

ORDINANCE NO. 033 - 2023

AN ORDINANCE AMENDING ARTICLE 8-2(D) OF THE ZONING ORDINANCE TO ADD ATHLETIC FIELDS WITH LIGHTING AND LOUD SPEAKERS IN THE AGRICULTURAL BUFFER (A-B) ZONE AS A CONDITIONAL USE AND TO INCREASE THE ALLOWABLE STRUCTURE SIZE FROM TEN THOUSAND (10,000) SQUARE FEET TO TWO PERCENT (2%) OF THE LOT. (SAYRE COLLEGE D/B/A SAYRE SCHOOL).

WHEREAS, the applicant, Sayre College d/b/a Sayre School, has initiated a text amendment to Article 8-2(d) of the Zoning Ordinance to add athletic fields with lighting and loud speakers in the Agricultural Buffer (A-B) zone as a conditional use and to increase the allowable structure size from ten thousand (10,000) square feet to two percent (2%) of the lot; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 8-2(d) of the Zoning Ordinance to add athletic fields with lighting and loud speakers in the Agricultural Buffer (A-B) zone as a conditional use and to increase the allowable structure size from ten thousand (10,000) square feet to two percent (2%) of the lot, and the Planning Commission did recommend APPROVAL of the alternative text by a vote of 6-3; 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.

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

Section 1 – That Article 8-2(d) of the Zoning Ordinance be and hereby is amended to add athletic fields with lighting and loud speakers in the Agricultural Buffer (A-B) zone as a conditional use and to increase the allowable structure size from ten thousand (10,000) square feet to two percent (2%) of the lot, to read as follows:

Section 8-2 Agricultural Buffer (A-B) zone

8-2(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres, a total of 2% of the square footage of the property or ten thousand (10,000) square feet, whichever is greater, shall be the maximum allowable for all structures proposed for such uses:

21. Commercial and non-commercial indoor and outdoor recreational facilities (excluding golf courses), with outdoor lighting, loudspeakers, and limited concession sales: but without retail sales of merchandise, and the like: but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.

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

PASSED URBAN COUNTY COUNCIL: March 23, 2023



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: March 30, 2023-1t

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Recd by _____

Date: _____

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

IN RE: PLN-ZOTA-22-0019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES – a petition for a Zoning Ordinance text amendment to allow athletic fields with lighting and loud speakers in the Agricultural Buffer (A-B) zone as a conditional use and to increase the allowable structure size from 10,000 sq ft to two percent of the lot.

Having considered the above matter on **February 23, 2023**, at a Public Hearing and having voted **6-3** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL OF THE ALTERNATIVE TEXT** for this matter for the following reasons:

1. The proposed amendment is reflective of the intent of the Agricultural Buffer (A-B) zone and allows for greater conformity with the allowable conditional uses within the Agricultural Rural (A-R) zone. Conditional uses near Blue Sky would have less impact because of development in existence along the Interstate interchange.
2. This text amendment is very limited in scope, and will not threaten the agricultural economy in the Rural Services Area.
3. The proposed amendment promotes the retention of larger lots within the Agricultural Buffer (A-B) zone, which would allow for an easier transition back to a traditional agricultural land used should a conditional use no longer be active.

ATTEST: This 10th day of March, 2023.



Secretary, Jim Duncan

LARRY FORESTER
CHAIR

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

OBJECTORS

- Brittany Rotheimer

OBJECTIONS

- Concerned that this text amendment opens the door for a precedent in the agricultural zones.

VOTES WERE AS FOLLOWS:

AYES:	(6)	Barksdale, Bell, de Movellan, Forester, Michler, and Nicol
NAYS:	(3)	Davis, Meyer, and Worth
ABSENT:	(2)	Penn and Pohl
ABSTAINED:	(0)	
DISQUALIFIED:	(0)	

Motion for Approval of PLN-ZOTA-22-00019 carried.

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

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

Name: Sayre College d/b/a Sayre School

Address: 194 N. Limestone Street

City, State, Zip Code: Lexington, KY 40507

2. ATTORNEY (Or Other Representative) INFORMATION:

Nick Nicholson
Stoll Keenon Ogden PLLC
300 West Vine Street, Suite 2100
Lexington, KY 40507

3. REQUESTED TEXT CHANGE: Date of Pre-application Conference: 11/9/22

Zoning Ordinance Article Sec. 8-2. - Agricultural Buffer (A-B) Zone.

