Zoning Ordinance to create a new Planned Unit Development (PUD-3) zone to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 22, Appendix C, to create a new Planned Unit Development (PUD-3) zone to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses. The Planning Commission did recommend APPROVAL by a vote of 8-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That Article 22, Appendix C of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created to create a new Planned Unit Development (PUD-3) zone to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses, as follows:

APPENDIX 22C - INDUSTRIAL REDEVELOPMENT PLANNED UNIT DEVELOPMENT (PUD-3) ZONE

Sec. 22C-1. Intent.

The intent of the Planned Unit Development (PUD-3) zoning classification is to:

1. Implement the Goals and Objectives of the 2018 Comprehensive Plan.
2. Promote the innovative reuse and redevelopment of underutilized sites in Lexington-Fayette County, which is consistent with the Goals and Objectives of the 2018 Comprehensive Plan.

This Planned Unit Development Zone is established to ensure redevelopment that supplements neighborhood character, offers new entertainment and “live where you work” opportunities, and encourages innovation and unique mixed-use development on sites that were used for traditional industrial purposes but which over time have become less suited to traditional industrial uses due to their proximity to non-industrial uses. This

Planned Unit Development Zone provides desirable housing, work, and entertainment options to creative professionals while preserving some of the compatible traditional light industrial uses.

Sec. 22C-2. Relationship to the comprehensive plan.

This PUD-3 zone is based upon furthering the following goals, objectives and land use policies of the 2018 Comprehensive Plan:

1. Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development (Theme A, Goal 2, Objective a);
2. Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal 2, Objective a);
3. Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal 1, Objective a);
4. Encourage development that promotes and enhances tourism (Theme C, Goal 1, Objective d); and
5. Provide entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal 2, Objective d).

Sec. 22C-3. Minimum site criteria.

Application for a map amendment request to a PUD-3 zone shall be made only on property that meets the following criteria:

1. *Location.* The parcel shall meet all of the following criteria:
 - a. The parcel is located within the Urban Service Area;
 - b. The parcel has direct access to a major arterial roadway or a corridor (as that term is used in the Comprehensive Plan);
 - c. The parcel contains at least ten (10) acres; and
 - d. The parcel is currently zoned for primarily business or industrial use.
2. *Other Locations.* A parcel which does not meet all criteria under Section 22C-4(1) above may nevertheless be rezoned to PUD-3 if it meets all of the following criteria:
 - a. The parcel is adjacent to an existing PUD-3 zoned parcel or is adjacent to a parcel for which PUD-3 zoning is being simultaneously sought;
 - b. Connectivity between the parcel and the adjacent PUD-3 parcel is included in the Planned Unit Development Plan;
 - c. The parcel is to be incorporated into the existing PUD-3 development; and
 - d. If the parcel is split-zoned, at least a portion of the parcel is within a business or industrial zone.

Sec. 22C-4. Permitted uses.

The following uses shall be permitted in the PUD-3 zone.

(a) *Principal Permitted Uses.* Other uses substantially similar to those listed herein shall also be deemed permitted.

1. The principal permitted uses in the I-1 zone except as expressly prohibited in this Article.
2. Artisan food and beverage production (as defined in the PUD-2 zone).
3. Artisan manufacturing (as defined in the PUD-2 zone).
4. Dwelling units of any kind except as prohibited.
5. Schools; libraries; museums; art galleries; studios for work or teaching of

fine arts, metal work, photography, dance, drama or theater; and theaters, including movie theaters and other indoor amusements, including without limitation live entertainment and event facilities, billiard or pool halls, bowling alleys, dance halls, skating rinks, arcades, pinball, miniature golf, and similar activities.

6. Outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
7. Community centers, places of religious assembly and private clubs.
8. Restaurants, with or without outdoor seating and with or without live entertainment.
9. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics, and other goods.
10. Pharmacies.
11. Banquet facilities or private clubs with or without live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
12. Offices, banks, and clinics, including medical and dental offices, clinics, and laboratories.
13. Beauty shops, barber shops, shoe repair, dressmaking, or tailoring.
14. Hotels, inns, and bed-and-breakfasts.
15. Health clubs, athletic clubs, and spas.
16. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
17. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
18. Parks, open space, greenspace, and recreational areas.
19. Radio, television, and similar media studios.
20. Special events space (including social and business purposes), meeting rooms, and conference rooms.
21. Animal grooming facilities.
22. Offices of veterinarians, animal hospitals or clinics, provided that:
 - a. All exterior walls are completely soundproofed;
 - b. Animal pens are located completely within the principal building; and
 - c. Boarding is limited to only animals receiving medical treatment.

(b) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to the principal uses.)

1. Parking areas and structures; loading facilities.
2. Swimming pools, tennis courts, hiking and bicycling trails, botanical gardens, and other similar recreational uses.
3. Drive-through facilities.

(c) *Conditional Uses.* (Permitted only with Board of Adjustment approval.)

1. Tattoo parlors.
2. Establishments and lots for the display, rental, sale, and repair of farm equipment; contractor equipment; automobiles, trucks; recreational vehicles, such as mini-bikes, motorcycles, bicycles; boats or supplies for such items.

(d) *Prohibited Uses.* The uses below are prohibited.

- 1. Mobile homes.
- 2. All adult uses, as listed in Sections 8-16(e)(14 through 17).
- 3. Commercial wood lots.
- 4. Columbariums and crematories.
- 5. Establishments for the display or sale of trailers, mobile homes, and precut, prefabricated, modular, or shell homes.
- 6. Mining.

Sec. 22C-5. Design standards.

The following design standards and criteria shall be applicable in the PUD-3 zone. The following table shall establish what standards and what process is suggested for each project or parcel; however, applicants may seek dimensional variances from the Board of Adjustment.

Building Height	Maximum of sixty (60) feet This maximum shall not apply to existing structures on the property
Buffers and Yards	Fifteen (15) feet buffer along boundaries adjacent to residential zones Minimum twenty (20) feet yard on any frontage adjoining a major arterial or corridor (as defined in Comprehensive Plan)
Setbacks	Minimum right-of-way to structure setback: equal to or great than five (5) ft. Minimum structure to structure setback: equal to or great than six (6) ft.
Open Space	Minimum ten percent (10%) of parcel must be usable
Tree Canopy Coverage	Minimum fifteen percent (15%) of parcel

- (a) *Design and Construction.* There shall be consistency of complementary, durable materials that reflect the context of the property and the intent of this PUD-3 zone. The applicant shall file with its application an architectural packet identifying the proposed styles, materials, and finishes of any proposed structures which shall be considered by the Planning Commission in determining whether to approve the Planned Unit Development Plan.
- (b) *Other Design Considerations.* The following design considerations should be implemented where feasible:
- 1. Structures should be oriented toward the primary internal streets, roads, or access ways.
 - 2. Parking and loading/unloading areas should be oriented to the side or rear of buildings where feasible, or shall be screened or landscaped if in front of the building.
 - 3. Pedestrian walkways should be provided for each structure.
 - 4. Site sustainability factors should be considered, including (i) stormwater management, (ii) preservation and enhancement of tree canopy and native plants, (iii) protection of streams, (iv) facilitation of rideshare, multimodal transportation, pedestrian, and bicycle traffic, (v) walkability, and (vi) green infrastructure.
 - 5. Building sustainability factors should be considered, including (i) green

building practices, (ii) eco-friendly energy systems, (iii) enhanced permeable surfaces, and (iv) durable building materials.

Sec. 22C-6. Application review procedures.

All applications for a PUD-3 shall be reviewed under the following procedure:

- (a) *Authorization to Prepare Required Materials.* In order to ensure that the Planned Unit Development Plan has been prepared in a professional manner using a multi-discipline approach, it shall be certified by an architect registered to practice in the State of Kentucky and one (1) or more of the following professionals:
 1. An urban planner who is a full member of AICP.
 2. An architect or landscape architect licensed to practice in the State of Kentucky.
 3. A civil engineer registered to practice in the State of Kentucky.
- (b) *Plan and Permit Process.* Any map amendment request to a PUD-3 zone shall be filed in such form and such materials as required by Article 6 of this Zoning Ordinance and the by-laws of the Planning Commission; however, the Planned Unit Development Plan shall be submitted as required by this Article. It is the intent of the PUD-3 zone that Planned Unit Development Plans shall be approved by the Planning Commission, while zone map amendment requests to a PUD-3 zone shall receive zoning approval from the Urban County Council. The applicant may request recommendations from the Division of Planning at any point in the review process and make changes so that the revisions can be submitted to the remaining review groups. Subdivision plans and plats shall only be required if a subdivision of the parcel is proposed. If a subdivision plan is required, it may be submitted together with a Planned Unit Development Plan.
 1. *Pre-Application Conference.* A pre-application conference as set forth in Article 6 shall be required prior to the submission of a map amendment request to a PUD-3 zone. At the conference a sketch or concept plan and a preliminary site inventory shall also be presented.
 2. *Filing.* To formally request Planning Commission action on the map amendment to a PUD-3 zone, the applicant shall submit to the Division of Planning a completed application form, all materials as required herein and a fee as required by the Commission's adopted filing and fee schedule. The Planned Unit Development Plan submitted shall conform to the informational requirements of a final development plan under Article 21.
 3. *Technical Committee.* The Division of Planning and other concerned agencies shall review the submitted materials and meet together as a Technical Committee to discuss the technical aspects of the physical design elements of the proposed development and to delineate 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 Commission's Zoning and Subdivision Committees.
 4. *Staff Recommendation.* The Division of Planning shall review all land use and physical design elements of the PUD-3 proposal for compliance with the provisions and intent of this Article, and shall prepare a written report, including recommendations, for consideration by the Commission's Zoning and Subdivision Committees. The staff report shall also be included in information forwarded to the full Commission and Council.
 5. *Subdivision Committee.* The Subdivision Committee shall review the recommendations of the staff and shall evaluate the Planned Unit Development Plan to determine its compliance with the requirements of this Article. The Subdivision Committee shall give special consideration to the physical design aspects of the development proposal in making its recommendation to the Commission.

