

LEXINGTON PLANNING COMMISSION

December 10, 2020 - 5:00 P.M
Distance Meeting held through ZOOM
300 East Washington Street, Lexington, VA 24450

AGENDA

- 1. CALL TO ORDER**
 - A. statement of emergency and authority to proceed
- 2. APPROVAL OF THE AGENDA**
- 3. APPROVAL OF MINUTES**
 - A. Minutes from November 12, 2020*
- 4. CITIZENS’ COMMENTS ON MATTERS NOT ON THE AGENDA**
- 5. NEW BUSINESS**
 - A. Discussion of Comprehensive Plan Implementation
 - 1) Prioritization of staff recommended Catalyst projects*
 - 2) Public comment
 - B. Discussion of Green Infrastructure Working Group
 - 1) Proposed Scope of Work*
 - 2) Public comment
 - C. Discussion of Annual Zoning Ordinance Amendments
 - 1) Definitions and standards to include in the annual update*
 - 2) Public comment.
- 6. OTHER BUSINESS**
- 7. CITY COUNCIL REPORT**
- 8. ADJOURN**

*indicates attachment

MINUTES

**The Lexington Planning Commission
Thursday, November 12, 2020 – 5:00 p.m.
Zoom Meeting – City Hall
300 East Washington Street**

Planning Commission:

Presiding: John Driscoll, Chair
Present: Pat Bradley, Vice-Chair
Leslie Straughan, Council Liaison
Blake Shester
Jamie Goodin
Camille Miller

City Staff:

Arne Glaeser, Planning Department
Bonnie Tombarge, Administrative Assistant
Jim Halasz, City Manager

Absent: Matt Tuchler

CALL TO ORDER

Chair Driscoll called the meeting to order at 5:00 p.m. A. Glaeser read a statement saying that due to the COVID-19 pandemic the City of Lexington is taking action to limit attendance at public meetings. The City Council has approved an emergency ordinance allowing all meetings to be held as real time electronic meetings streamed to the City's Facebook page and uploaded to Youtube the following day.

AGENDA

The agenda was approved unanimously with an item added by C. Miller and a discussion on the City Council adoption of the Comprehensive Plan (C. Miller/J. Goodin).

MINUTES

Minutes from October 1, 2020 joint work session were approved unanimously (C. Miller/P. Bradley)

Minutes from October 22, 2020 meeting were approved unanimously with a correction from C. Miller (C. Miller/B. Shester).

CITIZENS' COMMENTS ON MATTERS NOT ON THE AGENDA

None.

NEW BUSINESS

A. Discussion of Comprehensive Plan Implementation

- 1) Nomination of Catalyst Projects – A. Glaeser presented the Staff Recommended projects for completion in Fiscal Year 2022, this would allow for around 18 months to complete the projects. This would not restrict when a project could be started. These projects are the projects that the City Manager, the Director of Public Works, and the Director of Planning and Development felt could be completed within the 12 – 18-month timeframe Commission set for catalyst projects. These projects are priorities already for staff, and they dovetail well with other current City projects. The Commission decided they would like to

initiate conversations on how the City can pursue a more active approach in hiring diversity. The Commission also wanted to start finding options for the City to create a Green Infrastructure Plan. The Commission also wanted to arrange for an information session to learn more about small area plans and if they are something the City could find useful. The Commission approved the six projects recommended by staff and wanted to pursue work on three other projects. Commission would like some variety of quarterly updates on the more long-term projects, and City Manager Halasz suggested that these reports be made or submitted by the staff member working on that project. They do understand that these will be more long-term projects than what the parameters of a Catalyst Project is. There were comments from C. Miller and L. Straughan that Commission should be careful of asking for help and input from city residents if staff does not have the time to work on those projects.

- 2) Public Comment – Charles Aligood – 506 Calvary Road – Said that he was supportive of Commission’s effort to push the diversity effort and the green infrastructure plan. He also said that he does not want to see the other projects fall by the wayside, though he does acknowledge that there are some staff and economic limitations.

B. Discussion of Annual Zoning Ordinance Amendments – Definitions

- 1) Definitions and standards to include in the annual update
 - a) Architectural Lighting Definition – A. Glaeser said this is to fill a lack of a definition for architectural lighting, and to decide how gas lanterns on the outside of a building should be addressed. He said that string lights can be added to the exempted list from the dark sky requirements. Commission wanted to be sure that holiday lighting will be included in the exceptions, to avoid causing problems for residents decorating for the holidays. They did want to move forward with the definition, but they wanted to examine the general definitions.
 - b) Definition of Family – P. Bradley said the wording used in the ordinance needed to be standardized to prevent confusion. C. Miller felt more discussion would be necessary, and she questioned the City’s ability to enforce this ordinance. The Commission did not feel that there was a benefit to change the current definition and decided to remove this item from the annual update.
 - c) Ground Level Definition – This definition is lacking in the screening requirements. A. Glaeser would like to include wording to make clear that units attached to the wall of the ground level of a building is included, not just units sitting on the ground. L. Straughan said she would like to have an exception for window AC units. B. Shester said a definition of mechanical unit should be included, and if the definition would include things like solar panels. The Commission wanted to move forward with the discussion of the definition.

- d) Inoperable Motor Vehicle Definition – There is a lack of definition of what is an inoperable motor vehicle, and this has caused some problems with complaints. C. Miller pointed out a car repair shop, and asked if it were to be grandfathered in, and would that convey with the sale of the business. A. Glaeser said this was intended for residences, not businesses, but that can be clarified. P. Bradley said he wanted to be sure the wording was standardized, and he felt like there were several details that would need to be addressed. Commission wanted to move forward with a more detailed discussion of the definition.
 - e) Warehousing and Distribution Use and Definition – C. Miller asked if the warehousing part of the ordinance included the receiving of goods. A. Glaeser said it could be cut back to just a warehousing definition. Commission wanted to move forward with the proposed definition.
- 2) Public Comment
None

OTHER BUSINESS

C. Miller said there was a suggestion at the last IDA to use some IDA funds to fund a capacity study of the VDOT Property. This would be looking at inflow and infiltration and the capacity of the sewer lines in that area of Lexington.

