

**REVISED STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT****PLN-ZOTA-23-00006: AMENDMENT TO ARTICLES 1, 3, 8, 9, 12, AND 17 TO IMPLEMENT THE COMPREHENSIVE PLAN.**

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: See attached

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

STAFF REVIEW:

The development pattern of a city is reflective of the existing land development regulations—like the Zoning Ordinance. Lexington’s residential landscape has been predominantly characterized by a development pattern centered on vehicle-dependent single-family detached housing. This pattern has resulted in disconnected residential areas that are not walkable and do not integrate retail and job opportunities. Similarly, Lexington’s commercial landscape has been shaped by sprawling areas that heavily rely on cars, leading to decreased walkability and challenges for public transit.

The existing zoning regulations in Lexington have dictated these development patterns. Without modernization of the Zoning Ordinance, these regulations will remain misaligned with the community’s aspirations for walkable, less car-dependent neighborhoods, and will continue to promote development that is less socially, fiscally, and environmentally sustainable. The proposed Zoning Ordinance text amendment is focused on connecting people to places, to jobs, and to each other through compact and thoughtfully designed development that allows for the appropriate mixing of residential and commercial uses. This is smart, sustainable growth for Lexington that will both support infill and redevelopment opportunities, and allow for the best possible development for the future as the Lexington community grows.

Through the adoption of the Goals and Objectives of *Imagine Lexington 2045*, the Urban County Council called for the inclusion of up to 5,000 acres of land to be added to the Urban Service Area and a Master Plan for the new area by December 1st, 2024. To further this Goal, on October 26th, 2023, the Planning Commission accepted an area of 2,832 acres for master planning. Updates to Lexington’s zoning regulations must be in place for this new land to meet the city’s goals of economically, socially, and environmentally sustainable development (Theme E, Goal #3.c; Theme E, Accountability Policy #2). As part of the expansion of the Urban Service Area, the Council directed the Division of Planning and Planning Commission to review opportunities for increased housing and strategies to produce more affordable housing (Theme E, Accountability Policy #2; Theme E, Stewardship Policy #8). The following Zoning Ordinance text amendment begins the process of meeting those goals.



The proposed text amendment seeks to modernize five (5) zoning categories (Mixed Low Density Residential (R-2), Medium Density Residential (R-4), High Density Residential (R-5), Neighborhood Business (B-1), and Highway Service Business (B-3) zones) (Theme E, Stewardship Policy #8). The proposed modification of the R-2 zone is specifically targeted at realigning the intensity and density of the R-2 zone with the other residential zones. Currently, the R-2 zone requires a large lot size, large setbacks, and overly limits density (single family detached and duplexes). Due to these restrictions, the R-2 zone has become an underutilized zone with the need for modernization. The proposed update would reduce the required lot size to match the minimum lot size within the R-1T zone, reduce the minimum setbacks for greater utilization of the property and align the zone as a bridge between the Townhouse Residential (R-1T) and Planned Neighborhood Residential (R-3) zones. This realignment of housing density would allow for greater variation of housing types, which would include single family detached, single family attached, and low density multi-family residential dwelling units (Theme A, Goal #1.b; Theme A, Goal #3.a; Theme A, Goal #5.f; Theme E, Goal #1.e; Theme A, Design Policy #4; Theme A, Design Policy #8; Theme A, Density Policy #6; Theme E, Growth Policy #9). This variation in housing type would promote the construction of missing middle housing types that are often found within our oldest areas of town, but have been made difficult to develop within Lexington due to the current regulations. Neighborhoods like Idle Hour, Mentelle, Chevy Chase, and Kenwick all include a variety of housing types that allow for different housing needs for members of the community. The proposed text change would allow for the production of such neighborhoods and at a scale that is substantially similar to the construction of a single family detached dwelling (Theme A, Design Policy #4).

Whereas the proposed modifications of the R-2 zone are meant to promote and allow for the mixture of low density housing types, the proposed modifications to the R-4 zone would require a mixture of low density housing types, while also modernizing the setback restrictions and clarifying the height restrictions for medium density residential housing. The development of the R-4 zone within Lexington has largely resulted in a monoculture of housing types. The zone is characterized as either large apartment complexes or a single type of lower density residential. This language requires that if five (5) single family detached residential structures are constructed in sequence, a different form of housing type (single family attached, multi-family) would need to be added (Theme A, Goal #1.b; Theme B, Sustainability Policy #3). The inclusion of a variety of housing types will not only help meet the housing need within Lexington, but can also help provide housing opportunities for residents throughout the age and income spectrum.

