**ORDINANCE 2013-22**

**AN ORDINANCE OF THE CITY OF FORT MITCHELL AMENDING THE TEXT OF THE OFFICIAL ZONING CODE OF THE CITY TO CREATE A NEW MIXED BUSINESS LAND USE (MBLU) ZONE, AND AMENDING VARIOUS OTHER PROVISIONS OF THE TEXT RELATING TO THE MBLU ZONE, THE LIMITED HIGHWAY SERVICE (LHS) ZONE, AND THE COMMERCIAL–PLANNED UNIT DEVELOPMENT (C-PUD) OVERLAY ZONES, AND DIRECTING THAT THIS ORDINANCE BE PUBLISHED BY SUMMARY.**

 **WHEREAS**, the City has submitted an application requesting the Kenton County Municipal and Planning and Zoning Commission (the “Commission”) to review and make recommendations on certain proposed text amendments to the City’s official zoning code;

 **WHEREAS,** pursuant to KRS 100.211, the Commission provided notice and held a public hearing on the application on September 5, 2013, in order to collect information and to discuss the proposed text amendments;

 **WHEREAS,** upon the completion of the public hearing, the Commission further discussed the proposed text amendments;

 **WHEREAS,** the Commission did, by proper resolution, pursuant to KRS Section 100.211 make a recommendation to approve the proposed text amendments amending the provisions relating to, and adopted findings, which the City hereby incorporates by reference.

 **NOW THEREFORE,** be it ordained by the City of Fort Mitchell, Kentucky, as follows:

**SECTION I**

 There is hereby created a new Section 10.19 of Article X of the Official Zoning Code of the City of Fort Mitchell, Kentucky to read in full as follows:

 **SECTION 10.19 MBLU (MIXED BUSINESS LAND USE) ZONE**

A. PURPOSE: The purpose of the Mixed Business Land Use (MBLU) Zone is to provide for the combining of offices, commercial uses, retail and service uses within a planned development. Such development is intended to be designed to provide for a related group of activities which are functionally integrated relative to land uses, vehicular and pedestrian circulation, and the arrangement of structures. In addition, the intent of the zone is to promote flexibility in design and planned diversification in the relationships between location of and types of uses and structures; promote the advantages of large scale site planning for community development through the efficient use of land, facilitating a more economic arrangement of buildings, circulation systems, land uses, and utilities; preserve, to the greatest extent possible, the existing landscape features and amenities, and to utilize such features in a harmonious fashion; provide for more usable and suitably located open space facilities and common facilities than would otherwise be provided under conventional land development procedures, but always with the intention of furthering the public health, safety, and general welfare.

B. GENERAL: A Mixed Business Land Use Zone may be permitted provided that all conditions or provisions of this section of the ordinance, the applicable requirements of the subdivision regulations, and any additional requirements as may be determined necessary to provide for the most efficient layout of the MBLU Zone and its proper integration with the surrounding development are met; and a public hearing is held on the MBLU application.

C. APPLICATION AND PROCESSING: All developments within the MBLU Zone must be approved through the Stage I/Stage II Development Plan process described herein. Applications for a Mixed Business Land Use Zone shall be processed as follows in two stages:

1. Stage I - Except as provided in Section 17.0, I., applications for a map amendment to zone an area for Mixed Land Use (MBLU) shall be accompanied by a development plan, in accordance with the Stage I Plan Requirements, provided for within Section 9.20, A., of this ordinance. If an area, however, is currently zoned MBLU, or the map amendment is proposed by the legislative body, the submission of a Stage I Development Plan for review by the planning commission and the legislative body, shall not be required until the area is proposed to be developed.