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

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres ~~and has frontage on a state highway~~, a total of ~~2%~~ of the square footage of the property ~~ten thousand (10,000) square feet~~ shall be the maximum allowable for all structures proposed for such uses:

~~21. Commercial and non-commercial indoor and outdoor recreational facilities (excluding golf courses), with outdoor lighting, loudspeakers, and limited concession sales; but without retail sales of merchandise, and the like; but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.~~

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

See attached letter of justification.



NICK NICHOLSON
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Nick.Nicholson@skofirm.com

300 WEST VINE STREET
SUITE 2100
LEXINGTON, KY 40507-1801
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November 28, 2022

Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Zone Ordinance Text Amendment Request
for Article 8-2 Agricultural-Buffer (A-B) zone

Dear Members of the Planning Commission:

We represent Sayre College d/b/a Sayre School ("Sayre" or "Applicant") and on its behalf have filed a zoning ordinance text amendment request to alter the square footage limitations and allowable conditional uses for the Agricultural-Buffer (A-B) zone. This request is part of a multi-step process to rezone Sayre's existing 50-acre Athletic Campus located at 300 Canebrake Drive from its current Agricultural-Rural (A-R) zone to the proposed Agricultural-Buffer zone in order to construct an indoor training facility for Sayre students.

Since 2005, the Sayre Athletic Campus has offered a successful way for a landlocked school in downtown Lexington to provide desired athletic facilities for its student body. As the variety of sport offerings have grown, so has the need to provide its student with safe facilities to train and practice throughout the year and in all weather conditions. Over the past year, Sayre has been exploring the best possible route to add a new indoor facility in a manner that is least impactful to its neighbors and the agricultural community. As the Planning Commission is aware, conditional uses in the various agricultural zones have historically been limited to a total of 10,000 square feet for all structures on the premises for uses after January 26, 1995. This limitation includes any agricultural structures, like barns or sheds, that exist on a property that has a conditional use other than a true agricultural principal use of the property. Even though the Agricultural-Buffer zone's intent is to help buffer core agricultural land from urban uses, the same square footage limitation applies to its conditional uses as in the Rural and Natural Areas agricultural zones. The heart of Sayre's request is to increase the allowable square footage for conditional uses in the Agricultural-Buffer zone to recognize the difference between the intent of Buffer zone and the Rural and Natural Areas zones. This increase is proposed to be tied to the total acreage of the property to ensure that this increase does not carry with it any adverse impacts on its neighbors. By expanding the allowable maximum tied to the total acreage of the property, it will allow for the A-B zone to better fulfill its intent of transitioning from the urban areas to the agricultural areas without risking the prime A-R and A-N acreage in Fayette County due to the limited areas where A-B is considered an appropriate zone. Along with the square footage increase, Sayre is also requesting to allow its existing commercial recreational facility to be a specific allowable conditional use. While the athletic fields quite possibly are already a conditional

use outlined by Article 8-2(d)(7), Sayre felt it best to specifically call out the proposed use similar to how it is treated currently in the A-R zone to differentiate the Sayre Athletic Complex from zoological gardens, sportsmen's farms, native animal game preserves, outdoor rodeos, hunting and trapping, primitive campgrounds, fishing lakes, and private clubs for only these uses that are specifically mentioned as commercial and non-commercial outdoor recreational facilities currently permitted in the A-B zone.

Specifically, Sayre requests the following text amendment to Section 8-2(d) of the Zoning Ordinance:

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres ~~and has frontage on a state highway~~, a total of 2% of the square footage of the property ten thousand (10,000) square feet per acre shall be the maximum allowable for all structures proposed for such uses:

21. Commercial and non-commercial indoor and outdoor recreational facilities (excluding golf courses), with outdoor lighting, loudspeakers, and limited concession sales; but without retail sales of merchandise, and the like; but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.