Historically, small single family detached dwelling units were considered the starter home for first time home buyers. That is no longer a reality for most urban areas within the United States. Due to numerous reasons, including increased land costs and increased cost of construction, an attached structure (townhouse, duplex) or condo are more likely to be the entry point for first time buyers. By promoting a variety of housing types in the R-2 zone and requiring them in the R-4 zone, the City can provide greater opportunities for homeownership (Theme A, Goal #5.f; Theme E, Goal #3.c; Theme E, Growth Policy #9; Theme A, Density Policy #3; Theme A, Density Policy #6). Additionally, as our population ages, the City must seek to promote different housing types within neighborhoods to allow for aging in place. Through increased housing options, including rental opportunities within apartments that are integrated into neighborhoods, the City can start to provide opportunities for intergenerational living and stabilization of place for residents (Theme A, Goal #1.c).

Like the R-4 zone, the staff is recommending the modification of the building setbacks, and clarification of the height and mass of structures within the R-5 zone. Additionally, the staff is



recommending the inclusion of the Neighborhood Business (B-1) zone principal land uses as conditional uses within the R-4 and R-5 zones. Due to the restrictions of the Zoning Ordinance, the organic development of businesses within neighborhoods has been stifled. Business operators must either retain the zoning that they currently have or are forced to go through a lengthy and costly zone change process. The zone change process also limits the reversion of buildings back to residential land uses should a business no longer be viable. By including the B-1 land uses as conditional uses within the R-4 and R-5 zones, there is the potential to allow neighborhood business to organically develop within neighborhoods, while still retaining a public review process in front of the Board of Adjustment (Theme A, Goal #3.a; Theme A, Goal #3.b; Theme A, Goal #3.c; Theme A, Design Policy #12). The inclusion of this language is subject to the modernization of the B-1 zone to remove those uses that are not appropriate within neighborhoods.

In addition to the modernization of the established residential zones, the proposed text amendment includes the creation of a new residential zone: the Corridor Node (CN) zone. This zone is proposed to be located at intersections of major roadways to create intense and dense development, and which will provide a residential density that would support the extension of transit to new areas. While a residential component would be required (minimum of 30 dwelling units per acre), there is also the option to include commercial opportunities. By making residential land uses the primary component of the zone, Lexington will be able to focus on the current housing shortage, while allowing, but not requiring, a mixture of residential and commercial land uses on a property (Theme A, Goal #1.b; Theme A, Goal #5.f; Theme E, Goal #3.c; Theme E, Growth Policy #9; Theme A, Density Policy #3). The inclusion of this zone is important to meet Lexington's goal for environmental sustainability, as it makes the greatest use of Lexington's available land for development and can reduce vehicle miles traveled (Theme B, Goal #2.c; Theme E, Goal #1.c; Theme D, Placemaking Policy #5). Additionally, the inclusion of this zone is important to meet Lexington's goals for social sustainability. For affordable housing to thrive in areas located on the peripheries of the community, access to reliable transit service must be incorporated. This proposed new zone would draw transit to the location and would allow for future enhanced transit services that would alleviate the need for a single occupancy vehicle (Theme B, Goal #2.c; Theme D, Goal #1.c; Theme A, Density Policy #4).

While a large portion of this text amendment is focused on the increase of density within Lexington, there is also an important element focused on affordable housing. During the development of the 2023 Goals and Objectives, both the Planning Commission and the Urban County Council called for a renewed effort to increase affordable housing options throughout the City (Theme A, Goal #1.c; Theme A, Goal #1.d; Theme A, Goal #5.f; Theme C, Goal #3.a; Theme E, Goal #3.c). In subsequent meetings with local affordable housing providers, they indicated that the two largest limiting factors for the production of affordable housing are available financial resources and limited land within the Urban Service Area. While the Zoning Ordinance cannot add funding mechanisms for affordable housing, it can address availability for land for construction through density bonuses.