D. PERMITTED USES: One or more of the following uses may be permitted. Said uses shall be clearly delineated on the Stage I and II Plans:

1. Offices, including medical and dental offices

2. Restaurants, excluding drive-ins and drive-thrus, except as are permitted as Conditional Uses

3. Retail and service uses, excluding drive-ins unless specifically authorized by the use herein, as follows:

* + 1. Advertising agency
		2. Antique shop
		3. Apparel shop
		4. Appliance shop - electrical and household
		5. Appliances – office
		6. Art and art supplies
		7. Bakery shop
		8. Banks, with drive-in windows permitted
		9. Book shops
		10. Cafeterias
		11. Camera supplies
		12. Candy store
		13. Clinics - medical and dental, including urgent care
		14. Clothing store
		15. Clubs - business
		16. Coffee shop
		17. Craft shops
		18. Day care facilities
		19. Dry cleaning pick-up
		20. Electronic supplies or sales
		21. Finance company, financial institutions
		22. Florist shop
		23. Food store
		24. Garden supplies
		25. Gift shop
		26. Glass store
		27. Grocery stores
		28. Hair stylist
		29. Hardware store
		30. Health clubs
		31. Hobby shop
		32. Ice cream store
		33. Interior decorator
		34. Jewelry store
		35. Laboratory - medical and dental
		36. Laundry pick-up
		37. Leather goods
		38. Luggage shop
		39. Music shop
		40. Office furniture
		41. Office supplies
		42. Optical goods and supplies
		43. Optician and optometrist
		44. Pet shop
		45. Pharmacy, including drive up windows and other retail sales
		46. Photographic supplies
		47. Pottery store
		48. Record shop
		49. Savings and loan
		50. Shoe store with incidental repair
		51. Soda fountain
		52. Souvenir shop
		53. Sporting goods
		54. Stationary shop
		55. Studio - decorating, photo
		56. Tailor shop
		57. Toy store
		58. Travel agency
		59. Wallpaper store

4. The following public and semi-public structures and uses may be permitted in the MBLU Zone, which shall be delineated on the plan and shall be limited to one or more of the following uses:

a. Fire and police stations

b. Libraries

E. ACCESSORY USES:

1. Customary accessory buildings and uses

2. Swimming pools, indoor or outdoor, in connection with hotels, or health clubs

F. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

1. Outdoor dining, in connection with a restaurant, provided that such area meets the following requirements:

a. Such area shall be designated to clearly identify the limits of the outdoor dining area, which shall not include any drive-thru facility.

b. Such area shall not exceed twenty five percent of the maximum seating capacity of the indoor dining area.

c. Entertainment, unamplified music shall be permitted between the hours of 6:00 pm and 11:30 pm.

d. Outdoor dining areas shall be operated no later than Midnight, Sunday through Thursday, and 2:30 am on Friday and Saturday.

2. Drive through window service for restaurants, subject to the following conditions and limitations:

a. The hours of operation of the drive-thru service shall be limited to seven (7:00) A.M. to eleven (11:00) P.M.

b. The sound pressure level from any speaker or order station may not exceed 60 decibels, as provided for in Section 15.2,C.

c. The speaker or order station shall not be located on any wall or in any yard of a building adjacent to any area which is either zoned for or developed in residential use, or located within one hundred (100) feet of such use.

3. Hotels, not including motels.

4. Service stations, but not including automobile repair, maintenance and washing, and excluding the storage of junk materials, subject to the following conditions and limitations:

a. The hours of operation of the service station shall be limited to five (5:00) A.M. to eleven (11:00) P.M.

b. The service station shall be directly connect to an major arterial or collector street, shall not be permitted within one hundred fifty (150) feet of any residential zone or use if the service station is separated from the residential zone or use by an major arterial or collector street, or within three hundred fifty (450) feet of any residential zone or use not separated from the residential zone or use by a collector or arterial street.

5. Convenience store - drug, fruit, grocery, meat, vegetables

6. Home improvement store

G. AREA REQUIREMENTS:

1. No MBLU Zone shall be permitted on less than ten (10) acres of land. However, an area of less than ten (10) acres may be zoned MBLU, provided it is adjacent to an area that is currently zoned MBLU.