If the requested text amendment is approved, Sayre will file a zone map amendment and conditional use permit application to allow for its existing facility to be rezoned to A-B and governed by similar conditions that govern it today. The development plan will show the existing facilities with one proposed addition – an approximately 7,200 square foot indoor weight room/training facility that is limited to Sayre students. To ensure the Planning Commission fully understands this totality of this request, Sayre is supplementing the ZOTA application with a site plan and exhibits showing the new facility.

In summary, this text amendment is in agreement with the Comprehensive Plan as it upholds the Urban Service Area preservation strategy, while fulfilling the intent of the A-B zone and not endangering the surrounding agricultural area. The increase in square footage is tied to the overall acreage of the property and subject to Board of Adjustment review to ensure that any proposed project is in keeping with the area. As outlined above, the proposed project meets the following Goals and Objectives of the Comprehensive Plan:

Theme A - Growing Successful Neighborhoods

Goal 2: Support infill and redevelopment throughout the Urban Service Area as a strategic component of growth.

Objectives:

- a. Identify areas of opportunity for infill, redevelopment, adaptive reuse, and mixed-use development.
- b. Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form.
- c. Incorporate adequate greenspace and open space into all development projects, which serve the needs of the intended population.

Theme D - Improving a Desirable Community

Goal 2: Support a model of development that focuses on people-first to provide accessible community facilities and services to meet the health, safety and quality of life needs of Lexington-Fayette County's residents and visitors.

Objectives:

- b. Collaborate with educational and healthcare entities to meet the needs of Lexington-Fayette County's residents and visitors.

Theme E - Maintaining a Balance between Planning for Urban Uses and Safeguarding Rural Land

Goal 1: Uphold the Urban Service Area concept.

Objectives:

- b. Ensure all types of development are environmentally, economically, and socially sustainable to accommodate the future growth needs of all residents while safeguarding rural land.

Goal 3: Maintain the current boundaries of the Urban Service Area and Rural Activity Centers; and create no new Rural Activity Centers. To ensure Lexington is responsive to its future land use needs, this Goal shall be superseded and no longer in effect upon completion of Theme E, Goal 4, Objective D.

We will be at the January public hearing in order to make a complete presentation of this application and request your favorable consideration.

Sincerely,

Stoll Keenon Ogden PLLC



Nick Nicholson

NN:NN



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(C) TO ALLOW OUTDOOR AND INDOOR RECREATION FACILITIES WITH LIGHTS AND LOUDSPEAKERS, AND INCREASE THE ALLOWABLE STRUCTURE SIZE IN THE AGRICULTURAL BUFFER (A-B) ZONE

APPLICANT: SAYRE SCHOOL

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

8-2(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

...

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres ~~and has frontage on a state highway~~, a total of 2% of the square footage of the property ~~ten thousand (10,000) square feet~~ shall be the maximum allowable for all structures proposed for such uses:

...

21. Commercial and non-commercial indoor and outdoor recreational facilities (excluding golf courses), with outdoor lighting, loudspeakers, and limited concession sales; but without retail sales of merchandise, and the like; but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.

STAFF REVIEW:

The petitioner, Sayre School, is requesting a text amendment to the Zoning Ordinance in order to make three changes to the Agricultural Buffer (A-B) zone. First, the applicant is seeking to match the language for the commercial and non-commercial outdoor recreational facilities conditional uses currently allowable in the Agricultural Rural (A-R) zone. Next, the applicant is seeking to allow commercial and non-commercial *indoor* recreational facilities as conditional uses. Finally, the applicant is seeking to increase the allowable size of structures associated with a conditional use in the A-B zone from 10,000 square feet to 2% of the lot size.

The Agriculture Buffer (A-B) zone was created in 1999 shortly after the adoption of the Rural Service Area Land Management Plan and reaffirmed with the adoption of the 2017 Rural Land Management Plan. The intent of the zone is to preserve the rural character of the agricultural service area by establishing agricultural land that can serve as buffer areas between urban uses and agricultural land, and between land outside Fayette County and agricultural uses. The zone calls for the separation between conflicting uses by requiring appropriate landscaping, fencing, and compatible uses. The principal permitted uses for the zone are agricultural and single family dwellings with a 10-acre minimum size requirement.