6. *Zoning Committee.* The Zoning Committee shall review the recommendations of the staff and shall evaluate the map amendment request to determine its compliance with the requirements of this Article. The Zoning Committee shall give special consideration to the land use aspects of the application but shall consider all aspects of the development proposal in making its recommendation to the Commission.
7. *Planning Commission.* The Planning Commission shall conduct a public hearing on the zone map amendment and Planned Unit Development Plan following the Commission procedure as set forth in Article 6 and shall vote to recommend approval, conditional approval, or disapproval of the proposed map amendment and Planned Unit Development Plan within ninety (90) days of the date of filing unless the applicant agrees to a longer time period. The Commission shall review all submitted material and shall recommend approval if it is found that all materials including the Planned Unit Development Plan substantially comply with the requirements and the intent of this Article.
8. *Urban County Council.* Action on the proposed zone map amendment by the Urban County Council shall be as set forth in Section 6-6 of the Zoning Ordinance.
9. *Certification of the Planned Unit Development Plan.* Within six (6) months of the Council's action to approve a PUD-3 zone, unless a time extension has been granted, the following steps shall be completed:
 - a. The applicant shall submit a completed and corrected tracing of the Planned Unit Development Plan to the Division of Planning. This plan shall include any restrictive notes required by the Commission or agreed to by the applicant at public hearings.
 - b. The Planned Unit Development Plan shall be certified by the Commission's Secretary if it is in conformance with all requirements.
 - c. Required copies of the tracing shall be made by the Division of Planning at the applicant's expense. If the requirements listed above have not been met within six (6) months, the staff shall notify the Commission, which may initiate a map amendment to the previous zone or other appropriate zone. The Commission shall have authority to grant a time extension or to re-approve an expired plan. The Commission may require changes in the Planned Unit Development Plan where it is found that time has necessitated such changes for the health, safety or welfare of the community.
10. *Effect of Approval of the Planned Unit Development Plan.* Upon certification of the Planned Unit Development Plan, the applicant shall be authorized to do the following:
 - a. *Preparation of Improvement Plans.* The applicant may proceed to prepare improvement plans in conformance with the requirements for preparation and review of such plans contained within the Land Subdivision Regulations.
 - b. *Preparation of Final Subdivision Plan.* A final subdivision plat shall be required for all Planned Unit Development Plans which propose a subdivision of the parcel. Such plat shall be prepared, reviewed, and recorded in conformance with the requirements for final subdivision plats contained within the Land Subdivision Regulations in accordance with the intent and requirements of this Article. Such subdivision plat may be submitted together with a Planned Unit Development Plan or prepared separately after certification of the Planned Unit Development Plan.
 - c. *Issuance of Building Permits.* Upon certification of the Planned Unit Development Plan and recording of the final subdivision plat (if required), the Division of Planning shall forward copies to the Division

of Building Inspection which may issue permits in accord with the approved Planned Unit Development Plan and the final subdivision plat. The plans shall limit and control the issuance of all building and occupancy permits and restrict the construction, location and use of all land and structures to the conditions set forth in the plans.

11. *Amendments to Planned Unit Development Plans.* Amendments to Planned Unit Development Plans shall require the same information and shall be reviewed and processed in accordance with the requirements and design standards contained herein for the original plan submission, except that amendments which meet the definitions of minor amendments under Section 21-7(a)(1)-(2) of this Zoning Ordinance may be approved by the Division of Planning in accordance with the procedures contained within Section 21-7.
12. *Sign Submittal.* Any plan or permit which proposes construction of a new sign shall require as part of the application submittal of the proposed signage. The sign submittal shall set forth the size, location, material, and other dimensions and characteristics, which shall comply with Section 22C-7 below. Nothing in this section shall require approval to utilize, update, maintain, and repair existing signs.

Sec. 22C-7. Signs.

1. Signs shall be regulated as in the Mixed-Use Community (MU-3) zone.
2. Existing signs may remain so long as they are maintained in good condition and are not expanded. Existing signs may be repainted (including logos, names, and similar marks) and indirectly illuminated.

Sec. 22C-8. Timing of development.

Within five (5) years of the approval of the Planned Unit Development Plan (as applicable), unless an extension of the time period is granted, the applicant shall be required to obtain building permits for all structures shown thereon. No permits for unconstructed buildings may be issued after that date based on the Planned Unit Development Plan. The applicant may submit the plan for reapproval.

Section 2 - That this Ordinance shall become effective upon the date
of its passage.

PASSED URBAN COUNTY COUNCIL: September 22, 2022



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: September 29, 2022-lt

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Recd by _____

Date: _____

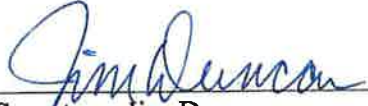
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE** - petition for a Zoning Ordinance text amendment to create a new Planned Unit Development 3 (PUD-3) zone (Article 22) to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses.

Having considered the above matter on **August 25, 2022**, at a Public Hearing and having voted **8-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** for this matter for the following reasons:

1. The current Zoning Ordinance is able to accomplish the task of creating a unique zoning tool through the use of Article 22, where a Planned Unit Development can be designed to allow for innovation that may not be accomplished using traditional zoning techniques.
2. The proposed text amendment to establish the Industrial Redevelopment Planned Unit Development-3 (PUD-3) zone will permit mixed-use developments that allow for a blending of uses similar to an Adaptive Reuse or Industrial Reuse Projects, but do not have the historical structures that are required for those projects.
3. The proposed plan review process will allow for a greater amount of design review of redevelopment properties and will provide for increased opportunity for public involvement in the land use process.
4. The proposed PUD-3 zone will allow an innovative program that supports the 2018 Comprehensive Plan and is in agreement with the Comprehensive Plan for the following reasons:
 - a. The PUD-3 zone will expand opportunities for neighborhood character preservation, and reaffirms the public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal 2, Objective a).
 - b. The proposed uses within the zone will provide flexibility that strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal 1, Objective a).
 - c. The zone will encourage development that promotes and enhances tourism (Theme C, Goal 1, Objective d), while also providing entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal 2, Objective d).
 - d.

ATTEST: This 9th day of September, 2022.


Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Nathan Billings, attorney.**

OBJECTORS

▪ None

▪ None

VOTES WERE AS FOLLOWS:

AYES: (8) Barksdale, Bell, de Movellan, Forester, Michler, Nicol, Pohl, and Worth

NAYS: (0)

ABSENT: (3) Penn, Davis, Meyer

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for Approval of PLN-ZOTA-22-00006 carried.

Enclosures: Application
Staff Report
Planning Commission Recommended Text
Applicable excerpts of minutes of above meeting

BILLINGS LAW FIRM^{PLLC}
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March 7, 2022

LFUCG Planning Commission
200 E. Main Street
Lexington, KY 40507

Re: Zone Ordinance Text Amendment – Planned Unit Development 3 (PUD-3)

Dear Planning Commission:

My firm is pleased to represent Turner Property 4, LLC (the “Applicant”) in its application for a zone text amendment to create a Planned Unit Development 3 (PUD-3) zoning classification. The Applicant’s proposed PUD-3 will establish a new kind of mixed-use zone on underutilized tracts of land in the Urban Service Area with retail, services, and employment opportunities with a focus on innovation and creativity.

LOCATION

The PUD-3 zone will apply to real property that is entirely or substantially located within an area which is currently zoned, or which could be appropriately zoned pursuant to the adopted Comprehensive Plan, for light industrial, commercial, medium or high density residential, or mixed-use Place-types, Development-types, zones, or principal uses.

The goal of PUD-3 is to allow more flexible mixed-use zones where light industrial, commercial, or higher density residential uses currently exist (or would be appropriate) to revitalize the area, provide entertainment and retail opportunities, and “live where you work” and multi-modal development.

GOALS AND OBJECTIVES

The application agrees with the following Goals and Objectives of the 2018 Comprehensive Plan:

- **Theme A: Growing Successful Neighborhoods**
 - **Goal 2:** Support infill & redevelopment throughout the Urban Service Area as a strategic component of growth.

- Objective a: Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development.
- Goal 3: Provide well-designed neighborhoods & communities.
 - Objective a: Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County.

The proposed PUD-3 zone is intended to create unique mixed-use redevelopment opportunities. For example, the proposed uses allow consumer services (food, drink, retail, and entertainment), commercial services (offices and flex space), and entrepreneurial opportunities (makerspace, special events, and artisan manufacturing), along with live/work/play opportunities for dwelling units and temporary lodging.

PUD-3 encourages both neighborhood-level consumer and professional services with commercial redevelopment of existing spaces that are currently underutilized. It is a unique opportunity to provide much needed consumer and employment opportunities at or near existing residential or commercial activity centers that can serve area residents while drawing visitors from other parts of Fayette and the surrounding counties. In short, PUD-3 presents an opportunity to better utilize existing and potential activity centers in the Urban Service Area capable of serving the wants and needs of more citizens.