2. The minimum area for submission of a Stage I Development Plan, within an existing MBLU Zone, shall be not less than three (3) acres, unless it is adjacent to and extends the existing Stage I Development Plan and conforms to requirements of the MBLU Zone.

H. ACCESS REGULATIONS: Access shall be provided to the site via a major arterial or collector street, as identified within the locally adopted comprehensive plan. In addition to access to the site via a major arterial or collector street, where practical, other connections to a local street network should be provided as approved in the Stage I Development Plan.

I. HEIGHT, YARD, AND SETBACK REGULATIONS: No building shall be erected or structurally altered hereafter except in accordance with the following regulations:

1. Where any use permitted in this zone abuts a residential zone, a minimum fifty (50) foot setback shall be provided from adjacent residential areas with screening to be as provided as required in Section 9.17 of the zoning ordinance.
2. All other requirements shall be as approved in the plan.

J. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: Off-street parking and, when applicable, loading and/or unloading facilities shall be provided in accordance with Articles XI and XII of this ordinance and as approved in the plan.

K. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs shall be as provided in Articles XIII and XIV and as approved in the plan.

L. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

M. CRITERIA: Evaluation of the proposed development plan shall be based upon the following criteria:

1. Agreement with the various elements of the Kenton County Comprehensive Plan, and where applicable, any KRS Chapter 99 approved Urban Renewal Development Plan.

2. Extent to which the proposed development plan is consistent with the purpose of the MBLU Zone.

3. Adequacy of the proposed site, considering such factors as the sufficiency of the size of the site to comply with the established criteria, the configuration of the site, and the extent to which the site is formed by logical boundaries (e.g., topography, natural features, streets, relationship of adjacent uses, etc.).

4. Nature and extent of the proposed uses in relation to the unique characteristics of the site; the current or anticipated need for such use(s) and the specific size and locale of the market area from which the specific uses of the site will draw or serve.

5. Extent to which the proposed design, as indicated in the Stage I Plan, is compatible and coordinated with existing and/or proposed development contiguous to the site. Compatibility and coordination with existing and/or proposed development shall be reviewed in terms of intensity of land use type in relation to the general character of the surrounding areas, including coordination of vehicular and pedestrian circulation; the scale (e.g., height and mass of structures) of the proposed development; location of open spaces and size of setbacks; provisions of screening areas or utilization of natural features; the transition of land use types based on the proposed design; and the impact of the proposed development on adjacent uses, such as noise, visual impact, hours of operation, traffic circulation, etc.

6. Amount of traffic that would be generated by the proposed operation and the ability of the existing street system to adequately handle said traffic. Where deficiencies exist, proposed traffic improvements that would correct such deficiencies may be considered.

7. Extent to which the design of the internal street system provides for the efficient and safe movement of traffic within and adjacent to the site.

8. Extent to which all necessary public utilities and facilities are available to service the development, including police and fire protection, water and sewer services, and other services normally provided within the area. Where deficiencies exist, improvements that would correct such deficiencies may be considered.

N. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the City Administrative Officer or his designee, shall be made in accordance with the procedure required by Subsection C., of this section.

O. EXPIRATION: Development plans within the MBLU Zone shall be subject to the time constraints, as noted below. Upon expiration of said time constraints, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining the appropriateness of the approved development plan. A public hearing may be initiated if either of the following conditions apply:

1. Stage II Plan has not been submitted to the planning commission, or its duly authorized representative, within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan, except as agreed upon for the phasing of development by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.

P. OTHER DEVELOPMENT CONTROLS:

1. No lighting shall be permitted which would glare from this zone into any adjacent residential property.
2. Other development controls may be imposed and shall be as provided in the Stage I and Stage II approved plans.

.