Within Fayette County there are only 22 parcels located within the A-B zone; all are currently located along Tates Creek Road. The Rural Land Management Plan indicates three areas recommended for the A-B zone: the entirety of the rural area along the eastern edge of Tates Creek Road; the Canebrake Buffer Area, along Canebrake Drive and Canebrake Court north of the Blue Sky Rural Activity Center (RAC) and around Hume Road, north of Winchester Road. The property of concern regarding the proposed text amendment is located within the Canebrake Buffer Area, but remains located within an Agricultural Rural (A-R) zone.

Currently, there are twenty conditional uses within the A-B zone, which range in intensity and association with agricultural land uses. Conditional use number 20 is commercial and non-commercial outdoor recreational facilities (without outdoor lighting, loudspeakers, retail sales of merchandise, restaurants or food service, and the like), including zoological gardens; sportsmen's farms (including outdoor rifle and other firearm ranges); native animal game preserves; outdoor rodeos; hunting and trapping; primitive campgrounds; and fishing lakes; including private clubs for only these uses. In 2005, the Urban County Council passed an Ordinance which modified the same language in the A-R zone to allow the inclusion of lighting and outdoor loudspeakers for properties adjacent to the Blue Sky RAC. The applicant's request of indoor recreational facilities would be an increase of intensity of land uses, but is also in agreement with the 2017 RLMP, as the zone is meant to act as a transition from more intense land uses to the less intense A-R zone. Staff agrees that matching the language from the A-R zone in the A-B zone meets the intent of the A-B zone and allows for greater use of land specifically designated as agricultural buffer areas in agreement with previous decisions of the Planning Commission and Urban County Council.

Furthermore, by limiting the location of the proposed facilities, the applicant is situating the potential development in a portion of the Urban County that is adjacent to an area recommended for industrial development and Interstate 75. The proximity to roadways with the capacity to handle anticipated traffic, while also not promoting movement through lesser capacity roadways ensures that the development of the area is appropriate.

The applicant is also seeking to increase the size of allowable structures in the A-B zone from 10,000 square feet to 2% of the developable land. The 10,000 square foot limitation restricts the development of 17 of the 20 conditional uses within the A-B zone. The limitation was added to the Zoning Ordinance in 1999 (Ord. 208-99; ZOTA 99-5) to limit the construction of large structures in the agricultural zones (A-B, A-N, A-R). The size requirement was developed through the review of the typical size of places of religious assembly in the agricultural zones, which is the most common conditional use in the agricultural zones. The applicant posits that by increasing the allowable square footage, the Zoning Ordinance would better reflect the intent of the zone, which is distinct from the A-R and A-N zones. The applicant states that by tying the square footage to the total acreage of the property, they will ensure that the increase does not result in adverse impacts on its neighbors, while also not impacting the less intense A-R and A-N zones.

Staff agrees with the applicant's justification, and observes a potential advantageous aspect of the proposed regulation. Currently, the A-B zone would allow for the subdivision of a property into 10 acre lots. The proposed text amendment would promote keeping larger lot configurations within the A-B zone. Any future reuse of the site for more agricultural land uses would therefore be more easily rectified with the demolition of the structure. Additionally, with the current text should an applicant



seek to subdivide and place structures on each of the 10 acre lots, the total square footage would exceed the potential square footage as proposed by the applicant.

In addition to the justification provided, the applicant indicates that the proposed modifications to the Zoning Ordinance are in agreement with the adopted 2018 Comprehensive Plan as the text will provide amenities associated with educational entities within the community (Theme D, Goal #2.b). Furthermore, the applicant indicates that the modification will maintain the balance between urban uses and safeguard the rural land by ensuring the needs of future growth are safeguarded (Theme E, Goal #1.b).

One element of the applicant's proposal that is problematic is that it limits those properties with 10 acres to a structure size of 8,712 square feet. Staff recommends that the Planning Commission consider a modification to the language as follows:

8-2(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

...

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres ~~and has frontage on a state highway~~, a total of 2% of the square footage of the property or ten thousand (10,000) square feet, whichever is greater, shall be the maximum allowable for all structures proposed for such uses:

...