- Theme C: Creating Jobs & Prosperity
 - Goal 1: Support & showcase local assets to further the creation of a variety of jobs.
 - Objective a: Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all.
 - Objective d: Encourage development that promotes and enhances tourism.
 - Goal 2: Attract the world's finest jobs, encourage an entrepreneurial spirit, & enhance our ability to recruit & retain a talented, creative workforce by establishing opportunities that embrace diversity with inclusion in our community.
 - Objective a: Prioritize the success and growth of strategically-targeted employment sectors (healthcare, education, high-tech, advanced manufacturing, agribusiness, agritourism, and the like), and enable infill and redevelopment that creates jobs where people live.

- Objective d: Provide entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington.

The flexibility of the PUD-3 can be utilized by employers in retail, professional, and light manufacturing industries. By drawing a large cross-section of visitors and residents, PUD-3 creates an environment attractive to employers wishing to locate to a dynamic setting. Flex space and makerspace will be key in attracting both desirable employers and employees. For example, the ability for both upstart and established employers to experiment with different types of offices in flex space; the ease of socializing at lunch or after work without driving to a different location; and neighborhood-scale structures that do not have the “look or feel” of traditional residential, commercial, and professional offices found elsewhere in Fayette County. The goal is to create an environment that fosters creative modern development and synergy which exceeds what is possible in the individual zones from which PUD-3 draws influence, such as traditional residential, I-1, and B-4 zones.

- Theme E: Urban & Rural Balance
 - Goal 1: Uphold the Urban Service Area concept.
 - Objective c: Emphasize redevelopment of underutilized corridors.
 - Objective d: Maximize development on vacant land within the Urban Service Area and promote redevelopment of underutilized land in a manner that enhances existing urban form and/or historic features.
 - Goal 3: Maintain the current boundaries of the Urban Service Area & Rural Activity Centers & create no new Rural Activity Centers.

PUD-3 distills many of the Goals and Objectives of the Comprehensive Plan—increased density, residential opportunities, and live/work concepts—into areas within the existing Urban Service Area. The Comprehensive Plan prioritizes fully developing and making the most of the current land within the Urban Service Area in lieu of expanding it. PUD-3 will enable more infill and redevelopment projects to reduce pressure on expansion of the Urban Service Area.

ENGAGEMENT

The Applicant met with stakeholders in the Meadowthorpe neighborhood¹ at multiple meetings regarding the types of development that would be allowed in PUD-3 (if approved). The

¹ The Applicant owns property near this neighborhood that would be the first to be undergo a request for zone change to PUD-3 if the text amendment is approved. The Applicant

LFUCG Planning Commission
March 7, 2022
Page 4

neighborhood has been largely supportive of the goals for the project. The Applicant anticipates having further meetings and discussions with neighborhood stakeholders throughout this process, and if the PUD-3 ordinance is ultimately enacted, again during the zone change and development plan process.

PLACE-TYPE AND DEVELOPMENT TYPE

Dynamic mixed-use is the hallmark of PUD-3. After discussions with Planning staff, the Applicant believes the PUD-3 would be best suited to location in the Corridor or Enhanced Neighborhood place-types.

- Corridor: property located on “Lexington’s major roadways focused on commerce and transportation.” Comprehensive Plan p. 265.
- Enhanced Neighborhood: an “existing residential area to be enhanced with additional amenities, housing types, and neighborhood-serving retail, services, and employment options.” Comprehensive Plan p. 266.

Both place-types have an emphasis on commercial uses. Both share recommended development types (medium density residential; medium-high density residential), mixed uses (MHR-MU and HNR-MU for Corridor, LNR-MU for Enhanced Neighborhood), and zones (B-1, MU-2, and R-4). PUD-3 is intended to be scalable so that it can be appropriate for both active areas (Corridor) and in neighborhood-scale applications (Enhanced Neighborhood), instead of being a “one-size-fits-all” zone.

CONCLUSION

The Applicant respectfully requests that the Commission recommend approval of the proposed zone text amendment, as it agrees with the Goals and Objectives of the Comprehensive Plan. Thank you for your time and consideration.

Sincerely,



ZACHARY G. CATC

ENCL.

has therefore been meeting with neighborhood stakeholders to obtain their feedback and input on this text amendment, as well as the eventual zone change and development plan based on PUD-3.

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application**1. APPLICANT INFORMATION:**

Name: Turner Property 4, LLC

Address: 1387 E. New Circle Road, Ste. 130

City, State, Zip Code: Lexington, KY 40505

2. ATTORNEY (Or Other Representative) INFORMATION:

Name: Zach Cato, Billings Law Firm

Address: 145 Constitution Street

City, State, Zip Code: Lexington, KY 40507

Phone Number: 859-225-5240

3. REQUESTED TEXT CHANGE: Date of Pre-application Conference: 2/15/2022

Zoning Ordinance Article 22 Specific text change proposed:

See attached proposed language.

4. DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)

See attached letter of justification.



**SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT
AMENDMENT**

**PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE
PLANNED UNIT DEVELOPMENT 3 (PUD-3) ZONE**

APPLICANT: TURNER PROPERTY 4, LLC

PROPOSED TEXT: See Attached

STAFF REVIEW:

Since the April Zoning Committee meeting the petitioner, Turner Property 4, LLC, has been working with the staff and the public to clarify and finalized their requested text amendment to the Zoning Ordinance to create a new Planned Unit Development (PUD) zone within the Urban County. The addition of Appendix 22C has been intended to create mixed-use development that allows a blend of residential, commercial, entertainment, and industrial land uses that are not currently allowable in one zone by the Zoning Ordinance. The submitted revised language is reflective of the applicant's vision for the PUD, their engagement with the public, and the collaboration with the Planning staff.

The proposed language seeks to ensure redevelopment that supplements neighborhood character, offers new entertainment and "live where you work" opportunities, and encourages innovation and unique mixed-use development on sites that were used for traditional industrial purposes, but which over time have become less suited to industrial uses, due to their proximity to non-industrial uses. This Planned Unit Development Zone provides desirable housing, work, and entertainment options while preserving some of the compatible traditional light industrial uses.

The applicant indicates that the proposed PUD-3 zone is supportive of the adopted 2018 Comprehensive Plan and is in agreement with the Plan's Goals, Objectives and land use Policies. The applicant opines that the proposed zone will support redevelopment opportunities in the Urban County by promoting infill, redevelopment, adaptive reuse, and mixed-use development (Theme A, Goal 2, Objective a), while respecting the built form and context of surrounding neighborhoods. The applicant's focus on areas that are zoned industrial, but are no longer appropriate is similar to the adoption of the Adaptive Reuse Project in the Wholesale and Warehousing (B-4), Light Industrial (I-1), and Heavy Industrial (I-2) zones. Furthermore, the uses in the proposed zone are substantially similar to those allowable within the Adaptive Reuse Project. The primary difference between the proposed zone and the associated is the requirements of the adaptive reuse of older structures within an Adaptive Reuse Project. However, the proposal by the applicant would necessitate a greater involvement and outreach, as any use of the zone would necessitate a zone change,



extensive review by associated professionals, and outreach with the surrounding neighborhoods, and property owners.

Additionally, the applicant opines that the new PUD-3 zone will expanded opportunities for neighborhood character preservation, and reaffirms the public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal 2, Objective a). The requirement of the development plan, and the inclusion of multiple professionals in the development plan does indicate a want for cohesive design and focus on design excellence. The addition of housing into the proposed zone, as well as the proposed setbacks and buffers also indicate the want to maintain an adequate transition into surrounding neighborhoods.

Furthermore, the applicant indicates that the proposed uses within the zone will provide flexibility that strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal 1, Objective a). Over the course of the last decade, the uses within the I-1 zone have become less nuisance based and have shifted to a cleaner perspective of light production and manufacturing. These uses have also become more closely associated with 24-hour activity. The LFUCG has made similar changes to our industrial zoning with the establishment and modification of the Economic Development (ED) zone in the Expansion Areas.

Finally, the applicant suggests that the zone will encourage development that promotes and enhances tourism (Theme C, Goal 1, Objective d), while also providing entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal 2, Objective d). The jobs producing uses coupled with residential and entertainment uses promote a mixed-use development that can allow a live, work, play environment that is sought by the applicant and is recommended by the Comprehensive Plan.

The staff is supportive of the petitioner's request to create a PUD-3 zone, a unique zoning tool that will allow the community to be more creative about how land is utilized within the Urban Service Area.

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

1. The current Zoning Ordinance is able to accomplish the task of creating a unique zoning tool through the use of Article 22, where a Planned Unit Development can be designed to allow for innovation that may not be accomplished using traditional zoning techniques.
2. The proposed text amendment to establish the Industrial Redevelopment Planned Unit Development-3 (PUD-3) zone will permit mixed-use developments that allow for a blending of uses similar to an Adaptive Reuse or Industrial Reuse Projects, but do not have the historical structures that are required for those projects.
3. The proposed plan review process will allow for a greater amount of design review of redevelopment properties and will provide for increased opportunity for public involvement in the land use process.