**SECTION II**

The Table of Contents of the Fort Mitchell Zoning Code is hereby amended to add a reference to Section 10.19, MBLU (Mixed Business Land Use Zone) as follows:

ARTICLE/SECTION NAME PAGE

ARTICLE X ZONES

 SECTION 10.19 MBLU (Mixed Business Land Use) Zone 10-65

**SECTION III**

Section 8.0 of Article VIII is hereby amended to add the MBLU (Mixed Business Land Use) Zone to the permitted zones, as follows:

**SECTION 8.0 ZONES**: For the purpose of this ordinance, the city may be divided into the following zones:

MBLU MIXED BUSINESS LAND USE ZONE

**SECTION IV**

Section 11.0(C)(1)(c) of Article XI is hereby amended add the MBLU Zone as follows:

**OFF-STREET PARKING AND ACCESS CONTROL REGULATIONS**

**SECTION 11.0 GENERAL REQUIREMENTS**

C. LOCATION OF OFF-STREET PARKING FACILITIES

 1. Off-street parking facilities shall be located as follows:

c. Special Development Zones - (RCD, PUD, MHP, ~~and~~ MLU, and MBLU) Off-street parking shall be located as designated on the approved plan.

**SECTION V**

Section 13.11 of Article XIII is hereby amended to add the MBLU Zone as follows:

**FENCES, WALLS, AND OBSTRUCTION TO VIEW REGULATIONS**

**SECTION 13.11 SPECIAL DEVELOPMENT ZONES:** The location, height, and type of all fences and/or walls within any area zoned PUD, RCD, MHP, CPUD, ~~or~~ MLU, or MBLU shall be as approved by the planning commission.

**SECTION VI**

Section 14.14 of Article XIV is hereby amended to add the MBLU Zone as follows:

**SIGN REGULATIONS**

ZONES USES PERMITTED

 SIGN CLASSES

PUD, RCD, MHP, As approved according to the approved Development Plan

CPUD, ~~and~~ MLU, and

MBLU

**SECTION VII**

Section 7.0 of Article VII of the Official Zoning Code of the City of Fort Mitchell, Kentucky, is hereby amended to change the term “MOTEL” to “HOTEL” and add to the definition of HOTEL.:

**SECTION 7.0 WORDS AND PHRASES:** For the purposes of this ordinance, certain terms, phrases, words, and their derivatives are herewith defined as follows:

HOTEL~~-MOTEL~~: A building or buildings to be used for the temporary abiding place for travelers and transient guests, not included extended stay facilities, where all access to sleeping accommodations is from the interior of the building and guests must pass through a lobby, which must be staffed 24 hours per day. The facility must include a business facility, gymnasium or work out facility, and include one of the following: (i) restaurant or lounge, which includes the service of breakfast; (ii) an indoor pool; or (iii) additional amenities as approved by the Zoning Administrator. Furthermore, the facility shall provide a covered entranceway permitting the loading or unloading of vehicles.

**SECTION VIII**

Section 10.12 of Article X is hereby amended to remove Hotels and motels as Permitted Uses, allow Hotels as Conditional Uses, and remove other Accessory Uses from the LHS Zone.

**SECTION 10.12 LHS (LIMITED HIGHWAY SERVICE) ZONE**

A. PERMITTED USES

 1. Banks and other financial institutions

2. Convention facilities and/or exhibit halls

3. Dinner theaters and playhouses

4. Drug stores

5. Eating establishments (sit-down only), dining room-cafeteria and/or supper club, and including a drive-thru facility, subject to the requirements of section 10.11, E., Other

 Development Controls

6. Health clubs with indoor or outdoor court facilities

~~7. Hotels and motels~~

~~8~~7. Museums

~~9~~8. Offices

~~10~~9. Schools, for the purpose of career education

~~11~~10. New luxury car dealerships

B. ACCESSORY USES

~~5. Uses as listed below, which are associated with a hotel, motel or office building, as a convenience to the occupants thereof, and their customers, provided that the accessory uses shall not exceed ten (10) percent of the gross floor area of the permitted uses:~~