Article 3 of the Zoning Ordinance has historically provided bonuses in density or relaxation of requirements for the development of affordable housing. Whereas the previous text sought to entice market rate developers to create affordable housing, this text is seeking to more directly support those affordable housing providers/developers by allowing for greater density to be constructed within the Urban Service Area. The proposed density bonus for affordable housing would allow for those constructing housing at 80% of the area median income (AMI) for a 10 year period, to utilize the provisions of a land use category of the next zone above. For example, in those areas that exclusively allow single family detached dwelling units (R-1A, R-1B, R-1C, R-1D, and R-1E),



affordable housing providers would be able to utilize the regulations of the R-1T zone. The proposed density bonus would allow for the construction of residential land uses from the R-3 zone in the R-2 zone, the R-4 zone in the R-3 zone, and the R-5 zone in the R-4 zone. This bonus would allow for a moderate increase in the density of an area without substantially deviating from the land use that surrounds it (Theme A, Goal #3.a).

Additionally, the inclusion of affordable housing in areas that have barred denser development is an important equity issue. Approximately 42% of Lexington's Urban Service Area does not allow for construction of anything more than a single family detached residential dwelling unit. This greatly restricts who can be part of many of Lexington's neighborhoods. By allowing affordable housing providers to build at a moderately denser level, individuals who had less access to certain neighborhoods could have the opportunity for greater options for living in Lexington. Research shows that incorporating affordable housing throughout a community allows households to access services and resources that might not have been available to them previously. Additionally, where the purchase of a property is available, households would have the ability to take advantage of the potential generational wealth that comes with the equity gained from the property. (Theme A, Goal #1.c; Theme A, Goal #1.d; Theme A, Goal #5.f; Theme C, Goal #3.a; Theme E, Goal #3.c; Theme A, Density Policy #2; Theme A, Equity Policy #1; Theme A, Equity Policy #2; Theme C, Sustainability Policy #6).

During the staff's continued efforts to conduct outreach with Lexington's affordable housing providers, numerous comments were made regarding the need for flexibility in rents or pricing of housing. Due to continued limitations on budgets and gap financing, affordable housing providers offset the cost of construction of affordable housing units by incorporating units that are a higher price point. Lexington has historically promoted this type of development as a mixed income housing project. Staff proposes reintroducing the mixed income housing project, which would still require the majority of the project to be 80% or less of AMI, but would allow for a portion of the project to be available at a higher rent or sale price. While many communities do not restrict the income of those units that are not defined as affordable within a mixed income project, the staff finds that it is important to promote the production of housing for those who earn less than 120% of AMI. This percentage of AMI is often referred to as workforce housing and has become less available in Lexington over the past decade. By allowing the inclusion of mixed income housing units, Lexington can both promote affordable housing options, while also retaining and attracting a work force that would not fall under the lower income levels (Theme C, Goal #1.d; Theme C, Goal #3.a).

In addition to the residential zones, the staff is also proposing modifications to the B-1 and B-3 zones. The proposed language of the text is meant to modernize the uses within the commercial zones, and differentiate the appropriate land uses in each zone based on the context or the place where they are located (Theme A, Goal #3.a; Theme A, Goal #3.b; Theme A, Goal #3.c; Theme A, Design Policy #12). The proposed changes to the B-1 zone are meant to produce more walkable environments, with commercial opportunities and services within neighborhoods rather than on the peripheries on higher intensity roadways. During zone changes, one of the greatest barriers to new commercial within or near neighborhoods has been the fear of the next use on the property. The proposed modifications are meant to remove those uses that are inappropriate within a neighborhood, while also clarifying and simplifying the land uses allowable within neighborhoods.

While the B-3 zone has been a desirable zone for commercial operators due to its flexibility in land uses and limited regulation, it has failed to produce sustainable, desirable development patterns that



are in agreement with the recommendations and policies of the Comprehensive Plan. Inadequate utilization of the land and the concentration of predatory land uses have made the zone adverse to the recommendations of the Comprehensive Plan. The proposed text will realign the zone to meet Lexington's sustainability goals, increase safety along the most heavily trafficked roadways, and reduce the concentration of inefficient land uses (Theme E, Goal #1.d; Theme E, Goal #1.e). The proposed text includes the establishment of minimum lot coverages, distance requirements for gas stations, pawn shops, and car lots, and limitations on paved surfaces. Additionally, the proposed text includes multifamily residential dwelling units as a principal permitted use within the B-3 zone. This inclusion of housing will allow for the densification of Lexington's corridors, which can produce greater quantities of housing within the community, increase access to transit, and support businesses within the area (Theme D, Goal #1.c; Theme A, Density Policy #1).