J. Driscoll asked for any comments from Commission members on the adoption of the Comprehensive Plan by City Council. C. Miller said she appreciated that the members of Council took the time to read the Plan.

J. Driscoll then asked if the Commission would be interested in an information session led by A. Glaeser about what is in the institute overlay district, and what is in the W&L campus master plan, as this is something that came up during the adoption of the Comprehensive Plan. P. Bradley expressed his support of such a session. J. Goodin asked when the plan will be submitted for approval and A. Glaeser said he did not expect it until another six months at the earliest.

J. Driscoll then expressed his appreciation for C. Miller's time serving on the Planning Commission, finishing up M. Keely's term and then staying for the adoption of the Comprehensive Plan.

CITY COUNCIL REPORT

L. Straughan said City Council adopted the Comprehensive Plan with a couple very minor changes.

ADJOURN

The meeting was adjourned at 7:15p.m with unanimous approval (C. Miller/P. Bradley).

J. Driscoll, Chair, Planning Commission

POTENTIAL CATALYST PROJECTS FOR COMPREHENSIVE PLAN IMPLEMENTATION

Staff Recommendation

The November 12, 2020 Planning Commission meeting packet included 13 potential catalyst projects that were more fully scoped along with a list of 5 projects that were removed from the short list of potential catalyst projects. The Nov. 12, 2020 PC packet also included a staff recommendation of 6 potential catalyst projects that could be completed in FY 22 based on staff resources.

The City Manager prioritized the 6 staff recommended projects A through C as follows with the “A” projects being a higher priority:

- A. Create a plan to assess storm water run-off fees to offset the costs of inflow and infiltration.
- A. Create a plan to improve the City’s pedestrian connectivity, bike lanes, and sharrow markings (TR 1.3).
- A. Begin incremental implementation of Jordan’s Point plan (GI 3.1).
- B. Increase sidewalk connectivity with the ultimate goal of making it possible for one to walk any major thoroughfare and high-density neighborhoods with continuous sidewalk connectivity.
- C. Reprogram traffic signals within Lexington City limits to minimize the number of vehicle crashes attributable to traffic signaling (TR 1.1).
- C. Accessory Dwelling Unit

The City Manager requests the Planning Commission review the staff prioritized list of 6 projects and comment on the ranking of the listed items. Is there agreement from the Planning Commission on the ranking of the listed projects or is there a recommendation to reorder the priorities of the 6 staff recommended projects?

**Green Infrastructure Working Group
Scope of Work Draft (Ver 5) for Discussion Nov 18, 2020**

Lexington’s Planning Commission enthusiastically embraces the call from the Lexington Comprehensive Plan 2040 to “continue using the Green Infrastructure Working Group (GIWG) concept to steer the development of a Green Infrastructure Plan.”

While the Planning Commission would prefer to undertake a fully funded Green Infrastructure study and plan, funding and staff resources are currently not available. Rather than waiting for funding, the Planning Commission recommends that this multi-year initiative begin with the reconvening of a Green Infrastructure Working Group (see Appendix 1) that provided advice and recommendation to draft the Green Infrastructure Chapter in the Comprehensive Plan. The working group will be asked to develop a **Green Infrastructure Concept Plan** and identify potential projects and possible funding sources. The Working Group would accept that the Commission prioritizes its support for GI-1.3 of the Comprehensive Plan to:

“Undertake a City-wide green infrastructure assessment and develop a Plan to create a continuous publicly-accessible green infrastructure network that connects neighborhoods, destinations within the City, waterways, and regional assets”

Convening the group for its initial meeting will be the responsibility of Planning Commission; subsequent work sessions will be scheduled and structured by the Working Group. Additional members of the working group can be considered. The Planning Commission can nominate two members to participate in the GIWG who will serve as liaisons to Commission to provide progress updates until the Working Group is ready for a presentation to Planning Commission and, subsequently to the Lexington City Administration and the Lexington City Council.

The GIWG will use the Comprehensive Plan’s Green Infrastructure chapter as a starting point but is not limited to the goals and strategies contained in that chapter. In addition, the working groups should also consider related goals and strategies identified in the Comprehensive Plan. It is suggested the working group undertake its efforts from January to June 2021 and organize its activities into two phases outlined below. It is also suggested that the Group meet monthly.

- **Scoping** (a) Develop a concept plan and scoping document that will guide the development of a Green Infrastructure plan (see six steps in Appendix 2). Activities may include: (a) setting the goals and objectives of a GI Plan; (b) identify key data and information that should be collected to create a baseline and the potential means to collect the information noting what can be accomplished with potential partners and what would require funding to access external expertise and (c) undertake research on best practices.
 - **Timeframe: January to April 2021**
 - **Outcome: A summary report and presentation to the Planning Commission.**
- **Identify Programs, Studies and Projects.** The Working Group will identify short-term low/no cost actions as well as medium- and longer-term recommendations. In developing its

recommendations, the GIWG would note what work can reasonably be done by its members, what work can reasonably be done by City staff, and what studies and work should reasonably be sourced to external technical expertise.

- **Timeframe: May-June 2021**
- **Outcome: Recommended initiatives and a draft work plan for GI initiatives.**

Work which the GIWG believes can be done with assistance from City Staff will need review and approval from the City Manager and appropriate Department Heads. Work which the GIWG believes should be outsourced will need to be considered by the City Manager for recommendation to City Council during Capital Improvement Plan and City budgeting processes for FY 22-23. In addition, sources of grant funding should be identified.

Planning Commission appreciates the willingness of the GIWG to continue its previous efforts in support of developing a Green Infrastructure Plan for Lexington. We appreciate the time, technical expertise, and vision of all members undertaking this endeavor. Given the volunteer nature of this arrangement, Planning Commission offers the above activities and dates as suggestions and remains hopeful that the programs, studies, and projects options identified can be recommended in time for the annual budgeting timeline.

Thank you for your work in ensuring the quality of life of Lexington.

Appendix 1. Previous members of the GI Working Group.