~~a. Barber shops and beauty shops~~

~~b. Liquor stores~~

~~c. News and confectionery stands~~

~~d. Recreational facilities~~

5~~6~~. Uses as listed below, only in conjunction with a New Luxury Car Dealership, provided that the accessory use(s) shall not exceed forty-nine (49) percent of the gross sales area utilized by the permitted use(s):

a. Luxury automobile service departments associated with the New Luxury Car Dealership. All such service shall be conducted within the dealership or other fully enclosed building

b. Pre-owned car sales or leases controlled by, and associated with, the primary New Luxury Car Dealership

C. CONDITIONAL USES

1. Service stations, including automobile repair, maintenance and washing services, but excluding the storage of junk materials

2. Day care facilities

3. Hotels, not including motels.

**SECTION IX**

Section 10.18(C)(1)(b), Section 10.18(D) and Sections 10.18(F) through 10.18(Q) of Article X are amended as follows:

**SECTION 10.18 MLU (MIXED LAND USE) ZONE**

C. APPLICATION AND PROCESSING: Applications for a Mixed Land Use Zone shall be processed as follows in two stages:

1. Stage I - Except as provided in Section 17.0, I., applications for a map amendment to zone an area for Mixed Land Use (MLU) shall be accompanied by a development plan, in accordance with the Stage I Plan Requirements, provided for within Section 9.20, A., of this ordinance. If an area, however, is currently zoned MLU, the submission of a Stage I Development Plan for review by the planning commission and the legislative body, shall not be required until the area is proposed to be developed.

b. The legislative body shall, within ~~forty-five~~ ninety (~~45~~90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve, or disapprove said C-PUD application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose ~~different~~ less stringent conditions than were reviewed and considered by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., a., above. ~~Approval of the MLU Zone shall require that development be in conformance with the Stage I approved plan.~~ The legislative body shall forward a copy of the approved plan to the planning commission for further processing, in accordance with the requirements for Stage II Development Plan and Record Plat. Zoning Map Amendment – Upon approval of the MLU Zone, the official zoning map shall be amended by adding the area as identified in the application or as shown on the Stage I approved plan.

D. PERMITTED USES: One or more of the following uses may be permitted. Said uses shall be clearly delineated on the Stage I and II Plans:

1. Residential - including single-family and two-family. Residential development shall not occupy a cumulative total of more than ~~twenty-five~~ ten (~~25~~10) percent of the area within the MLU. Residential uses which are located above nonresidential uses shall not be considered to be a part of this cumulative total

2. Offices

3. Restaurants, excluding drive-ins and drive-thrus

4. Retail and service uses, excluding drive-ins, as follows:

a. Advertising agency

b. Antique shop

c. Apparel shop

d. Appliance shop - electrical and household

e. Appliances - office

f. Art and art supplies

g. Bakery shop

h. Banks, finance companies, savings and loans, and financial institutions

i. Book shops

j. Cafeterias

k. Camera supplies

l. Candy store

~~Churches~~

m. Clinics - medical and dental

n. Clothing store

o. Clubs - business, YMCA, YWCA

p. Coffee shop

~~Community centers~~

q. Computer or internet based game facilities, specifically excluding: (1) electro-mechanical games such as pinball/video machines; (2) coin or paper money operated machines; or (3) the activity, business or content of any such games that contain material which is regulated in Section 9.29 of this ordinance relating to the Regulations of Sexually Oriented Businesses