4. The proposed PUD-3 zone will allow an innovative program that supports the 2018 Comprehensive Plan and is in agreement with the Comprehensive Plan for the following reasons:
 - a. The PUD-3 zone will expand opportunities for neighborhood character preservation, and reaffirms the public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal 2, Objective a).
 - b. The proposed uses within the zone will provide flexibility that strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal 1, Objective a).
 - c. The zone will encourage development that promotes and enhances tourism (Theme C, Goal 1, Objective d), while also providing entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal 2, Objective d).

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INDUSTRIAL REDVELOPMENT

PLANNED UNIT DEVELOPMENT (PUD-3) ZONE

Sec. 22C-1. Intent.

The intent of the Planned Unit Development (PUD-3) zoning classification is to:

1. Implement the Goals and Objectives of the 2018 Comprehensive Plan.
2. Promote the innovative reuse and redevelopment of underutilized sites in Lexington-Fayette County, which is consistent with the Goals and Objectives of the 2018 Comprehensive Plan.

This Planned Unit Development Zone is established to ensure redevelopment that supplements neighborhood character, offers new entertainment and “live where you work” opportunities, and encourages innovation and unique mixed-use development on sites that were used for traditional industrial purposes but which over time have become less suited to traditional industrial uses due to their proximity to non-industrial uses. This Planned Unit Development Zone provides desirable housing, work, and entertainment options to creative professionals while preserving some of the compatible traditional light industrial uses.

Sec. 22C-2. Relationship to the comprehensive plan.

This PUD-3 zone is based upon furthering the following goals, objectives and land use policies of the 2018 Comprehensive Plan:

1. Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development (Theme A, Goal 2, Objective a);
2. Enable existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expand options for mixed-use and mixed-type housing throughout Lexington-Fayette County (Theme A, Goal 2, Objective a);
3. Strengthen efforts to develop a variety of job opportunities that lead to prosperity for all (Theme C, Goal 1, Objective a);
4. Encourage development that promotes and enhances tourism (Theme C, Goal 1, Objective d); and
5. Provide entertainment and other quality of life opportunities that attract young and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal 2, Objective d).

Sec. 22C-3. Minimum site criteria.

Application for a map amendment request to a PUD-3 zone shall be made only on property that meets the following criteria:

1. *Location.* The parcel shall meet all of the following criteria:
 - a. The parcel is located within the Urban Service Area;
 - b. The parcel has direct access to a major arterial roadway or a corridor (as that term is used in the Comprehensive Plan);
 - c. The parcel contains at least ten (10) acres; and
 - d. The parcel is currently zoned for primarily business or industrial use.
2. *Other Locations.* A parcel which does not meet all criteria under Section 22C-4(1) above may nevertheless be rezoned to PUD-3 if it meets all of the following criteria:
 - a. The parcel is adjacent to an existing PUD-3 zoned parcel or is adjacent to a parcel for which PUD-3 zoning is being simultaneously sought;
 - b. Connectivity between the parcel and the adjacent PUD-3 parcel is included in the Planned Unit Development Plan;
 - c. The parcel is to be incorporated into the existing PUD-3 development; and
 - d. If the parcel is split-zoned, at least a portion of the parcel is within a business or industrial zone.

Sec. 22C-4. Permitted uses.

The following uses shall be permitted in the PUD-3 zone.

- (a) *Principal Permitted Uses.* Other uses substantially similar to those listed herein shall also be deemed permitted.
1. The principal permitted uses in the I-1 zone except as expressly prohibited in this Article.
 2. Artisan food and beverage production (as defined in the PUD-2 zone).
 3. Artisan manufacturing (as defined in the PUD-2 zone).
 4. Dwelling units of any kind except as prohibited.
 5. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater; and theaters, including movie theaters and other indoor amusements, including without limitation live entertainment and event facilities, billiard or pool halls, bowling alleys, dance halls, skating rinks, arcades, pinball, miniature golf, and similar activities.

6. Outdoor amusement or entertainment enterprises such as circuses, carnivals, rodeos, horse shows or automobile shows; provided such activity is operated on a temporary basis, not to exceed two weeks.
 7. Community centers, places of religious assembly and private clubs.
 8. Restaurants, with or without outdoor seating and with or without live entertainment.
 9. Establishments for the retail sale of food, dairy, bakery, meat, beer, liquor, wine and other food products; the retail sale of merchandise, including new or used clothing and books, gifts, toys, antiques, furnishings, housewares, jewelry, electronics, and other goods.
 10. Pharmacies.
 11. Banquet facilities or private clubs with or without live entertainment, brew-pubs, bars, cocktail lounges and nightclubs.
 12. Offices, banks, and clinics, including medical and dental offices, clinics, and laboratories.
 13. Beauty shops, barber shops, shoe repair, dressmaking, or tailoring.
 14. Hotels, inns, and bed-and-breakfasts.
 15. Health clubs, athletic clubs, and spas.
 16. Retail sales of plant, nursery or greenhouse products or agricultural products, produce or goods, including market gardens.
 17. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain at least 25 square feet per child.
 18. Parks, open space, greenspace, and recreational areas.
 19. Radio, television, and similar media studios.
 20. Special events space (including social and business purposes), meeting rooms, and conference rooms.
 21. Animal grooming facilities.
 22. Offices of veterinarians, animal hospitals or clinics, provided that:
 - a. All exterior walls are completely soundproofed;
 - b. Animal pens are located completely within the principal building; and
 - c. Boarding is limited to only animals receiving medical treatment.
- (b) *Accessory Uses.* (Uses and structures which are customarily accessory, clearly incidental and subordinate to the principal uses.)

1. Parking areas and structures; loading facilities.
2. Swimming pools, tennis courts, hiking and bicycling trails, botanical gardens, and other similar recreational uses.
3. Drive-through facilities.

(c) Conditional Uses. (Permitted only with Board of Adjustment approval.)

1. Tattoo parlors.
2. Establishments and lots for the display, rental, sale, and repair of farm equipment; contractor equipment; automobiles, trucks; recreational vehicles, such as mini-bikes, motorcycles, bicycles; boats or supplies for such items.

(d) *Prohibited Uses.* The uses below are prohibited.

1. Mobile homes.
2. All adult uses, as listed in Sections 8-16(e)(14 through 17).
3. Commercial wood lots.
4. Columbariums and crematories.
5. Establishments for the display or sale of trailers, mobile homes, and precut, prefabricated, modular, or shell homes.
6. Mining.

Sec. 22C-5. Design standards.

The following design standards and criteria shall be applicable in the PUD-3 zone. The following table shall establish what standards and what process is suggested for each project or parcel; however, applicants may seek dimensional variances from the Board of Adjustment.

Building Height	Maximum of sixty (60) feet This maximum shall not apply to existing structures on the property
Buffers and Yards	Fifteen (15) feet buffer along boundaries adjacent to residential zones Minimum twenty (20) feet yard on any frontage adjoining a major arterial or corridor (as defined in Comprehensive Plan)
Setbacks	Minimum right-of-way to structure setback: equal to or great than five (5) ft. Minimum structure to structure setback: equal to or great than six (6) ft.

Open Space	Minimum ten percent (10%) of parcel must be usable
Tree Canopy Coverage	Minimum fifteen percent (15%) of parcel

- (a) *Design and Construction.* There shall be consistency of complementary, durable materials that reflect the context of the property and the intent of this PUD-3 zone. The applicant shall file with its application an architectural packet identifying the proposed styles, materials, and finishes of any proposed structures which shall be considered by the Planning Commission in determining whether to approve the Planned Unit Development Plan.
- (b) *Other Design Considerations.* The following design considerations should be implemented where feasible:
1. Structures should be oriented toward the primary internal streets, roads, or access ways.
 2. Parking and loading/unloading areas should be oriented to the side or rear of buildings where feasible, or shall be screened or landscaped if in front of the building.
 3. Pedestrian walkways should be provided for each structure.
 4. Site sustainability factors should be considered, including (i) stormwater management, (ii) preservation and enhancement of tree canopy and native plants, (iii) protection of streams, (iv) facilitation of rideshare, multimodal transportation, pedestrian, and bicycle traffic, (v) walkability, and (vi) green infrastructure.
 5. Building sustainability factors should be considered, including (i) green building practices, (ii) eco-friendly energy systems, (iii) enhanced permeable surfaces, and (iv) durable building materials.

Sec. 22C-6. Application review procedures.

All applications for a PUD-3 shall be reviewed under the following procedure:

- (a) *Authorization to Prepare Required Materials.* In order to ensure that the Planned Unit Development Plan has been prepared in a professional manner using a multi-discipline approach, it shall be certified by an architect registered to practice in the State of Kentucky and one (1) or more of the following professionals:
1. An urban planner who is a full member of AICP.
 2. An architect or landscape architect licensed to practice in the State of Kentucky.
 3. A civil engineer registered to practice in the State of Kentucky.