Chris Slaydon, Rockbridge County, Interim Planning Director

Dave Walsh, Red Newt's bike shop and

Lee Merrill, RACC

Dale Brown, VMI

Elise Sheffield, Boxerwood

Arthur Bartenstein, ABL Landscape Architecture

Sandra Stuart,

John Driscoll, Planning Commission

Jamie Goodwin, Planning Commission

Holly Ostby, Community Health Coordinator with Carilion Clinic

Hugh Latimer, W&L

Craig Vinecomb, formally of Boxerwood, now with Rockbridge Area Health Center

Charles Aligood, Resident, elected to City Council in 2020

Sam Crickenberger, Planner Rockbridge County, Retired

Appendix. 2

Six Steps for Developing a Green Infrastructure Plan

Source: Karen Firehock and R. Andrew Walker, Strategic Green Infrastructure Planning, a Multi-scale Approach, The green Infrastructure Center Inc. 2015

THE SIX STEPS

To create a green infrastructure plan, you should follow these six steps:

Step 1. Set Goals:

What does your community or organization value? Determine which natural assets and functions are most important to you.

Step 2. Review Data:

What do you know or need to know, to map the values identified in Step 1?

Step 3. Make Asset Maps:

Map your community's highest-valued natural assets that contribute to a healthy ecology and also support cultural and economic values –Based on the goals established in Step 1 and data from Step 2.

Step 4. Assess Risks:

What assets are most at risk and what could be lost if no action is taken?

Step 5. Determine Opportunities:

Determine opportunities for protection or restoration. Based on those assets and risks you have identified; determine which ones could or should be restored or improved? And which need the attention soonest?

Step 6. Implement Opportunities:

Include your natural asset maps in both daily and long-range planning such as park planning, comprehensive planning and zoning, transportation planning, tourism development and economic planning.



Planning Commission

LEXINGTON ANNUAL ZONING ORDINANCE TEXT AMENDMENTS - DEFINITIONS

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[NOTE: ITEMS 1 through 5 were reviewed during the November 12, 2020 Planning Commission meeting and amended language is shown in red.]

ITEM #1 – Architectural lighting definition

ISSUE:

§420-15.2. provides exemptions from the exterior lighting standards and subsection 6 specifically exempts “architectural lighting of 40 watts incandescent or less.” A definition of architectural lighting is not included in the Zoning Ordinance. There have been recent requests for outdoor gas lanterns and outdoor string lights (permanent installation) and neither is specifically addressed. Should a definition be added for architectural lighting? Also, should outdoor gas lanterns or the permanent installation of outdoor string lights be addressed?

EXISTING LANGUAGE:

Article XV. Exterior Lighting

§420-15.2. Applicability

D. Exemptions. The following uses, activities and development are exempt from the exterior lighting standards of this section:

- 1. FAA-mandated lighting associated with a utility tower or airport;*
- 2. Lighting associated with the United States flag, Virginia flag, or other non-commercial flags expressing constitutionally protected free speech;*
- 3. Holiday lighting ~~during the months of November, December, and January~~, provided the lighting does not create unsafe glare on street rights-of-way;*
- 4. Security lighting controlled by sensors which provides illumination for fifteen (15) minutes or less;*
- 5. Battery-powered emergency lighting;*
- 6. Architectural lighting of 40 watts incandescent or less;*
- 7. The replacement of an inoperable lamp or component which is in a fixture that was installed prior to the date of adoption of this section; ~~and~~*
- 8. The replacement of a failed or damaged fixture which is one of a matching group serving a common purpose; and*
- 9. String lights.*

SAMPLE LANGUAGE:

ARCHITECTURAL LIGHTING: Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion. *Portsmouth, VA*

ARCHITECTURAL AND LANDSCAPE LIGHTING Landscape and architectural lighting encompasses lights used to illuminate landscape areas, signs (without integrated light source), statues, and other objects mounted on pedestals, poles, or platforms. • Architectural and landscape lighting should be designed, installed, and controlled to ensure that the lights only illuminate the intended object(s). To the extent practical and where possible, lighting fixtures shall be directed downward rather than upward.

Directional shielding shall be implemented to minimize or prevent glare, light trespass, and skyglow. ♣ When uplighting is required, lighting systems should be low in intensity and incorporate full shielding. *Collier County, FL*

The language for the string lights is as follows: (10) Festoon type low-output lamps, limited to small individual bulbs on a string with a maximum output of 56 lumens within any square foot. The bulbs must have a rating of no more than 2800 Kelvin, may not be located within three (3) feet of a reflective surface such as a light colored or metal wall, and the bulbs may not be visible from any residential property within 50 feet of the installed lights. The lumen output from these lamps shall be doubled for inclusion in the total outdoor light output calculations and that doubled lumen value shall not exceed 20% of the total outdoor light output allowed for the property. *Dripping Springs, TX*

“String lights” means light sources connected by free-strung wires or inside of tubing resulting in several or many points of light that are unshielded or partly shielded light sources. *Malibu, CA*

String lights may be allowed in occupied dining and entertainment areas only and must not exceed three thousand (3,000) Kelvin. String lights shall not be used as landscape lights. This does not apply to seasonal lighting. *Malibu, CA*

STAFF RECOMMENDATION:

Add definition of architectural lighting as follows:

ARCHITECTURAL LIGHTING *Exterior lighting that is designed to highlight structures, plantings, or significant architectural features in a direct or indirect fashion.*

In order to address string lights specifically, add definition of string lights as follows:

STRING LIGHTS *Light sources connected by free-strung wires or inside of tubing resulting in several or many points of light that are unshielded or partly shielded light sources.*

String lights can either be added to the list of exemptions or the following can be added to the General Standards for exterior lighting:

~~Sec. 420-15.3. General Standards.~~

~~E. String lights may be allowed in occupied dining and entertainment areas only and must not exceed three thousand (3,000) Kelvin. String lights shall not be used as landscape lights. This does not apply to seasonal lighting.~~

PLANNING COMMISSION RECOMMENDATION (November 12, 2020):

Add definition of *Architectural Lighting*? Y / N

Add definition of *String Lights*? Y / N

Add string light standard to General Standards? Y / N

Other: ~~More information needed on the general standards for string lights to ensure the standard does not inhibit residential holiday lights.~~

UPDATED STAFF RECOMMENDATION:

1. Add string lights to exempted list to address concerns about string lights in residential areas and to provide more flexibility in commercial areas
2. Strike the “November, December, and January” period for the holiday lighting exemption to address concerns about holiday lights during other periods of the year.
3. Keep the proposed definitions of Architectural Lighting and String Lights and remove the proposed General Standard for string lights that limited their use to occupied dining and entertainment areas only.