21. Commercial and non-commercial indoor and outdoor recreational facilities (excluding golf courses), with outdoor lighting, loudspeakers, and limited concession sales; but without retail sales of merchandise, and the like; but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.

The proposed staff alternative would be in keeping with the allowable size of conditional uses within the other agricultural zones.

The Staff Recommends: Approval of the staff alternative, for the following reasons:

1. The proposed amendment is reflective of the intent of the Agricultural Buffer (A-B) zone and allows for greater conformity with the allowable conditional uses within the Agricultural Rural (A-R) zone. Conditional uses near Blue Sky would have less impact because of development in existence along the Interstate interchange.
2. This text amendment is very limited in scope, and will not threaten the agricultural economy in the Rural Services Area.
3. The proposed amendment promotes the retention of larger lots within the Agricultural Buffer (A-B) zone, which would allow for an easier transition back to a traditional agricultural land used should a conditional use no longer be active.

HB/TLW
1/4/22

Planning Services/Staff Reports/ZOTA/2022/PLN-ZOTA-22-00019 (A-B Zone).doc



Planning Commission Recommended Text
February 23, 2023 Public Hearing

8-2(d) Conditional Uses. (Permitted only with Board of Adjustment approval.)

...

For any of the following conditional uses established after January 26, 1995, except where the A-B zone is adjacent to the county boundary, and the property is a minimum of ten (10) acres ~~and has frontage on a state highway~~, a total of 2% of the square footage of the property or ten thousand (10,000) square feet, whichever is greater, shall be the maximum allowable for all structures proposed for such uses:

...

21. Commercial and non-commercial indoor and outdoor recreational facilities (excluding golf courses), with outdoor lighting, loudspeakers, and limited concession sales; but without retail sales of merchandise, and the like; but only when located immediately adjacent to the Blue Sky Rural Activity Center defined in the adopted Comprehensive Plan.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS

1. **PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES** – a petition for a Zoning Ordinance text amendment to allow athletic fields with lighting and loud speakers in the Agricultural Buffer (A-B) zone as a conditional use and to increase the allowable structure size from 10,000 sq ft to two percent of the lot.

INITIATED BY: SAYRE SCHOOL

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval of the staff alternative.

The Staff Recommends: Approval of the staff alternative, for the following reasons.

1. The proposed amendment is reflective of the intent of the Agricultural Buffer (A-B) zone and allows for greater conformity with the allowable conditional uses within the Agricultural Rural (A-R) zone. Conditional uses near Blue Sky would have less impact because of development in existence along the Interstate interchange.
2. This text amendment is very limited in scope, and will not threaten the agricultural economy in the Rural Services Area.
3. The proposed amendment promotes the retention of larger lots within the Agricultural Buffer (A-B) zone, which would allow for an easier transition back to a traditional agricultural land used should a conditional use no longer be active.

Staff Text Amendment Presentation – Mr. Hal Baillie presented and summarized the staff report and recommendations for this text amendment. Mr. Baillie indicated that the applicant wanted to amend three aspects of the A-B zone, including increase the allowable square footage for conditional uses in the A-B zone, allow commercial indoor and outdoor recreational facilities adjacent to the Blue Sky Rural Activity Center(RAC), and allow lighting, loudspeakers and limited concessions adjacent to the Blue Sky RAC.

Mr. Baillie gave more context about the A-B zone, stating that it was created in 1999 with the an intent to preserve the rural character of the agricultural service area by establishing land that can serve as buffer areas between urban and agricultural land. Mr. Baillie presented a map and showed the seven areas of potential A-B zoning in our community, as well as the 22 currently zoned A-B properties, and noted the various acreages of the buffer areas. Mr. Baillie continued giving examples of the various principle and conditional uses in the A-B zone.

Mr. Baillie reviewed the proposed language by the applicant and stated that Staff thought this was an adequate increase in a buffer area between urbanized zones and adjacent agricultural land. Additionally, Mr. Baillie indicated that for the allowable amount of square footage for certain conditional uses, in the A-B zone, Staff recommends slightly different language than the applicant's. Stating staff recommends that a total of 2% of the square footage of the property, or 10,000 square feet, whichever is greater, shall be the maximum allowable for all structures proposed in the A-B zone. This allows for properties less than 11 acres to meet the current regulations.