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- (b) *Plan and Permit Process.* Any map amendment request to a PUD-3 zone shall be filed in such form and such materials as required by Article 6 of this Zoning Ordinance and the by-laws of the Planning Commission; however, the Planned Unit Development Plan shall be submitted as required by this Article. It is the intent of the PUD-3 zone that Planned Unit Development Plans shall be approved by the Planning Commission, while zone map amendment requests to a PUD-3 zone shall receive zoning approval from the Urban County Council. The applicant may request recommendations from the Division of Planning at any point in the review process and make changes so that the revisions can be submitted to the remaining review groups. Subdivision plans and plats shall only be required if a subdivision of the parcel is proposed. If a subdivision plan is required, it may be submitted together with a Planned Unit Development Plan.
1. *Pre-Application Conference.* A pre-application conference as set forth in Article 6 shall be required prior to the submission of a map amendment request to a PUD-3 zone. At the conference a sketch or concept plan and a preliminary site inventory shall also be presented.
 2. *Filing.* To formally request Planning Commission action on the map amendment to a PUD-3 zone, the applicant shall submit to the Division of Planning a completed application form, all materials as required herein and a fee as required by the Commission's adopted filing and fee schedule. The Planned Unit Development Plan submitted shall conform to the informational requirements of a final development plan under Article 21.
 3. *Technical Committee.* The Division of Planning and other concerned agencies shall review the submitted materials and meet together as a Technical Committee to discuss the technical aspects of the physical design elements of the proposed development and to delineate 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 Commission's Zoning and Subdivision Committees.
 4. *Staff Recommendation.* The Division of Planning shall review all land use and physical design elements of the PUD-3 proposal for compliance with the provisions and intent of this Article, and shall prepare a written report, including recommendations, for consideration by the Commission's Zoning and Subdivision Committees. The staff report shall also be included in information forwarded to the full Commission and Council.
 5. *Subdivision Committee.* The Subdivision Committee shall review the recommendations of the staff and shall evaluate the Planned Unit Development Plan to determine its compliance with the requirements of this Article. The Subdivision Committee shall give special consideration to the physical design aspects of the development proposal in making its recommendation to the Commission.
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6. *Zoning Committee.* The Zoning Committee shall review the recommendations of the staff and shall evaluate the map amendment request to determine its compliance with the requirements of this Article. The Zoning Committee shall give special consideration to the land use aspects of the application but shall consider all aspects of the development proposal in making its recommendation to the Commission.
 7. *Planning Commission.* The Planning Commission shall conduct a public hearing on the zone map amendment and Planned Unit Development Plan following the Commission procedure as set forth in Article 6 and shall vote to recommend approval, conditional approval, or disapproval of the proposed map amendment and Planned Unit Development Plan within ninety (90) days of the date of filing unless the applicant agrees to a longer time period. The Commission shall review all submitted material and shall recommend approval if it is found that all materials including the Planned Unit Development Plan substantially comply with the requirements and the intent of this Article.
 8. *Urban County Council.* Action on the proposed zone map amendment by the Urban County Council shall be as set forth in Section 6-6 of the Zoning Ordinance.
 9. *Certification of the Planned Unit Development Plan.* Within six (6) months of the Council's action to approve a PUD-3 zone, unless a time extension has been granted, the following steps shall be completed:
 - a. The applicant shall submit a completed and corrected tracing of the Planned Unit Development Plan to the Division of Planning. This plan shall include any restrictive notes required by the Commission or agreed to by the applicant at public hearings.
 - b. The Planned Unit Development Plan shall be certified by the Commission's Secretary if it is in conformance with all requirements.
 - c. Required copies of the tracing shall be made by the Division of Planning at the applicant's expense. If the requirements listed above have not been met within six (6) months, the staff shall notify the Commission, which may initiate a map amendment to the previous zone or other appropriate zone. The Commission shall have authority to grant a time extension or to re-approve an expired plan. The Commission may require changes in the Planned Unit Development Plan where it is found that time has necessitated such changes for the health, safety or welfare of the community.
 10. *Effect of Approval of the Planned Unit Development Plan.* Upon certification of the Planned Unit Development Plan, the applicant shall be authorized to do the following:
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- a. *Preparation of Improvement Plans.* The applicant may proceed to prepare improvement plans in conformance with the requirements for preparation and review of such plans contained within the Land Subdivision Regulations.
 - b. *Preparation of Final Subdivision Plan.* A final subdivision plat shall be required for all Planned Unit Development Plans which propose a subdivision of the parcel. Such plat shall be prepared, reviewed, and recorded in conformance with the requirements for final subdivision plats contained within the Land Subdivision Regulations in accordance with the intent and requirements of this Article. Such subdivision plat may be submitted together with a Planned Unit Development Plan or prepared separately after certification of the Planned Unit Development Plan.
 - c. *Issuance of Building Permits.* Upon certification of the Planned Unit Development Plan and recording of the final subdivision plat (if required), the Division of Planning shall forward copies to the Division of Building Inspection which may issue permits in accord with the approved Planned Unit Development Plan and the final subdivision plat. The plans shall limit and control the issuance of all building and occupancy permits and restrict the construction, location and use of all land and structures to the conditions set forth in the plans.
11. *Amendments to Planned Unit Development Plans.* Amendments to Planned Unit Development Plans shall require the same information and shall be reviewed and processed in accordance with the requirements and design standards contained herein for the original plan submission, except that amendments which meet the definitions of minor amendments under Section 21-7(a)(1)-(2) of this Zoning Ordinance may be approved by the Division of Planning in accordance with the procedures contained within Section 21-7.
 12. *Sign Submittal.* Any plan or permit which proposes construction of a new sign shall require as part of the application submittal of the proposed signage. The sign submittal shall set forth the size, location, material, and other dimensions and characteristics, which shall comply with Section 22C-7 below. Nothing in this section shall require approval to utilize, update, maintain, and repair existing signs.

Sec. 22C-7. Signs.

1. Signs shall be regulated as in the Mixed-Use Community (MU-3) zone.
 2. Existing signs may remain so long as they are maintained in good condition and are not expanded. Existing signs may be repainted (including logos, names, and similar marks) and indirectly illuminated.
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Sec. 22C-8. Timing of development.

Within five (5) years of the approval of the Planned Unit Development Plan (as applicable), unless an extension of the time period is granted, the applicant shall be required to obtain building permits for all structures shown thereon. No permits for unconstructed buildings may be issued after that date based on the Planned Unit Development Plan. The applicant may submit the plan for reapproval.

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT****PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE
PLANNED UNIT DEVELOPMENT 3 (PUD-3) ZONE**

APPLICANT: TURNER PROPERTY 4, LLC

PROPOSED TEXT: See Attached

(Note: Text underlined indicates an addition to the existing Zoning Ordinance;
text ~~stricken through~~ indicates a deletion.)**STAFF REVIEW:**

The petitioner, Turner Property 4, LLC, is requesting a text amendment to the Zoning Ordinance in order to create a new Planned Unit Development (PUD) zone within the Urban County. The addition of Appendix 22C is intended to create mixed use development that allows a blend of residential, commercial, entertainment, and industrial land uses that are not currently allowable in one zone by the Zoning Ordinance.

The regulations adopted in each PUD zone must be in keeping with the overall intent of Article 22 and are required to include several elements: an intent, permitted uses, site criteria, relationship to the Comprehensive Plan, design standards, application materials, review procedures, and the timing of development. The stated intent of the PUD-3 zone is to allow redevelopment that supplements neighborhood character, offers new entertainment and "live where you work" opportunities, and encourages innovation and unique mixed-use development.

While the applicant has provided some of this information, there are currently missing elements that must be clarified as part of the proposed change to the Ordinance. Currently, the applicant has indicated that the site location "must be entirely or substantially located within an area which is currently zoned, or which could be appropriately zoned pursuant to the adopted Comprehensive Plan, for light industrial, commercial, medium or high density residential, or mixed-use Place-types, Development-types, zones, or principal uses." The proposed location requirement is concerning in that it describes much of the Urban Service Area. Furthermore, it suggests that the PUD-3 would be considered appropriate, if an area "could be appropriate" for specific land use. The applicant should work to better define the location of the proposed PUD-3 zone, which will also impact the review procedures, the planning process, and permit timing.

Clarifying the definition of the area will also be important in the creation of the design standards for the proposed PUD-3 zone. Within the applicant's justification letter, they stress the connections and complimentary aspect of the adjacent residential neighborhood. However, without more clarity regarding the location, the adjacency is not an element of the proposed PUD-3 zone. Furthermore, the proposed design standards would have minimal impact on the future development. A PUD-3 zone, should include a vision for the future development that creates consistency over time in the development of the land uses. The applicant should work with staff and the neighborhood to create



standards of design that complement the neighborhood, while also meeting their future needs to create a coherent development.

The applicant should also provide greater definition of proposed planning process, specifically the inclusion for a development plan. The current language proposed by the applicant is reflective of the PUD-2 zone, which was proposed in an area that was mostly constructed and was focused on adding new land uses. The proposed area of interest, which was described to staff during the pre-application meeting, has little built environment that will be repurposed. The applicant should include connection to Article 21 and provide oversight to maintain the design standards.

Finally, the applicant has included a large amount of potential land uses that would be available onsite. Included are typical land uses found in the B-1, B-4, and I-1 zone, as well as many of the land uses that were created during the formation of the PUD-2 zone. In review of the proposed uses on the site, staff was concerned that it included redundancies, new land uses, and unnecessary form based design elements. The staff would like to work with the applicant to clarify the intent of each of the proposed land uses and how these uses support the intent of the proposed PUD-3 zone.

The Staff Recommends: Postponement of the proposed text amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment does not yet fully meet the intent and requirements established by Article 22 of the Zoning Ordinance regarding the creation of a Planned Unit Development (PUD). The site criteria, design standards, and proposed uses necessitate greater review.
2. The proposed text amendment does not provide a planning process that is conforming with Article 21 of the Zoning Ordinance.

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PLANNED UNIT DEVELOPMENT (PUD-3) ZONE

Sec. 22C-1. Intent.