Prepared by the City of Lexington Department of Planning and Development for the Planning Commission meeting on December 10, 2020

ITEM #2 – Definition of Family

ISSUE:

Should the definition of family be refined? (See article by Kate Redburn)

EXISTING LANGUAGE:

§420-20.1. Definitions.

FAMILY *One or more persons related by blood, adoption or marriage, living or cooking together as a single housekeeping unit. The persons constituting a family may include foster children.*

SAMPLE LANGUAGE:

Family shall mean a group of people living together as a single housekeeping unit and consisting of:

- 1) One person; or
- 2) Two or more persons related by blood, adoption, or marriage, together with any number of offspring, foster, step or adopted children; or
- 3) A group of three unrelated persons living and cooking together as a single housekeeping unit though not related by blood, marriage, adoption or guardianship, provided that the limitation on the number of unrelated persons shall not apply to residents in a housekeeping unit by persons having handicaps within the meaning of section 3602(f) of the Fair Housing Act (42 USC 3601, *et seq.* , as amended); or
- 4) Those groups identified in Code of Virginia, § 15.2-2291, or like groups licensed by the Virginia Department of Social Services which otherwise meet the criteria of Code of Virginia, § 15.2-2291 *Prince William County*

Family for purposes of the city's zoning ordinance, refers to persons residing together as a single housekeeping unit. See "occupancy, residential." *Charlottesville, VA*

Occupancy, residential for purposes of this zoning ordinance, this term refers to the number of persons who may reside together within one (1) dwelling unit, as a single housekeeping unit. Each of the following shall be deemed a single housekeeping unit: (i) one (1) person; (ii) two (2) or more persons related by blood or marriage, together with any number of their children (including biological children, stepchildren, foster children, or adopted children); (iii) two (2) persons unrelated by blood or marriage, together with any number of the children of either of them (including biological children, stepchildren, foster children, or adopted children); (iv) within certain designated university residential zoning districts: up to three (3) persons unrelated by blood or marriage; (v) within all other residential zoning districts: up to four (4) persons unrelated by blood or marriage; (vi) group homes, residential facilities and assisted living facilities, as defined in the Code of Virginia, § 15.2-2291, which are licensed by the department of social services or the department of behavioral health and developmental services and which are occupied by no more than eight (8) mentally ill, mentally retarded, developmentally disabled, aged, infirm, or disabled persons together with one (1) or more resident counselors; or (vii) a group of persons required by law to be treated as a single

housekeeping unit, in accordance with the Federal Fair Housing Act, or a similar state law.
Charlottesville, VA

STAFF RECOMMENDATION:

Add the Charlottesville definition of family as follows:

FAMILY for purposes of the city's zoning ordinance, refers to persons residing together as a single household unit. See "occupancy, residential."

Modify the Charlottesville definition of *Occupancy, Residential* to match occupancy restrictions in the Lexington residential districts as follows:

OCCUPANCY, RESIDENTIAL for purposes of this zoning ordinance, this term refers to the number of persons who may reside together within one (1) dwelling unit, as a single household unit. Each of the following shall be deemed a single household unit:

- a) one (1) person;
- b) two (2) or more persons related by blood or marriage, together with any number of their children (including biological children, stepchildren, foster children, or adopted children);
- c) two (2) persons unrelated by blood or marriage, together with any number of the children of either of them (including biological children, stepchildren, foster children, or adopted children);
- d) within the R-1 and R-2 zoning residential zoning districts: up to three (3) persons unrelated by blood or marriage;
- e) within the R-M and R-LC residential zoning districts: up to four (4) persons unrelated by blood or marriage;
- f) group homes, residential facilities and assisted living facilities, as defined in the Code of Virginia, § 15.2-2291, which are licensed by the department of social services or the department of behavioral health and developmental services and which are occupied by no more than eight (8) mentally ill, mentally retarded, developmentally disabled, aged, infirm, or disabled persons together with one (1) or more resident counselors; or
- g) a group of persons required by law to be treated as a single housekeeping unit, in accordance with the Federal Fair Housing Act, or a similar state law.

PLANNING COMMISSION RECOMMENDATION (November 12, 2020):

Add definition of *Family*?

Y / N

Add definition of *Occupancy, Residential*?

Y / N

Other: The proposed amended definition of family does not change what is already contained in the definitions of "family" and "household unit" and the PC decided to remove this item from the proposed list of zoning text amendments.

UPDATED STAFF RECOMMENDATION:

Item removed from proposed list of zoning text amendments per the PC recommendation.

ITEM #3 – Ground level definition

ISSUE:

Screening is required for ground level mechanical units and there is no definition of ground level. An owner of an apartment complex recently installed outdoor condensers along the first floor of his building, and due to the sloping lot, some of the condensers were placed on the ground while others were placed on wall mounted platforms. The owner claimed the wall mounted units were not “ground level” because they were not in contact with the ground and screening of the units was therefore not required. Staff explained the intent of the screening requirements and the wall mounted condensers will be screened in this case. A definition of “ground level” may help clarify when screening requirements are applicable to outdoor mechanical units. Another option is to add wall mounted equipment to the list of items requiring screening.

EXISTING LANGUAGE:

§420-14.6. Screening

- A. *Screening shall be required to conceal specific areas from both on-site and off-site views. Such areas shall be screened at all times, regardless of adjacent uses, adjacent districts, or other proximate landscaping material. Specific areas to be screened include:*
1. *Large waste receptacles (dumpsters) and refuse collection points (including cardboard recycling containers)*
 2. *Loading and service areas*
 3. *Outdoor storage areas (including storage tanks)*
 4. *Ground-based utility equipment with size in excess of 12 cubic feet*
 5. *Ground level mechanical units*

SAMPLE LANGUAGE:

Ground and wall-mounted mechanical/electrical service equipment shall be screened from general public view by means of fences, walls, landscape planting, or other screening approved by the zoning administrator. *Franklin County, VA*

Mechanical Equipment

1. All roof, ground and wall mounted mechanical equipment (e.g. Air handling equipment, compressors, duct work, transformers and elevator equipment) shall be screened from view from residential properties or public right-of-way at ground level of the property line.