The proposed Zoning Ordinance text amendment will make Lexington a more socially, environmentally, and fiscally sustainable community. Without these proposed text changes, Lexington will continue to develop in a way that creates pressure to expand the Urban Service Area due to inefficient utilization of the available land, and continue to preference dependency on the single occupancy vehicle. While best practice and innovation is a focus of this text amendment, community input has been of equal importance. Over the course of the past several months, the Planning staff has met with numerous stakeholder groups within the community to discuss the language, and potential modifications to the text to ensure the Zoning Ordinance has broad understanding and support. The proposed text takes into account those discussions and inputs. Furthermore, the proposed text addresses the needs for equitable, and environmentally sustainable growth in Lexington and is in agreement with the 2018 Comprehensive Plan and the adopted Goals and Objectives of the 2023 Comprehensive Plan. The staff recognizes that modernizing any part of the Zoning Ordinance is likely to create nonconformities and misalignments. To that end, staff has collaborated with various stakeholder groups to ensure opportunities for redevelopment without the loss of use of the property and to minimize nonconforming uses to the greatest extent possible. This text is substantially improved as a result of these engagement efforts and should ensure future development patterns that embody the goals, objectives and policies of the community's adopted comprehensive plan.

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

1. The proposed text amendment provides greater opportunities for increased housing and will allow for the greater production of more affordable housing in the community (Theme E, Accountability Policy #2; Theme E, Stewardship Policy #8).
2. The proposed amendment to the Low Density Residential (R-2) zone will allow for greater variation of housing types, and promote the construction of missing middle housing types (Theme A, Goal #1.b; Theme A, Goal #3.a; Theme A, Goal #5.f; Theme E, Goal #1.e; Theme A, Design Policy #4; Theme A, Design Policy #8; Theme A, Density Policy #6; Theme E, Growth Policy #9).
3. The proposed amendments to the Low Density Residential (R-2), Medium Density Residential (R-4), and High Density Residential (R-5) zones will allow for the inclusion of a variety of housing types that will help meet the housing need within Lexington, and will help provide housing opportunities for residents throughout the age and income spectrum (Theme A, Goal #5.f; Theme E, Goal #3.c; Theme E, Growth Policy #9; Theme A, Density Policy #3; Theme A, Density Policy #6).
4. The inclusion of the principal uses of the Neighborhood Business (B-1) zone as conditional uses within the R-4 and R-5 zones will allow neighborhood business to organically develop within



- neighborhoods, producing more walkable and compact development (Theme A, Goal #3.a; Theme A, Goal #3.b; Theme A, Goal #3.c; Theme A, Design Policy #12).
5. The proposed Corridor Node (CN) zone will allow a mixture of residential and commercial land uses on a property (Theme A, Goal #1.b; Theme A, Goal #5.f; Theme E, Goal #3.c; Theme E, Growth Policy #9; Theme A, Density Policy #3) and will help meet Lexington's goal for environmental sustainability, (Theme B, Goal #2.c; Theme E, Goal #1.c; Theme D, Placemaking Policy #5) by referencing the growth of transit within the City (Theme B, Goal #2.c; Theme D, Goal #1.c; Theme A, Density Policy #4).
 6. The proposed affordable housing and mixed income density bonuses will allow for families to access safe and accessible housing and provide the potential to build generational wealth. (Theme A, Goal #1.c; Theme A, Goal #1.d; Theme A, Goal #5.f; Theme C, Goal #3.a; Theme E, Goal #3.c; Theme A, Density Policy #2; Theme A, Equity Policy #1; Theme A, Equity Policy #2; Theme C, Sustainability Policy #6).
 7. The proposed affordable housing and mixed income density bonuses will provide flexibility to affordable housing providers to access available land, and provide for a moderate increase in the density without substantially deviating from the land use that surrounds a development (Theme A, Goal #3.a).
 8. The proposed amendment modernizes the uses within the commercial zones, and differentiates the appropriate land uses in each zone based on the context or the place where they are located (Theme A, Goal #3.a; Theme A, Goal #3.b; Theme A, Goal #3.c; Theme A, Design Policy #12).
 9. The proposed text realigns the Corridor Business (B-3) zone to meet Lexington's sustainability goals, increase safety along on most heavily trafficked roadways, and reduce the concentration of inefficient land uses (Theme E, Goal #1.d; Theme E, Goal #1.e).
 10. The proposed inclusion of residential within the Corridor Business (B-3) zone allows for the densification of Lexington's corridors, which can produce greater quantities of housing within the community, increase access to transit, and support businesses within the area (Theme D, Goal #1.c; Theme A, Density Policy #1).

HB/CT/TLW

11/15/23

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