The intent of the Planned Unit Development (PUD-3) zoning classification is to:

1. Implement the Goals and Objectives of the 2018 Comprehensive Plan.
2. Promote the innovative reuse and redevelopment of certain underutilized sites in Lexington-Fayette County, which is consistent with the Goals and Objectives of the 2018 Comprehensive Plan.

This Planned Unit Development Zone is established to ensure redevelopment that supplements neighborhood character, offers new entertainment and “live where you work” opportunities, and encourages innovation and unique mixed-use development. This Planned Unit Development Zone provides desirable housing, work, and entertainment options to creative professionals. The regulations hereunder shall be established in addition to the applicable regulations contained in this Zoning Ordinance. Where there are conflicts between the regulations hereunder, and those contained elsewhere in the Zoning Ordinance, the use, dimensions and other requirements hereunder shall apply.

Sec. 22C-2. Relationship to the comprehensive plan.

This PUD-3 zone is based upon furthering the goals, objectives and land use policies of the 2018 Comprehensive Plan.

Sec. 22C-3. Definitions.

As used in this Article, the following terms shall have the meaning given herein; otherwise, definitions of Article 1 shall apply:

1. *Artisan Food and Beverage Production* means on-site production of food and beverage products, involving small batch processing. Typical uses include, but are not limited to, coffee roasting; ice cream; bakery, candy and other foodstuffs; and alcoholic beverage manufacturing. This may include on-site sales and consumption.
2. *Artisan Manufacturing* means on-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment. Typical uses include, but are not limited to, wood working; ceramic studios; jewelry manufacturing; and uses that have no negative external impacts on surrounding properties. Welding is also permitted.
3. *Craft distillery* means a craft distillery as regulated by KRS 243.120.
4. *Digital Makerspace* means a facility for digital design and fabrication utilizing hardware and software tools.
5. *Entertainment Space* means a facility for uses that hold the attention and interest of users and their patrons and guests, including without limitation live performances, theater, games, and activities.

6. *Flex Space* means a facility for warehouse, office, retail, and similar uses, including without limitation a mix of these uses.
7. *Makerspace* means a facility for innovative uses, products, or services.
8. *Micro-brewery* means a brewery as regulated by KRS 243.150 and KRS 243.157.
9. *Office* means space utilized for commercial, professional, nonprofit, or governmental work.
9. *Restaurant* means an eating establishment where food is served and/or consumed primarily within the building and where consumption of food in motor vehicles on the premises is not encouraged.
10. *Retail* means establishments for the retail sale of merchandise, including: clothing, shoes, fabrics, yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products, paint and other interior or exterior care products, hobby items, toys, gifts, antiques, newspapers and magazines, stationery and books, flowers, music, cameras, jewelry and luggage, business supplies and machines; sporting goods and recreational equipment; prescription and non-prescription medicines and medical supplies.
11. *Short-Term Rental* means a dwelling, unit or room that is rented, leased or assigned for a tenancy of less than thirty (30) consecutive days in duration. A short-term rental may be owner occupied or non-owner occupied.
12. *Urban Agriculture* means the production and distribution, including on-site sales, in an urban neighborhood of agricultural or horticultural crops, including, but not limited to, poultry; poultry products; grain; hay; pastures; soybeans; timber; orchard fruits; vegetables; flowers or ornamental plants. This use does not include livestock or livestock products.

Sec. 22C-4. Minimum site location.

Application for a map amendment request to a PUD-3 zone shall be made only on property that meets the following criteria:

- (a) *Location.* The property must be entirely or substantially located within an area which is currently zoned, or which could be appropriately zoned pursuant to the adopted Comprehensive Plan, for light industrial, commercial, medium or high density residential, or mixed-use Place-types, Development-types, zones, or principal uses.

Sec. 22C-5. Permitted uses.

The following uses shall be permitted in the PUD-3 zone. All uses other than those specifically listed as permitted uses or substantially similar to the permitted uses shall be prohibited.

- (a) *Principal Permitted Uses.*

1. The principal permitted uses in the I-1 zone.

2. Live/work space.
3. Dwelling units, including without limitation apartments, townhomes, condominiums, and Short-Term Rentals.
4. Artist studios.
5. Artisan food and beverage production.
6. Artisan manufacturing.
7. Digital makerspace.
8. Retail.
9. Craft distillery as regulated by KRS 243.120, including on-site sampling, souvenir package sales, retail drink and package sales, and other sampling or sales of spirits distilled or bottled by the distillery.
10. Libraries, museums, art galleries and reading rooms.
11. Community centers.
12. Places of religious assembly.
13. Indoor theaters.
14. Entertainment Space.
15. Flex Space.
16. Makerspace.
17. Radio and television studios.
18. Banks and financial institutions, without drive-through facilities.
19. Offices.
20. Establishments for the retail sale of food products.
21. Establishments for the retail sale of merchandise as permitted in the B-1 zone, unless prohibited by Subsection (d) of this section.
22. Open space and recreational areas.
23. Restaurant.
24. Brew-pub.
25. Micro-brewery.
26. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.
27. Beauty shops, barber shops, and salons.
28. Carnivals, special events, festivals, or concerts on a temporary basis; and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time, parking, access, or in other ways to protect

public health, safety, or welfare; or deny such if public health, safety, or welfare is adversely affected. A carnival, special events, festivals, or concerts may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.

29. Arcades, including pinball and electronic games.
30. Athletic club facilities.
31. Private club and banquet facilities.
32. Permanent or temporary commercial farm markets and market gardens.
33. Hotels (including extended stay lodging, executive suites, and inns) and bed-and-breakfast accommodations.
34. The sale of malt beverages, wine or alcoholic beverages.
35. Cocktail lounges and nightclubs.
36. Form-based projects.
 - (a) *Form-Based Project Requirements:* The study will document the architectural and urban design character of the area. It shall demonstrate, through the use of renderings, elevations and similar graphic materials, how the proposed project will enhance and complement the area's character. It will also show its integration with the surrounding neighborhood by using positive design features, such as supplemental landscaping; provision of public space and open space buffers; and improved pedestrian accommodations. These drawings shall be made a part of the final approval, and building permits shall comply with the approved drawings.
 - (b) *Accessory Uses.* The following uses are permitted when incidental and subordinate to principal permitted uses:
 1. Parking structures, lots, private garages, and off-street parking areas.
 2. Swimming pools, tennis courts, clubhouses and other private or common use open space and recreational areas.
 3. Private parks and open space.
 4. A ground-mounted satellite dish antenna, as regulated by Section 15-8.
 5. On-site childcare facilities.
 6. Pool and billiard tables within an establishment.
 7. Sale of finished products related or incidental to the principal use.
 8. Accessory dwelling units.
 9. Sidewalk, patio, and courtyard cafes and dining, when accessory to any permitted restaurant, Micro-brewery, craft distillery, or similar establishment serving food or drink.
 10. Indoor or outdoor live entertainment and/or dancing, when accessory to a restaurant or brew-pub. Indoor uses shall be sound-proofed to the maximum extent feasible

by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood. The Board may also impose time and other restrictions to minimize nuisance to the surrounding neighborhood.

(c) *Conditional Uses.*

1. Drive-through facilities.

(d) *Prohibited Uses.* All uses other than those listed as principal, accessory or conditional uses, or substantially similar to principal, accessory or conditional uses shall be prohibited. The uses below are provided for illustration purposes and for the purpose of limiting permitted uses, and are not intended to be a total listing of all the uses that are prohibited.

1. General contractors, such as plumbing; heating; carpentry and cabinet shops; masonry; plastering; electrical; tile and terrazzo work; electroplating; drilling; excavating; wrecking; construction and paving. This is not intended to prohibit the administrative offices of such.
2. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
3. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
4. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display: pictures, books, periodicals, magazines, appliances and similar material, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as:
 - (a) Depiction of human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy; or
 - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
5. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as:
 - (a) Depiction of human genitals in a state of sexual stimulation or arousal;
 - (b) Acts of human masturbation, sexual intercourse or sodomy; or
 - (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.

Sec. 22C-6. Design standards.

The following design standards and criteria shall be applicable in the PUD-3 zone. All new structures and alterations or additions to existing structures shall be constructed to a height, scale, proportion and gross volume compatible with light industrial, commercial, medium or high density residential, or mixed-use Place-types, Development-types, zones, or principal uses.

The following table shall establish what standards and what process is suggested for each project or parcel.

Maximum Lot Coverage	No limit
Building Height	Greater of (a) average of principal structures on adjoining lots or (b) seventy-five (75) feet
Front Yard	Minimum ten (10) feet on any frontage adjoining a major arterial
Side and Rear Yard	No minimum except as required by building or fire codes for safety
Open Space	No limit

- (a) *Off-Street Parking.* No minimum off-street parking shall be required; however, adequate off-street parking shall be provided on-site.

Sec. 22C-7. Review procedures.