Waynesboro, VA

Wall-mounted equipment located on any surface that is visible from a public street (not including an alley) must be fully screened by landscaping or a wall or fence that cannot be seen through, and that is compatible with the principal building in terms of texture, quality, material and color. *Chapel Hill, NC*

Rooftop and ground level mechanical equipment such that it is not visible from surrounding properties or roads. *Blacksburg, VA*

STAFF RECOMMENDATION:

Modify the existing requirement to screen ground level mechanical units by incorporating the Franklin County screening requirement for wall mounted mechanical equipment as follows:

5. Ground level and wall-mounted mechanical ~~units~~ equipment

PLANNING COMMISSION RECOMMENDATION (November 12, 2020):

Add wall-mounted mechanical equipment to the list of specific areas to be screened? Y / N

Other: Clarification needed for window units, units visible from a public street, solar arrays, and a definition of mechanical unit is needed.

UPDATED STAFF RECOMMENDATION:

5. Ground level and wall-mounted mechanical ~~units~~ equipment (e.g. air handling equipment, compressors, condensers, duct work, transformers and elevator equipment) visible from a public street (not including an alley) at ground level at the property line. Window mounted mechanical equipment, solar photovoltaic, and solar thermal systems are exempted from the requirement to screen mechanical equipment

ITEM #4 – Inoperable motor vehicle definition

ISSUE:

§420-12.7.D prohibits inoperable, unregistered, or abandoned vehicles to be stored outdoors but there is no definition of an inoperable vehicle.

EXISTING LANGUAGE:

Article XII. Off-Street Parking and Loading Requirements

§420-12.7. Obligations of owner.

D. Vehicles that are inoperable, unregistered, or abandoned must not be stored outdoors. For purposes of this section, an auto repair service facility with a valid business license issued by the City is exempt from the prohibition of storing inoperable, unregistered, or abandoned vehicles outdoors.

SAMPLE LANGUAGE:

"inoperable motor vehicle" may, at the election of the locality, mean any one or more of the following: (i) any motor vehicle which is not in operating condition; (ii) any motor vehicle which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle; or (iii) any motor vehicle on which there are displayed neither valid license plates nor a valid inspection decal. However, the provisions of this section shall not apply to a licensed business which on June 26, 1970, is regularly engaged in business as an automobile dealer, salvage dealer or scrap processor. *Section 15.2-904 Code of Virginia*

Motor vehicle, inoperative shall mean any motor vehicle, trailer or semitrailer which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or on which a valid license plate or a valid inspection decal is not displayed. *Prince William County, VA*

STAFF RECOMMENDATION:

Modify the Prince William County definition as follows:

MOTOR VEHICLE, INOPERABLE shall mean any motor vehicle, trailer or semitrailer which is not in operating condition for a period of 30 days or longer; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for the operation of the vehicle; or on which a valid license plate or a valid inspection decal is not displayed for a period of 30 days or longer.

PLANNING COMMISSION RECOMMENDATION (November 12, 2020):

Add definition of *Motor vehicle, inoperable*?

Y / N

Other: Several questions were asked and need to be resolved prior to adding the proposed definition. A question was asked about the grandfathering of Jon's Auto as an example of an auto repair facility with outdoor storage. A question was asked about timing since 60 days is provided in one section while time

periods are not provided in the other two portions of the definition. A preference was expressed to use the definition of “inoperable” from Sec. 394-94 of the Code of the City of Lexington and for adding a definition of abandoned vehicle. Staff committed to 1) address existing auto repair businesses, 2) review the State definition of inoperable for additional time frames, 3) review Chapter 394 of the City Code for inoperable vehicle definition, 4) review Chapter 394 of the City Code for abandoned vehicle definition, and 5) review the State definition of motor vehicle to determine if it includes an R.V.

1. The question about grandfathering can be addressed by adding an exemption allowing an auto repair service facility with a valid business license issued by the City to store inoperable, unregistered, or abandoned vehicles outdoors.
2. The question regarding the amount of time a vehicle can be in a non-operating condition prior to being considered inoperable, and the amount of time a valid license plate or a valid inspection decal is not displayed prior to being considered inoperable can be addressed by adding a 30 day time period to these two sections of the definition of inoperable vehicle. The State definition (included in sample language above) is more restrictive and a jurisdiction has the ability to adopt language that is less restrictive. Adding the 30 day period to the two items in question makes the language less restrictive than the State definition of inoperable vehicle.
3. There was a preference to use the definition of inoperable vehicle from Chapter 394 of the Code of the City of Lexington. Chapter 394 addresses Vehicles and Traffic and that Chapter includes definitions of abandoned motor vehicle and of inoperable motor vehicles in Sec. 394-88 as well as regulations for inoperable vehicles in Sections 394-62 and 394-94. Chapter 394 is enforced by the Lexington Police Department and violations are a misdemeanor which is a criminal offense.

Section 394-94 was specifically mentioned during the November 12, 2020 Planning Commission meeting and section is found in Chapter 394 Vehicles and Traffic » Article IX. Abandoned, Junked and Inoperable Vehicles » § 394-94. Inoperable vehicles on private property.

394-94. Inoperable vehicles on private property.³

A. For purposes of this section, "motor vehicle" means any motor vehicle or trailer. For purposes of this section, "inoperable" means the same as "inoperable" as defined by the Code of Virginia, §15.2-904: "any motor vehicle which is not in operating condition; or which for a period of 60 days or longer has been partially or totally disassembled by the removal of tires and wheels, the engine, or other essential parts required for operation of the vehicle."

B. In accordance with the Code of Virginia, § 15.2-904, the owner(s) of property, located in all zoning districts, shall remove therefrom all inoperable motor vehicles that are not kept within a fully enclosed building or structure or otherwise screened or shielded from view from roads, rights-of-way, and adjoining property. Car covers shall not be considered to be proper screening or shielding.