r. Convenience store - drug, fruit, grocery, meat, pharmacy, vegetables

~~Country clubs~~

s. Craft shops

t. Day care facilities

u. Dry cleaning pick-up

v. Electronic supplies or sales

~~Finance company, financial institutions~~

w. Florist shop

x. Food store

y. Garden supplies

z. Gift shop

aa. Glass store

~~Haberdashery~~

bb. Hair stylist

cc. Hardware store

dd. Hobby shop

~~Home improvement store~~

~~Hotels, motels~~

ee. Ice cream store

ff. Interior decorator

gg. Jewelry store

hh. Laboratory - medical and dental

ii. Laundry pick-up

jj. Leather goods

~~Library~~

~~Loan company~~

kk. Locksmith shop

ll. Luggage shop

mm. Music shop

~~Off-street parking~~

nn. Office furniture

oo. Office supplies

pp. Optical goods and supplies

qq. Optician and optometrist

~~Package liquor and wine store~~

rr. Paint store

ss. Pet shop

tt. Pharmacy

uu. Photographic supplies

vv. Pottery store

~~Radio store~~

ww. Record shop

~~Recreation area - open space~~

~~Savings and loan~~

xx. Shoe repair shop

yy. Shoe store with incidental repair

zz. Soda fountain

aaa. Souvenir shop

bbb. Sporting goods

ccc. Stationary shop

ddd. Studio - decorating, photo

eee. Tailor shop

~~Television store~~

fff. Toy store

ggg. Travel agency

hhh. Video rental

iii. Wallpaper store

5. Public and semi-public structures and uses as delineated on the plan and limited to one or more of the following uses:

a. Fire and police stations

b. Post office branch

c. Schools (elementary and secondary)

d. Libraries

F. CONDITIONAL USES: The following uses, or any customary accessory buildings or uses, subject to the approval of the board of adjustment, as set forth in Sections 9.14 and 18.7 of this ordinance:

2. Home improvement store

~~G.~~ ~~PUBLIC AND SEMI-PUBLIC USES:~~ ~~Public and semi-public structures and uses as delineated on the plan and limited to one or more of the following uses:~~

~~a. Fire and police stations~~

~~b. Post office branch~~

~~c. Schools (elementary and secondary)~~

~~H~~G AREA REQUIREMENTS:

1. No MLU Zone shall be permitted on less than fifteen (15) acres of land. However, an area of less than fifteen (15) acres may be zoned MLU, provided it is adjacent to an area that is currently zoned MLU.

2. The minimum area for submission of a Stage I Development Plan, within an existing MLU Zone, shall be not less than five (5) acres. However, a Stage I Development Plan may be submitted for an area of less than five (5) acres, provided it is adjacent to and extends the existing Stage I Development Plan and conforms to requirements of the MLU Zone.

H~~I~~. ACCESS REGULATIONS: Access shall be provided to the site via a major arterial or collector street, as identified within the locally adopted comprehensive plan. In addition to access to the site via a major arterial or collector street, other connections to a local street network may be permitted as approved in the Stage I Development Plan.

I~~J~~. HEIGHT, YARD, AND SETBACK REGULATIONS: Requirements shall be as approved in the plan.

J~~K~~. OFF-STREET PARKING AND LOADING AND/OR UNLOADING: Off-street parking and, when applicable, loading and/or unloading facilities shall be provided in accordance with Articles XI and XII of this ordinance.

K~~L~~. FENCES, WALLS, AND SIGNS: The location, height, and type of all fences, walls, and signs shall generally be in accordance with Articles XIII and XIV of this ordinance and as approved in the plan.

L~~M~~. EROSION AND SEDIMENTATION CONTROL: Effective erosion and sedimentation controls shall be planned and applied in accordance with Section 9.7 of this ordinance.

M~~N~~. RECREATION AND OPEN SPACE: At least twenty (20) percent of the total acreage of the proposed MLU development shall be retained as open space or recreation areas. Such open space/recreation areas shall be physically situated so as to be readily accessible, available to, and usable by all activities within the MLU development. Open space and recreation areas shall be that part of the total project exclusive of buildings, parking areas, access drives and streets. At such time as the Stage II Development Plan for a particular development is submitted to the planning commission, or its duly authorized representative, notwithstanding Subsection C., 2., a., open space requirements of less than twenty (20) percent may be considered for the development if unique topographic conditions exist, unique treatment of parking areas is provided for, and unique conditions and circumstances exist on or are adjacent to the site.

N~~O~~. CRITERIA: Evaluation of the proposed development plan shall be based upon

the following criteria:…

O~~P~~. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the planning commission, shall be made in accordance with the procedure required by Subsection C., of this section.