All applications for a PUD-3 shall be reviewed under the following procedure:

- (a) *Authorization to Prepare Required Materials.* In order to ensure that the Planned Unit Development Plan has been prepared in a professional manner using a multi-discipline approach, it shall be certified by an architect registered to practice in the State of Kentucky and one (1) or more of the following professionals:
- (1) An urban planner who is a full member of AICP.
 - (2) A landscape architect licensed to practice in the State of Kentucky.
 - (3) A civil engineer registered to practice in the State of Kentucky.
- (b) *Map Amendment Request.* Any map amendment request to a PUD-3 zone shall be filed in such form and such materials as required by Article 6 of this Zoning Ordinance and the by-laws of the Planning Commission. In addition, a site inventory and analysis shall be included with the application as the minimum requirements for filing.
- (1) *Site Inventory.* The inventory shall include text and map information indicating existing vegetative cover, including tree stands and the general type and size of trees; any existing utilities on site; the location and use of any existing structures on the site; identification and location of any historic structures or other natural or

manmade features of historic interest; any existing easements; and any other significant site features. When a Planned Unit Development Plan is required, the inventory shall also include soil types and their locations and development limitations; and existing drainage features, including watercourses, natural swales, ponds, floodplains, etc.

- (2) *Site Analysis and Recommendations.* Based on the site inventory information, a site analysis, including recommendations, shall be provided. The site analysis may identify opportunities for public infrastructure improvements, uses, scale and context, in keeping with the stated intent of the PUD-3 zone.
- (c) *Plan and Permit Process.* Shall be as follows:
 - (1) *Issuance of a Zoning Compliance Permit.* When a property meets all of the requirements of the table in Section 22C-6, the Division of Planning shall issue a Zoning Compliance permit without a Planned Unit Development Plan.
 - (2) *Planned Unit Development Plan.* A Planned Unit Development Plan shall be required when a property does not meet the requirements of the table in Section 22C-6 of this section. The content and review process for the Plan shall follow Article 21. Zoning Compliance and other applicable permits may be issued once certification of the Planned Unit Development Plan is complete.
 - (3) *Relationship to the Site Inventory.* The design of the Planned Unit Development shall respond to the natural and manmade features of the site. The design shall not necessitate excessive grading, filling, or the destruction or other alteration of the natural features unless necessary to achieve the identified goals and purposes of this PUD-3 zone. Where feasible, the streets should follow the natural terrain. The design shall adequately consider any historic features on the site, as well as any existing structure which is to be retained. The applicant shall use the flexibility of the PUD-3 zone to preserve such desirable natural and manmade features to the extent feasible.

Sec. 22C-8. Applicability of other zoning ordinance and subdivision regulation articles.

Except as specifically or implicitly modified herein, all other provisions of this Zoning Ordinance and Subdivision Regulations generally applicable to development in the Lexington-Fayette Urban County shall be applicable within the PUD-3 zone.

Sec. 22C-9. Timing of development.

Within five (5) years of the approval of the final Zoning Compliance Permit or Planned Unit Development Plan (as applicable), unless an extension of the time period is granted, the applicant shall be required to obtain building permits for all structures shown thereon. No permits for unconstructed buildings may be issued after that date based on the final Zoning Compliance Permit or Planned Unit Development Plan. The applicant may submit a new final plan for review or may request that the previous plan be re-evaluated to determine if time has necessitated changes in the plan for the health, safety, or welfare of the community. In either case, the procedure for

submission and review shall be as required for a final Zoning Compliance Permit or Planned Unit Development Plan (as applicable) contained herein.

Public Comment – Dottie Bean, 1364 Deer Lake Circle, discussed her objection to proposed improvements to Athens Boonesboro Road by the Kentucky Transportation Cabinet.

George W Mankel III, 6377 Athens Boonesboro Rd, voiced his support for the zone change and his appreciation for the owners and asked the Commission to approve this zone change.

Dan Graves, 3500 N Cleveland Road, implored the Commission to look at this as an opportunity and not as a slippery slope, and voiced his support.

Mike Harrell, address not given, stated that his property wraps around the property and could not ask for better neighbors. He is in full support of the zone change.

Commission Questions – Mr. Michler commented that he knew Mr. Mankel who spoke, and his band One Lane Bridge and that his band should be allowed to play at the property.

Zoning Action – A motion was made by Mr. Michler, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-MAR-22-00011: ATHENS PROPERTY, LLC, with the four staff recommendations deleting the restriction or outdoor live entertainment of dancing.

Development Plan Action – A motion was made by Mr. Michler, seconded by Mr. Nicol and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-MJDP-22-00044: ATHENS PROPERTY LLC with the seven conditions removing the "Discuss Placebuilder Criteria"

Variance Action – A motion was made by Mr. Michler, seconded by Ms. Worth and carried 8-0 (Davis, Meyer, and Penn absent) to approve the variance request to reduce the hedge requirement from two to one along the Single-Family Residential (R-1D) zone, subject to the four conditions recommended by the staff.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS

1. PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE – petition for a Zoning Ordinance text amendment to create a new Planned Unit Development 3 (PUD-3) zone (Article 22) to allow a mixed-use development that would permit a blend of residential, commercial, entertainment, and industrial uses.

INITIATED BY: Turner Property 4, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Postponement.

The Staff Recommends: Postponement, for the following reasons:

1. The proposed text amendment does not yet fully meet the intent and requirements established by Article 22 of the Zoning Ordinance regarding the creation of a Planned Unit Development (PUD). The site criteria, design standards, and proposed uses necessitate greater review.
2. The proposed text amendment does not provide a planning process that is conforming with Article 21 of the Zoning Ordinance.

Staff Presentation – Mr. Baillie presented and summarized the staff report and recommendations for the text amendment. Mr. Baillie began by presenting the regulations associated with the establishment of a PUD and stated that he would be going over all the steps prior to stating staff's findings. Mr. Baillie presented a list of proposed uses in the PUD-3 zone by the applicant including restaurants, dwelling units, and parks. In addition to the proposed uses, Mr. Baillie presented accessory, conditional, and prohibited uses.

Mr. Baillie transitioned to the applicant's site criteria noting that it started with the applicant's proposed development off Leestown Road, but as they worked with staff and the neighborhood, they transitioned to something that could be utilized all around the Urban Service Area. The parcel would need to be directly adjacent to a major arterial or corridor roadway, be at least 10 acres, and be currently zone as a business or industrial use. Additionally, Mr. Baillie discussed the applicant's connections to the 2018 Comprehensive Plan, including identifying areas of infill, enabling existing neighborhoods to flourish, and developing a variety of new jobs.

To conclude, Mr. Baillie stated that staff is recommending approval. Mr. Baillie said that staff saw this as a collaboration between the applicant, the neighborhood, and staff to create a zone that could be transferrable across the Urban Service Area and in agreement with the goals and objectives of the Comprehensive Plan.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Commission Questions – Mr. de Movellan asked if after the initial 10 acre lot size requirement, would any expanded or added parcel have to meet that 10 acre requirement as well. Mr. Baillie indicated that an expanded development would not have to meet the lot size requirement again, but it would have to be business or industrial in nature.

Mr. de Movellan additionally asked that with residential being one of the permitted uses, why is outdoor entertainment/rodeos a permitted use. Mr. Baillie responded stating that with an applicant like this could blend the residential uses with other uses in their overall plan and that developments like this PUD and the mixing of uses is in line with the Comprehensive Plan.

Mr. Michler asked about the tree canopy goals for the city and what percentage that they look for. Mr. Baillie stated that the overall goal was 30% in the urbanized area.

After Mr. Baillie's response, Mr. Michler asked why this PUD-3 is only asking for 15%. Mr. Baillie responded saying that each zone's canopy requirement is different. This specific requirement is more in line with an I-1 zone, which asks for 10% tree canopy coverage.

Mr. Nicol asked that if this text amendment passes, could it be used throughout the Urban Service Area and if it is fair to summarize that this plan will allow dwelling units in quasi industrial space. Mr. Baillie indicated that it can be used throughout the Urban Service Area if approved and that this approach is similar to the adaptive reuse projects and encourages a redevelopment of industrial space.

Applicant Presentation – Mr. Nathan Billings, attorney for the applicant, began his presentation by answering questions asked by Mr. Nicol and Mr. Michler about the mixing of different uses and the tree canopy requirements. Mr. Billings stated in the affirmative that they were trying to mix seemingly conflicting uses because they have a property that drove this ZOTA request, but they were not asking for a zone change at this time. There are other properties around Lexington, where this potential ZOTA could be applicable, which gives the Planning Commission the ability to control what types of uses go into the PUD-3 zone.

Mr. Billings indicated that this was not something that they came up with in a month, they have had months of discussion with staff and the neighborhood throughout the process. Mr. Billings gave the reasons for asking for a PUD stating that the applicant owns a unique I-1 zoned property and wants to revitalize historically used tobacco warehouses, but the I-1 zone regulations are prohibitive. Additionally the other mixed-use zones would have had limitations that would restrict what the applicant wants to do with the property.

After discussion with the Planning staff, Mr. Billings indicated that the applicant wanted to create their own zone to allow for the continued I-1 uses, with the flexibility of the other mixed-uses. Mr. Billings presented pictures of the subject property off Leestown Road and discussed a few areas of concern that the Meadowthorpe Neighborhood had and what types of uses they were concerned about. Due to these concerns from the neighborhood, the applicant has agreed to not have adult day cares, rehab centers, community centers, or a child-care center on the subject property.

Mr. Billings concluded, once again highlighting the months of work and communication with Planning staff and the neighborhood and offered to answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked about the buffer requirement for railroad tracks, being that there are tracks along the edge of the property, and if the tracks were owned by the applicant. Mr. Billings consulted Ms. Wade, and Ms. Wade indicated that the buffer was 15 feet with a fence. Additionally Mr. Billings stated that the railroad tracks were not owned by the applicant.