(1) In the event that an owner of property fails to remove the inoperable vehicles located thereon within 45 days of receipt of notice either by personal service or sent via certified mail, return receipt requested, the City of Lexington may remove any such vehicles in accordance with the Code of Virginia, §15.2-904. Any such costs involved in removing the vehicle(s) by the City shall be chargeable to the owner of the vehicle as taxes are collected, and in the case that the owner of the vehicle is the owner of the property, such costs shall

constitute a lien against the property from which the vehicle was removed, the lien to continue until actual payment of the costs has been made.

(2) The provisions of this section shall not apply to a duly licensed dealer or operator for an automobile graveyard, junkyard, salvage yard or holding yard or to those that are grandfathered or that have a conditional use permit issued by an authorized agent of the City of Lexington.

C. Penalty. A violation of this section shall be a Class 1 misdemeanor, and each day of violation shall constitute a separate offense. The officer (or any law enforcement officer) may issue summons directly to any person or entity violating this section.

Editor's Note: See also § 394-63, Inoperative motor vehicles on private residential property.

Section 394-63 of the City Code is found in Chapter 394 Vehicles and Traffic » Article V. Stopping, Standing and Parking Generally » § 394-63. Inoperative motor vehicles on private residential property.

A. No person shall keep, except within a fully enclosed building or structure, on any property zoned for residential purposes, any one or more automobiles whose condition is such that it is economically impractical to make them operative.

B. For the purposes of this section, an automobile shall be considered to be of such condition that it is economically impracticable to be made operable when the cost of repairs, including materials and labor at prevailing prices, necessary to make the automobile operable exceed an amount equal to 50% of the value of the vehicle, as determined by the appraisal of two disinterested garage men. An automobile shall be considered operable when its equipment and condition are such that the automobile would be approved for an approval inspection sticker under the provisions of the Code of Virginia, Title 46.1,[2] and the regulations adopted pursuant thereto if the owner submitted the vehicle to an inspection at an official inspection station.

C. Any person who shall violate any provision of this section, upon conviction thereof, shall be punished in accordance with the provisions of Chapter 1, § 1-6 of this Code.

[1] Editor's Note: See also § 394-94, Inoperable vehicles on private property.

4. There was a preference to use the definition of abandoned vehicle from Chapter 394 of the Code of the City of Lexington.

394-88. Definitions.

ABANDONED MOTOR VEHICLE

A motor vehicle, trailer or semitrailer or part thereof that:

- A. Is inoperative and is left unattended on public property for more than 48 hours;*
- B. Has remained illegally on public property for a period of more than 48 hours; or*
- C. Has remained on private property without the consent of the owner or person in control of the property for more than 48 hours.*

The definition of an abandoned motor vehicle in Sec. 394-88 Lexington City Code is however slightly different than the State definition and staff recommends the adoption of the State definition of abandoned motor vehicle.

5. The question whether a Recreational Vehicle is a motor vehicle can be addressed by reviewing the State definition of *motor vehicle* found in Title 46.2. Motor Vehicles » Subtitle I. General Provisions; Department of Motor Vehicles » Chapter 1. General Provisions » § 46.2-100. Definitions

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, motorized skateboard or scooter, moped, or personal delivery device shall be deemed not to be a motor vehicle."

UPDATED STAFF RECOMMENDATION:

1. Amend §420-12.7.D to exempt auto repair service facilities with a valid business license issued by the City to store inoperable, unregistered, or abandoned vehicles outdoors.
2. Add a minimum 30 day time period to a) the amount of time a vehicle can be in a non-operating condition prior to being considered inoperable, and to b) the amount of time a valid license plate or a valid inspection decal is not displayed prior to being considered inoperable.
3. Chapter 394 of the Code of the City of Lexington is enforced by the Police Department and violations are misdemeanors which is a criminal offense. The Police Department is now more careful with enforcement of inoperable vehicles due to the serious nature of a misdemeanor criminal offense and a definition of inoperable vehicle is therefore recommended in the Zoning Ordinance where violations are only a civil penalty per Sec. 420-18.3.

The definition of inoperable vehicle in the Code of the City of Lexington, Sec. 394-94 references the Code of Virginia, Sect. 15.2-904 definition of inoperable vehicle which is the same definition proposed to be added to the Zoning Ordinance. Staff recommends that if a definition of inoperable vehicle is added to the Zoning Ordinance, it be in accordance with the State definition of inoperable vehicle and not the older definitions found in Chapter 394 of the Code of the City of Lexington.

The proposed definition can be modified as previously stated to add minimum 30 day time periods because those additions to the definition of inoperable motor vehicle are less restrictive than the State definition.

4. Add following definition of Abandoned Motor vehicle (from Code of Virginia Sec. 46.2-1200) to the Zoning Ordinance definition section.

ABANDONED MOTOR VEHICLE

A motor vehicle, trailer or semitrailer or part thereof that:

1. Weighs at least 75 pounds; and

2. a) Is left unattended on public property for more than 48 hours in violation of a state law or local ordinance; b) has remained for more than 48 hours on private property without the consent of the property's owner, regardless of whether it was brought onto the private property with the consent of the owner or person in control of the private property; or c) is left unattended on the shoulder of a primary highway.

5. A Recreational Vehicle is considered a motor vehicle and an inoperable R. V. cannot be stored outdoors in accordance with the existing Zoning Ordinance restrictions.

Prepared by the City of Lexington Department of Planning and Development for the Planning Commission meeting on December 10, 2020

ITEM #5 – Warehousing and distribution use and definition

ISSUE:

Warehousing and distribution is a conditional use in the C-2 zoning district and there is no definition of warehousing or distribution. Should a definition be added for warehousing and distribution?