Mr. Baillie concluded by stating that Staff is recommending approval of the Staff alternative text and could answer any questions from the Planning Commission.

Commission Questions – Mr. de Movellan asked about the calculation for the allowable square footage and if the softball fields and tennis courts are considered part of the calculation or is it indoor facilities as well. Mr. Baillie indicated that the square footage has to do with structures, and outdoor fields are not considered structures and do not count into that 10,000 square feet.

Mr. Davis asked for a refresher on if the applicant was nonconforming on their property without this text amendment and how large the parcel was. Mr. Baillie stated that the applicant had gone through the process of getting a conditional use for the non-commercial recreational facility, and indicated that the applicant had built more than they were allowed to on site and that the total site was 50 acres.

Mr. Davis also asked about the third justification in the staff report about the land returning to a "traditional agricultural land use should a conditional use no longer be active. Mr. Baillie responded that conditional uses are reviewed annually and should a property's conditional use be taken away or cease operation, the property would return to the principal primary uses for the zone. By promoting and maintaining large lots, the property could be more easily returned to agricultural land uses.

Mr. Nicol asked if this change in language would allow for better usage of the smaller vacant sites that are in the A-B zone. Mr. Baillie stated that he did not think any of these areas would be considered vacant or underutilized land. He said that this language would only impact larger lots.

Mr. Bell asked how worried Mr. Baillie was about the precedent this sets. Mr. Baillie indicated that this change allows for a little more use of the A-B zone exclusively and does not change anything in the A-R zone.

Ms. Worth asked if there was conversation from staff on putting in restrictions on the amount of hours for the lighting and loudspeakers and if that is anything the Planning Commission could do. Mr. Baillie responded that the Commission could add some restrictions when it comes to specific properties if it comes to the Board of Adjustment and/or Planning Commission, but that a text amendment was not the place to do that.

Mr. Michler asked if currently lighting and loudspeakers are allowed in the A-B zone and Mr. Baillie stated that they were not.

Applicant Presentation – Nick Nicholson, attorney for the applicant, stated that this application was not for a specific site, instead this is to add a use to the A-B zone that is already allowed in what should be a more restrictive A-R zone. Mr. Nicholson explained that the applicant wants to build a training facility that allows Sayre School to have a facility. Mr. Nicholson noted the location of the proposed facility on the property and wanted to make sure the Planning Commission was comfortable with what they are proposing on this site.

Mr. Nicholson emphasized the collaboration between Staff, stakeholders, and others involved to get this right, and have heard the criticism that the A-R zone is under attack by a so called "death by 1,000 ZOTA's," but that is not what is happening here. Mr. Nicholson stated that Sayre took the hardest, and most protective way to protect an agricultural zone. Mr. Nicholson stated that there are only four areas in Fayette County that this text amendment would effect. Mr. Nicholson said that the applicant understands the sensitivity of this text amendment, but what you are not seeing is a lot of neighbors coming out to complain. In fact, the applicant has letters of support from the neighbors for this text amendment.

Mr. Nicholson concluded his presentation stating that he agrees with the Staff's alternative text and could answer any questions.

Commission Questions – Ms. Worth inquired as to the meaning of the text on proposed use #21. Mr. Nicholson stated he wanted to make sure that text was specifically connected to the sports fields and used the established language from the A-R zone.

Mr. Davis asked what percentage of the Fayette County this would affect and Mr. Nicholson stated it was about 0.01%. Additionally, Mr. Davis stated he was having issues with this because 2% of 50 acres is a significant number to him. Mr. Nicholson noted that the Planning Commission or Board of Adjustment can evaluate each application and determine the allowable square footage..

Mr. Nicol stated that he thought it was not logical that the A-B zone is more restrictive than the A-R zone when the A-B zone is supposed to be a buffer.

Mr. Michler asked what the background was for conditional use permits and massive agricultural buildings here. Mr. Nicholson stated that once you have established a conditional use, the language applies to the area zone and it came 24 years ago when the A-B zone was created. This would allow for a new conditional use that would be reviewed.