Mr. Michler asked why there was so little tree canopy for this property, especially if you can plant trees in parking lots. Mr. Billings stated that he thought they were increasing the canopy from the current 10% to 15%.

Mr. Michler also asked if there could be a variance to reduce the tree canopy. Ms. Wade responded saying that applicants can ask for a waiver to the tree canopy standards, but there are some guidelines for that occurring. Ms. Wade also stated that she did not think that we were going to reach the 30% via industrial land, it will most likely come from residential. Additionally, Ms. Wade stated that if a residential development was proposed as part of a PUD-3, the Planning Commission could require 30% tree canopy coverage on the land.

Citizen Comment – Rock Daniels, 1519 Old Leestown Road, president of the Meadowthorpe Neighborhood Association, stated that the applicant and staff had all been very helpful during these discussions. He stated he was hopeful the development would be an asset to Lexington and the neighborhood.

Blake Hall, 36 Richmond Ave, stated he was in support because it allows a transitional zone for varied developments, but did want to see drive-thrus moved from an accessory use to a conditional use.

Walt Gaffield, 2001 Bamboo Road, stated that if the Meadowthorpe Neighborhood Association was for the development, so was he.

Gabe Hensley, 301 Pelican Lane, stated that he was not against the development, but had some concerns about the principal primary and accessory uses being located so close to the neighborhood.

Staff Rebuttal – Mr. Baillie wanted to clarify that this meeting was not the appropriate time to designate certain conditional zoning restrictions that would be placed on a property.

Commission Questions – Mr. Pohl asked Mr. Baillie to address the concern about the drive-thru's being an accessory use that Mr. Hall brought up. Mr. Baillie stated that drive-thru facilities were requested as an accessory use because this development is seen as a more intense land use. Additionally, Mr. Baillie mentioned that with a B-1 zone it is a conditional use, or shown on the development plan and the Planning Commission has the ability to decide if a drive-thru is or is not appropriate for a location.

Applicant Rebuttal – Mr. Billings stated that he spoke with the applicant, and they are willing to move drive-thrus to a conditional use.

Staff Comment – Tracy Jones, Department of Law, told the Planning Commission that if drive-thrus are a conditional use in the text amendment, the Commission would not see it on the development plan. It would have to go to the Board of Adjustment instead.

Commission Questions and Comments – Mr. Nicol commented that over and over again things get approved by the Board of Adjustment, then by the Urban Council, and eventually come back to the Planning Commission.

Mr. Pohl stated that he really likes this text amendment and thinks it's a good move for the city and the location.

Ms. Worth commented that she knows that Meadowthorpe has a long history of working with developers, and looks forward to what they do with this project.

Mr. de Movellan asked for staff's recommendations on the drive-thru use. Mr. Baillie responded saying that the Planning Commission has many options on this, but staff has recommended approval as an accessory use.

Action – A motion was made by Mr. Pohl, seconded by Ms. Barksdale and carried 8-0 (Davis, Meyer, and Penn absent) to approve PLN-ZOTA-22-00006: AMENDMENT TO ARTICLE 22, APPENDIX C TO CREATE THE PLANNED UNIT DEVELOPMENT (PUD-3) ZONE for reasons provided by staff

2. **PLN-ZOTA-22-00011: AMENDMENT TO ARTICLE 8-1(d) TO ADD SMALL FARM MICRO-DISTILLERIES AS A CONDITIONAL USE IN THE AGRICULTURAL RURAL (A-R) ZONE** – a petition for a Zoning Ordinance text amendment to create a new conditional use, in the Agricultural Rural (A-R) zone. The proposed conditional use will allow for the distillation of 1,000 gallons in association with an established agricultural use.

INITIATED BY: SILVER SPRINGS FARM EQWINE AND VINEYARD, LLC

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval of the Staff Alternative text.

The Staff Recommends: Approval of the Staff Alternative text for the following reasons.

1. Micro-distilleries distilleries have extensive historical connections to agricultural uses within Lexington, as well as the Commonwealth of Kentucky as a whole.
2. Providing for small farm micro-distilleries in the Agricultural Rural (A-R) zone will permit additional opportunities to utilize existing agricultural resources for value-added products and tourism in support of the local economy.
3. The conditional use process and distillate production limits will ensure that the use operates at a scale that is compatible with the associated active farm or agricultural operation.
4. The inclusion of small farm micro-distillery to the possible conditional uses within the A-R zone is in agreement with the 2018 Comprehensive Plan for the following reasons:
 - a. The additional revenue stream for the agricultural uses that is derived from distillery operations will help strengthen the agricultural economy (Theme C, Goal #1.b).
 - b. The tasting and touring activities associated with small farm micro-distilleries will help promote agricultural tourism (Theme C, Goal #1, Policy D).
 - c. By limiting the scale of production to no more than 1,000 gallons of distilled spirit, the use would promote context-sensitive agritourism in the Rural Service Area (Theme B, Protection Policy 6). The potential to utilize locally grown materials and agricultural byproducts in the operation of the use promotes environmental sustainability (Theme E, Goal #1, Policy D).

Staff Presentation – Mr. Crum presented and summarized the staff report and recommendations for the text amendment. To begin, Mr. Crum discussed the current zoning used by the Commonwealth of Kentucky for different distilleries. A distillery with a Class A license has greater than 50,000 gallons produced annually in the I-2 and ED zones, and a distillery with a Class B license produces less than 50,000 gallons annually.

Mr. Crum went on to discuss the applicant, who owns a small farm winery who wishes to use the by-products from his operation to distill in the Agricultural Rural zone. Currently you cannot have a micro-distillery in the A-R zone, so Mr. Carter is here asking to make that a permissible use. Mr. Crum explained the proposed language, stating that a Small Farm Micro Distillery, would be defined as a distillery associated with an established agricultural use and produces less than 1,000 gallons of distilled spirit annually. In their letter of justification, the applicant makes the case that the value added process of making their own spirits, is appropriate in the agricultural zones because of the ties between distilleries and agriculture historically. Staff agreed with this assertion and found examples dating back to the 1700s a small distillery operation could be found on small farms.

Mr. Crum highlighted the conditional use process if the text amendment were to be passed today, including that the Board could ask such questions as how the distillery will be operating, how many hours a day would it be operating, where the buildings will be, etc. Planning staff would have to review the information given on an annual basis, and if they are not up to the standards, the conditional use can be revoked.

Mr. Crum indicated that the staff was supportive of the proposed language on the whole, but made some tweaks in the staff alternative language to be more in line with other ordinance requirements. Mr. Crum also indicated that this text amendment does touch on many of the goals of the Comprehensive Plan including supporting existing agricultural uses, providing additional opportunities to financially thrive, increasing value-added products, and promoting sustainability and agri-tourism.

Mr. Crum mentioned some concern from the Zoning Committee about the 1,000 gallon limit. They requested additional information about the proposed limit. In staff's research, they ran into issues finding one uniform definition for small farm micro distilleries and found that each state's definition was different. Instead staff focused on some permitted small farm distilleries in Kentucky and presented them to the Commission. After reviewing the research, the staff still contends that the 1,000 gallon limit is appropriate. Mr. Crum stated that the greater amount of distilled spirit, the greater impact there is on the land. According to Mr. Crum, for every barrel of distilled spirit you can expect 800-1000 pounds of produce involved in its production, along with 600 gallons of water.

Mr. Crum concluded saying that staff is recommending approval of staff alternative language.

Commission Questions – Mr. Nicol asked if there is any way that what we are discussing here can be considered urban development. Mr. Crum responded that he thought that what is being proposed is within the intent of the A-R zone.

Mr. de Movellan asked if there is any requirement that the natural resources discussed in the staff report, have to come from the property itself and what constitutes an "active farm." Mr. Crum stated that it did not have to at this time and that "active farm" is a term that the Zoning Ordinance uses evaluating agri-tourism and that determination would be made by the Board of Adjustment.

Mr. Michler asked if Planning staff was able to find examples of businesses that have been successful under that 1,000 gallon limit. Mr. Crum indicated that there just are not a lot of micro-distilleries in the United States and only about a dozen total and based on his research the micro-distillery on a small farm was not a principal use, it was an additional added value. Based on Mr. Michler's question, Mr. Crum indicated that he could not find a successful example because there are so few, and the Bourbon County ordinance was so new.

Mr. Nicol asked why staff did not use the language that Bourbon County used in Mr. Crum's previous slide about natural resources. Mr. Crum said that it was something that staff looked at, but thought it was too specific and too burdensome.

Applicant Presentation – Allen Carter, applicant and owner of Silver Springs Farm Equestrian & Vineyard, LLC, gave a small presentation on his business and why he is pursuing the text amendment. Mr. Carter stated that he thinks that he has checked all the boxes for a small farm micro-distillery and highlighted different management practices on his farm and his wine operation, as well as what he plans to do if this text amendment passes.

He ended his presentation thanking the Planning Commission for their consideration and asking for approval.

Commission Questions – Mr. Pohl asked how big a barrel house would be and if Mr. Carter would build one. Mr. Carter indicated that his plan is to build a barrel house at some point, but not immediately. Mr. Carter explained the research he had done in Europe and that he was going to be using a container to hold the barrels to start.

Mr. Pohl also asked if Mr. Carter would have a problem with a requirement that a certain amount of agricultural product used in the distillate had to come from his farm. Mr. Carter indicated that he was already making the distillate at his farm to make wine, and he wants that to make brandy so he would not have an issue.