SAMPLE LANGUAGE:

Warehousing and distribution. Uses including storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses include wholesale distributors, storage warehouses, truck terminals and moving/storage firms. *Surry County, VA*

Warehousing shall mean an operation from a structure, or part of a structure, for storing goods, wares, commodities and merchandise, whether for the owner thereof or for others, and whether it is a public or private warehousing operation, but excluding self-storage centers. *Prince William County, VA*

STAFF RECOMMENDATION:

Add definition of warehousing and distribution as follows:

WAREHOUSING AND DISTRIBUTION *Uses including storage, warehousing and dispatching of goods within enclosed structures, or outdoors. Typical uses include wholesale distributors, storage warehouses, truck terminals and moving/storage firms.*

PLANNING COMMISSION RECOMMENDATION (November 12, 2020):

Add definition of *Warehousing and Distribution*?

Y / N

Other: Question arose whether warehousing and distribution included the intake of goods and there was a stated preference to use a “warehousing” definition only.

UPDATED STAFF RECOMMENDATION:

Delete the “and distribution” from the “Warehouse and distribution” use listed in the Land Use Matrix. Use the sample definition for “Warehousing” as follows:

Warehousing

An operation from a structure, or part of a structure, for storing goods, wares, commodities and merchandise, whether for the owner thereof or for others, and whether it is a public or private warehousing operation, but excluding mini-warehouse.

A Mini-Warehouse is a distinct land use with its own definition and listing on the Land Use Matrix.

ITEM #6 – Sign definition

ISSUE:

The street banner regulations contain content based restrictions and content based sign regulations must be avoided. *Reed v. Town of Gilbert*, 576 U.S. 155 (2015), is a case in which the United States Supreme Court clarified when municipalities may impose content-based restrictions on signage. The case also clarified the level of constitutional scrutiny that should be applied to content-based restrictions on speech.

EXISTING LANGUAGE:

§420-13.9. Temporary signs.

F. *Street banners. Street banners are allowed for the following purposes only, and nothing contained herein is intended to create or to be construed to create a public forum for the expression or promotion of ideas or opinions with respect to such banners:*

1. *Advertising a public entertainment or event, or an activity of community interest, including but not limited to City-sponsored events, events sponsored by or related to local educational institutions, events sponsored by and benefitting local, state or national not-for-profit organizations, civic events such as, but not limited to, voter registration, cultural or artistic events, or indicating a local, state, or national awareness date such as, by way of illustration but not limitation, National Constitution Month. Any such event must occur within the City of Lexington, City of Buena Vista, or County of Rockbridge. Any such banner shall be designed to be easy for people traveling in vehicles to ascertain the event and date without diverting drivers' attention from the road. To that end lettering shall be the largest component of the banner and imagery shall be limited to peripheral positions and limited in size to no more than 1/4 of the entire banner.*
2. *No street banner shall be permitted with the main intent of commercial advertising, or that displays business logos, business names, and/or slogans associated with a product or service, or that promotes political campaigns or parties. Business logos for sponsors of a not-for-profit agency or group or an event benefitting such not-for-profit agency or group may be included with express language to that effect.*
3. *No street banner shall be permitted that:*
 - i. *Contains vulgar, profane, abusive, racist or hateful language or expressions, epithets or slurs, text, photographs or illustrations in poor taste, inflammatory attacks of a personal, racial or religious nature.*
 - ii. *Is defamatory, threatening, disparaging, grossly inflammatory, false, misleading, fraudulent, inaccurate, unfair, contains gross exaggeration or unsubstantiated claims, or is unreasonably harmful or offensive to any individual or community.*
 - iii. *Violates any right of any third party.*
 - iv. *Discriminates on the grounds of race, religion, national origin, gender, age, marital status, sexual orientation, or disability, or refers to such matters in any manner prohibited by law.*
 - v. *Violates or encourages the violation of any municipal, state, federal, or international law, rule, regulation, or ordinance.*

- vi. *Advertises, promotes, or offers to trade any goods or services in conflict with the terms of this section.*
 - vii. *Includes copyrighted or other proprietary material of any kind without the express permission of the owner of that material.*
 - viii. *Is false, deceptive, misleading, deceitful, or contains misinformation.*
 - ix. *Advertises any illegal services or the sale of any items the sale of which is prohibited or restricted by applicable law.*
4. *Designs must be approved in advance by the Director of Public Works with regard to conformity with the above. Applications are available in the office of the Director of Public Works of the City of Lexington.*
 5. *Sponsoring organizations must supply the City with proof of liability insurance, to cover any and all claims caused by such banner display. A signed statement holding the City of Lexington harmless from any liability resulting from accident or injury caused by the erection or display of the banner shall be required.*
 6. *The City of Lexington assumes no responsibility for damage to banners, loss, fading, late deliveries of banners, late installations, acts of nature, or faults in craftsmanship.*
 7. *All banners shall be installed and removed by the City. No provider shall attempt to install, remove, or repair and reinstall a banner. The fee for installation and removal shall be set by the City Council in its annual appropriation. The fee shall be due with the application set forth in §420-13.2 above.*
 8. *The City of Lexington agrees to hang the banner(s) in a timely manner, dependent upon the demands on City resources and the weather.*
 9. *Banners shall not be displayed for more than three weeks total, including no more than one week after any associated event.*
 10. *Other than annually City-sponsored events and national or state holidays, space availability shall be on a first-come, first-served basis.*

STAFF RECOMMENDATION:

The City Attorney was consulted and recommends the regulations for *Street Banners* be removed from Chapter 420. Zoning Ordinance and placed in Chapter 356. Streets and Sidewalks of the Lexington City Code in order to comply with the decision in ***Reed v. Town of Gilbert***. The Lexington Public Works Department approves the designs of the banners, and installs and removes the banners. The relocation of the street banner regulations to a chapter that is administered by the Public Works Department is preferable to leaving those regulations in the Zoning Chapter.

PLANNING COMMISSION RECOMMENDATION:

Relocate *Street Banner* regulations to Chapter 356 of the Lexington City Code?

Y / N

Other:

ITEM #7 – Remove the sunset provision for Short Term Rentals

ISSUE:

§ 420-11.5 provides use and design standards for portable buildings, however, the Use Matrix (Article III) does not include Portable Buildings. Additionally, a definition of Portable Building is not provided in the definitions section.

PROPOSED LANGUAGE:

§420-11.5. Commercial Uses.