Mr. de Movellan asked about the reference to retail shop in the proposed language and where that came from. Mr. Nicholson indicated that they listened to people who had complaints and concerns and did not want any "evildoers" to bring a Wal-Mart to the A-B zone. This would allow very limited sales for hot dogs at sporting events or other concession type food.

Mr. Davis asked why the applicant did not just divide the parcel into tracts and build what they want. Mr. Nicholson stated that they looked at that possibility, but with that you start drawing lot lines around already existing athletic fields and that did not make sense.

Mr. Davis also asked about the justification for the 2% figure and Mr. Nicholson reiterated that if the 2% number is too much, the Planning Commission or Board of Adjustment can determine the appropriate amount within that 2% during a public hearing.

Public Comment – Emily Coles, Sayre School Chairman of the Board of Trustees, no address given, stated that they are very proud of the Sayre Athletic complex or "SAC" and asked the Planning Commission to approve the text amendment.

Britany Rothermeier, Fayette Alliance Director, no address given, stated that she was sympathetic to Sayre's issues, but that this text amendment opens the door to a dangerous precedent in the agricultural area.

Applicant Rebuttal – Mr. Nicholson started his rebuttal by stating that you could say that this is opening the door to a dangerous precedent, but thankfully the Planning Commission are the bouncers and could stop any bad actors. Additionally, Mr. Nicholson stated that the language relating to the Blue Sky Industrial Park would stop any increases in uses and that Sayre owns the land already, so that would not be a concern. Finally, Mr. Nicholson conveyed that the square footage takes into account all structures on the property that are subjected to conditional use permits.

Staff Rebuttal – Mr. Baillie stated that the Planning Commission can review a conditional use during a zone change application, but that does not need to happen should the applicant want to go to the Board of Adjustment. However, the Planning Commission could recommend conditional zoning restrictions on an application. Mr. Baillie also indicated that the barn on the subject property is not being used for an agricultural use, but it is storage tied to the conditional use. Additionally, Mr. Baillie stated that Staff is aware that this is adding a conditional use to the A-B zone, but that the proposed conditional use is currently allowable in the A-R zone and this same use is appropriate in the A-B zone.

Commission Questions – Mr. Michler asked if Staff thought that the current Ordinance would limit agricultural structures to 10,000 feet. Mr. Baillie indicated that it would not limit an agricultural structure that is not associated with a conditional use.

Ms. Meyer asked if indoor recreational facility is allowed in the A-R zone and Mr. Baillie indicated that it was not.

Mr. Davis asked when fields and lights became allowable in the A-R zone. Mr. Baillie stated that the ZOTA was proposed in 2005 by the current applicant.

Commission Comments – Ms. Meyer stated that she has concerns because the uses being proposed here are not allowable in the A-R zone and about the intensification of uses on this property.

Mr. de Movellan asked Staff if the ZOTA was to change the A-B zone and if the applicant wanted to do something on their land, they would need to ask the Planning Commission for a zone change. Mr. Baillie indicated that was correct, and that all A-B zoned land was subdivided into 10-11 acres in size currently.

Mr. Nicol wanted to voice his desire to intensify the A-B zone so it can be a true buffer zone.

Mr. Bell stated that he relies on Staff and then tries to apply logic to the process and he was satisfied that this was not precedent setting.

Mr. Davis stated that he was sympathetic to the applicant, but is hesitant to support something that has county-wide implications to accommodate what today seems like a perfectly logical use. Mr. Davis stated that he was concerned about what it would mean for the future, and that there is another way to accommodate the applicant's request.

Ms. Barksdale asked about the amount of square footage with the new facility and Mr. Nicholson indicated it would be around 22,000 square feet.

Ms. Worth stated that she was struggling with this, and thinks the applicant has done the right thing here, but is worried about unintended consequences.

Action – A motion was made by Mr. Davis and seconded by Ms. Meyer and failed 3-6 (Penn and Pohl absent) to disapprove PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES

Action – A motion was made by Mr. Nicol and seconded by Mr. Bell and carried 6-3 (Penn and Pohl absent) to approve PLN-ZOTA-22-00019: AMENDMENT TO ARTICLE 8-2(D): ATHLETIC FIELDS AND STRUCTURES with Staff's alternative text.