P~~Q~~. EXPIRATION: Development plans within the MLU Zone shall be subject to the time constraints, as noted below. Upon expiration of said time constraints, and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining the appropriateness of the approved development plan. A public hearing may be initiated if either of the following conditions apply:

1. Stage II Plan has not been ~~approved by~~ submitted to the planning commission or its duly authorized representative within a period of twenty-four (24) consecutive months from the date of the Stage I approved plan, except as agreed upon for the phasing of development by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

 2. Substantial construction has not been initiated within a period of twelve (12) consecutive months from the date of approval of the Stage II Plan by the planning commission; provided that an extension may be permitted upon approval of the legislative body, or its duly authorized representative, if sufficient proof can be demonstrated that the construction was delayed due to circumstances beyond the applicant's control, and that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete. The amount of construction constituting initiating substantial construction shall be as approved in the Stage II approved plan.

**SECTION X**

Section 10.17(C)(1)(c), Section 10.17(N) and Section 10.17(O)(1) of Article X are hereby amended as follows:

**SECTION 10.17 CPUD (COMMERCIAL PLANNED UNIT DEVELOPMENT)**

**OVERLAY ZONE**

C. APPLICATION AND PROCESSING: Applications for a Commercial-Planned Unit Development Overlay Zone shall be processed as follows in two stages:

1. Stage I -- Development Plan And Zoning Map Amendment – Application for amendment to utilize the C-PUD Overlay Zone shall include a development plan in accordance with the requirements of Section 9.20,A., Stage I Plan Requirements.

 c. The legislative body, shall, within ~~forty-five~~ ninety (~~45~~90) days after receiving the recommendations of the planning commission, review said recommendations and take action to approve, or disapprove said C-PUD application. Such action may incorporate any conditions imposed by the planning commission. However, should the legislative body take action to impose less stringent conditions than recommended by the planning commission, then said conditions shall be resubmitted to the planning commission for further review and recommendation, in accordance with Subsection C., 1., b., above. Approval of the C-PUD Overlay Zone shall require that development be in conformance with the Stage I approved plan.

N. AMENDMENTS: Any amendments to plans, except for the minor adjustments which may be permitted by the ~~legislative body~~City Administrative Officer or his designee, shall be made in accordance with the procedure required by this ordinance, subject to the same limitations and requirements as those under which such plans were originally approved.

O. EXPIRATION: Any amendments to the C-PUD Overlay Zone shall be subject to the time constraints, as noted below. Upon expiration of said time period and any extensions thereto, the legislative body may initiate a request for a public hearing by the planning commission, in accordance with the requirements of KRS Chapter 100, for the purpose of determining whether said C-PUD Overlay Zone should revert to its original zoning designation. A public hearing may be initiated if either of the following condition applies:

1. Stage II Plan has not been submitted to the ~~legislative body~~ planning commission or its duly authorized representative within a period of twelve (12) consecutive months from the date of the Stage I approved plan and Overlay Zone amendment by the legislative body; provided that an extension may be permitted upon approval of the legislative body, or their duly authorized representative, if sufficient proof can be demonstrated that prevailing conditions have not changed appreciably to render the Stage I approved plan obsolete.

**SECTION XI**

The provisions of this Ordinance are severable. If any sentence, section, clause, or part of this Ordinance or the application thereof to any particular state of case is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality, or invalidity shall not affect or repeal any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance, it being the legislative intent of this body to ordain and in act each other.

**SECTION XII**

All ordinances or parts thereof in conflict herewith are to the extent of such conflict hereby repealed.

**SECTION XIII**

This ordinance is hereby ordered to be published by Summary.

CITY OF FORT MITCHELL, KENTUCKY

BY:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Christopher Wiest, Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Martha Allen, City Clerk

DATE OF FIRST READING:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE OF SECOND READING AND ENACTMENT:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

DATE OF PUBLICATION:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_