22. Short Term Residential Rental.

All Short Term Residential Rental Businesses shall comply with the following general standards:

G. Exemptions.

- 1. Any residential dwelling unit which, at the time of adoption of this ordinance, was being operated as a Short Term Rental business and was licensed by the Commissioner of Revenue of the City shall not be subject to the provisions of this section "Short Term Rental" set forth below until December 31, 2018.*
 - a. ~~the limitations on the number of rentals per year set forth in paragraph B(10) of this section, however the log book requirements of the paragraph shall still apply;~~*
 - b. ~~the requirement of off street parking set forth in paragraph B(13) of this section;~~*
 - c. ~~the limitation on the total number of guests set forth in paragraph D(7) of this section;~~*

All other provisions of this section not listed above shall apply to all residential dwelling units. Beginning in calendar year 2019, this sunset provision (section G1) shall terminate, and the provisions of this ordinance shall apply uniformly, without regard to operation prior to the adoption of this ordinance. This section G1 shall not be construed to allow a short term rental business to operate at any time without registering with the City Department of Planning and Development; this section G1 shall not apply to residential dwelling units which are not the primary residence of the host as set forth in paragraph B(11) of this section.
- 21. The Provisions of this section, and the requirements described herein, shall not apply to a residential unit participating in a charitable fund raising effort wherein a residential dwelling unit is occupied by transient guests who, in return for their stay, donate directly to a charity. In order for a residential dwelling unit to receive this exemption, the charitable qualifying event is:*
 - a. conducted by a recognized 501(c) organization that is based in the community or has a chapter or affiliate based in the community;*
 - b. the qualifying event is part of a local community wide campaign; and,*
 - c. payment is made from the guest directly to the recognized non-profit organization. A residential dwelling unit may claim this exemption once per calendar year for a single charitable event with the related charitable rental lasting no more than three consecutive nights.*

STAFF RECOMMENDATION:

Approve the proposed zoning text amendment to delete the sunset provision.

PLANNING COMMISSION RECOMMENDATION:

Remove the sunset provision?

Y / N

Other:

Prepared by the City of Lexington Department of Planning and Development for the Planning Commission meeting on December 10, 2020

ITEM #8 – Short Term Rental off-street parking Conditional Use Permit requirements

ISSUE:

Short term rentals in the R-1, R-2, R-M, and R-LC zoning districts may have the off-street parking requirement waived or reduced through a conditional use permit approval. Of the four criteria that can be claimed for a waiver or reduction of the off-street parking requirement, the third option allows an applicant to simply provide letters of support from the surrounding property owners. Staff does not believe this is an appropriate criteria on its own to base an approval of a conditional use permit to waive or reduce a parking requirement. Property ownership changes frequently and impacts of any activity can extend beyond the immediately adjacent properties. Additionally, the CUP criteria were originally drafted as options to consider for the approval of a conditional use permit and the language was adopted as drafted. Staff is asking whether the submittal of letters of support from adjacent property owners is an appropriate criteria on its own to base an approval of a conditional use permit to waive or reduce the off-street parking requirement for short term rentals.

PROPOSED LANGUAGE:

§420-11.5. Commercial Uses.

22. Short Term Residential Rental.

All Short Term Residential Rental Businesses shall comply with the following general standards:

B. Registration and other requirements.

- 14. Off-street parking may upon the recommendation of the Planning Commission and made part of a conditional use permit by the City Council not be required or may be reduced in number for short term rentals located in the R-1, R-2, R-M, and R-LC zoning districts, provided:*
 - a. The required off-street parking is provided in a remote parking lot which is within 500 feet measured along lines of public access from the principal use. A remote parking lot to satisfy this requirement for short term rentals shall be owned by the owner of the principal structure or, in the alternative, shall be restricted by a recorded agreement to off-street parking purposes during the lifetime of the principal structure or as long as off-street parking is required for such principal structure in accordance with the terms of this article, or*
 - b. The short term rental is located in a Residential Historic District where a streetscape would be marred by off street parking and there is support from adjacent property owners showing agreement to reduce or delete the requirement for off-street parking, or*
 - ~~e. The owner provide letters or a signed petition showing agreement by all adjacent property owners to the proposal to reduce or delete the requirement for off street parking, or~~*
 - ~~dc. Public parking is provided within 500 feet of the principal use and can reasonably provide the required off street parking.~~*

STAFF RECOMMENDATION:

Consider amending the criteria for approval of a conditional use permit to waive or reduce the off-street parking requirement for short term rentals.

PLANNING COMMISSION RECOMMENDATION:

Leave the short term rental conditional use permit criteria as they exist? Y / N

Amend the short term rental conditional use permit criteria as recommended by staff? Y / N

Amend the short term rental conditional use permit criteria in another way? Y / N

Other:

ITEM #9 – Site Plans required to be posted to City website

ISSUE:

§420-2.7.A.3 requires site plan submittals be posted to the City’s website. This is the only land use application required to be posted to the City’s website, and with so few site plan submittals it is doubtful citizens are in the practice of viewing site plan requests on the City’s website. As with all land use applications, site plan applications can be viewed in the Planning and Development office during regular business hours and a copy of any application can be requested from staff and provided electronically.

PROPOSED LANGUAGE:

§420-2.7. Approval; issuance of permit (for site plan).

A. Public notice.

- 1. Planning staff shall give written notice to those persons who own property any portion of which abuts the subject property and all property which is across the street from any portion of the subject property as determined by the City's real property tax records. This notice shall give the date, time and place of the Planning Commission meeting at which the site plan is being reviewed, identify the property which is the subject of the application and give a brief description of the proposed action. This notice shall be mailed a minimum of 10 days prior to the date of the meeting of the Planning Commission at which the site plan is first considered. The list of property owners and the contents of the notice shall be approved by the Zoning Administrator prior to mailing.*
- 2. Planning staff shall also place a sign provided by the City on the subject property which indicates that this action is pending. This sign shall be located to be clearly visible from the street.*
- ~~*3. Site plan submittals shall be posted to City website.*~~

STAFF RECOMMENDATION:

Delete the requirement to post site plan submittals to the City’s website.

PLANNING COMMISSION RECOMMENDATION:

Should the requirement to post site plan applications to the City website be removed?

Y / N

Other: