

**MINUTES
URBAN COUNTY PLANNING COMMISSION
ZONING ITEMS PUBLIC HEARING**

December 17, 2009

- I. **CALL TO ORDER** – The meeting was called to order at 1:35 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Marie Copeland; Mike Cravens; Mike Owens; Derek Paulsen; Frank Penn, Chair; Carolyn Richardson; Lynn Roche-Phillips; Joan Whitman; and William Wilson. Absent were Patrick Brewer and Ed Holmes.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Cheryl Gallt; and Stephanie Cunningham. Other staff members present were Bob Carpenter, Division of Building Inspection; Captain Charles Bowen, Division of Fire and Emergency Services; and Steve Parker, Division of Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 9-0 (Brewer and Holmes absent) to approve the minutes of the November 19, 2009, Planning Commission meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **RAS LAND, INC., ZONING MAP AMENDMENT & RAS PROPERTY ZONING DEVELOPMENT PLAN**

- a. MAR 2009-14: RAS LAND, INC. (1/7/10)* - petition for a zone map amendment from a Two-Family Residential (R-2) zone to a Mixed-Use: Neighborhood Node (MU-1) zone, for 0.25 net (0.33 gross) acre, for property located at 333 South Upper Street.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 1) recommends Downtown Master Plan future land use for the subject property. The petitioner proposes reuse of the historic structure for professional office and residential uses. The petitioner proposes removing a small addition to the rear of the building, construction of one residential unit in the same location, and locating four dwelling units and office space in the existing structure. The proposed mixture of uses is 57% residential and 43% professional office.

The Zoning Committee Recommended: **Disapproval**, for the reasons provided by staff.

The Staff Recommended: **Disapproval**, for the following reasons:

1. The requested rezoning to a Mixed-Use: Neighborhood Node (MU-1) zone cannot be found to be in agreement with the 2007 Comprehensive Plan and the *Downtown Lexington Masterplan*, which recommend neighborhood residential land use for the subject property. The petitioner proposes residential and office uses on the subject property.
 2. The existing Two Family Residential (R-2) zone is appropriate and the proposed MU-1 zone is inappropriate for the following reasons:
 - a. An existing non-conforming use exists on the subject property that would allow 8-10 dwelling units, for a density of up to 40.0 dwelling units per net acre, to continue. This residential density supports the urban nature of the Historic South Hill Neighborhood and is in agreement with the 2007 Comprehensive Plan and the *Downtown Lexington Masterplan's* recommendation.
 - b. Macks Alley creates a more appropriate land use buffer and zoning boundary between the historic neighborhood and the more intense church and residential uses to the northeast.
 - c. The historic neighborhood should maintain its urban residential core without constant pressure of more intense uses, such as the ones available in the mixed use zones, as recommended by the *Downtown Lexington Masterplan* in designating the immediate area along South Upper Street as a "residential neighborhood" area that requires selective infill and redevelopment.
 - d. Businesses already provide neighborhood level retail and office uses so that additional commercial land uses are not currently necessary at this location.
- b. ZDP 2009-76: RAS PROPERTY (1/7/10)* - located at 333 South Upper Street.

(Barrett Partners)

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property MU-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and required street tree information.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Denote Historic Overlay (H-1) zone in site statistics.

* - Denotes date by which Commission must either approve or disapprove request.

8. Denote developer's information.
9. Denote storm drainage locations.
10. Denote: Board of Architectural Review approval will be required at the time of a final development plan.
11. Correct tree canopy information.
12. Correct plan title to reflect status as a preliminary development plan.
13. Denote landscape buffer adjacent to the R-2 zone.
14. Denote: This property shall be developed in accordance with the approved final development plan.

Petitioner Representation: Tony Barrett, Barrett Partners, was present representing the petitioner. He requested a one-month postponement of this item.

Action: A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 9-0 (Brewer and Holmes absent) to postpone MAR 2009-14 and ZDP 2009-76 to the January 28, 2009, Planning Commission meeting.

IV. **ZONING ITEMS** - The Zoning Committee met on Thursday, December 3, 2009, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Ed Holmes, Frank Penn, Lynn Roche-Phillips, Joan Whitman, and William Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS AND RELATED PLANS** – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. **GROVER C. HUFF AND BRENDA HUFF ZONING MAP AMENDMENT & HAMBURG PLACE FARM, PLAUDIT PLACE COMMUNITY DEVELOPMENT, LOT 5F ZONING DEVELOPMENT PLAN**

- a. MAR 2009-15: GROVER C. HUFF AND BRENDA HUFF (2/11/10)* - petition for a zone map amendment from a Whole-sale and Warehouse Business (B-4) zone to a Highway Service Business (B-3) zone, for 1.04 net (1.24 gross) acres, for property located at 1872 Plaudit Place.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 8) recommends Retail, Trade and Personal Services (RT) land use for the subject property. The petitioner proposes a retail use of the subject property, with no physical change to the existing structure or the off-street parking.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

The Staff Recommended: **Approval**, for the following reason:

1. A restricted Highway Service Business (B-3) zone for the subject property is in agreement with the Retail, Trade and Personal Services (RT) future land use recommendation of the 2007 Comprehensive Plan at this location, since a retail use is proposed. The use restrictions offered by the petitioner will make the proposed zoning compatible with existing B-3 zoning in the immediate area.

* - Denotes date by which Commission must either approve or disapprove request.

2. This recommendation is made subject to the approval and certification of ZDP 2009-85: Hamburg Place Farm, Plaudit Place Community Development, Lot 5F prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses are to be prohibited for the subject property via conditional zoning:
 - a. Establishments and lots for the display, rental, sale, service or minor repair of farm equipment, contractor equipment, tractor-trailer trucks, travel trailers, mobile homes, or supplies for such items.
 - b. Drive-in restaurants.
 - c. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - d. Taxidermy establishments.
 - e. Kennels.
 - f. Pawnshops.
 - g. Amusement park, fairgrounds, or horse racing track.
 - h. Outdoor recreational facilities including go-cart tracks, archery courts, skateboard and roller skating tracks, trampoline centers, rifle and other fire-arm ranges, swimming pools, water slides and other water-related facilities, and other similar uses.
 - i. Outdoor theaters.
 - j. Outdoor loud speakers.
 - k. "Advertising signs" (billboards) as defined in Article 17-3(b)(1) of the Zoning Ordinance.

These restrictions are appropriate and necessary for the subject property in order to restrict the most intense land uses otherwise allowable in the B-3 zone and those that are not recommended by the Comprehensive Plan at this location or in this area.

- b. ZDP 2009-85: HAMBURG PLACE FARM, PLAUDIT PLACE COMMERCIAL DEVELOPMENT, LOT 5F (2/11/10)* -
located at 1872 Plaudit Place. **(EA Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Improve legibility of contour lines and elevation references.
7. Addition of height of building.
8. Correct note number 18 from previous plan.
9. Correct plan title.
10. Correct site statistics to match B-3 acreage and statistics.
11. Clarify and correct zoning lines (to middle of street).

Zoning Presentation: Ms. Wade presented the staff report on this zone change request, briefly orienting the Commission to the location of the subject property. She noted that Plaudit Place, on which the subject property is located, is a local street that parallels Man O' War Boulevard near the Hamburg retail shopping area. It intersects with Pleasant Ridge Drive on the east side of Man O' War Boulevard. The subject property is located on the east side of Plaudit Place, midway between Pleasant Ridge Drive and the intersection with Pink Pigeon Parkway. The property was rezoned to the B-4 zone in 2001, and has been in that zone since that time, as are many of the properties on that side of Plaudit Place. The subject property is currently occupied by a carpet store. The petitioner is proposing to rezone the parcel in order to allow additional Retail and Personal Service use of the property, since the carpet store intends to relocate. In the vicinity of the subject property, there is B-6P zoning on the west side of Plaudit Place; P-1 and B-5P zoning to the north; and I-1 and some agricultural zoning along Bryant Road to the south, on which the subject property has some frontage.

Ms. Wade displayed an aerial photograph of the subject property on the overhead, noting the existing carpet store, its associated off-street parking area, and an existing detention basin.

Ms. Wade stated that 2007 Comprehensive Plan recommends Retail Trade & Personal Services use for the subject property. All of the properties on Plaudit Place currently share that recommendation, as well. The applicant is requesting a B-3 zone, which can be considered to be in agreement with that recommendation, and there are several other B-3-zoned properties in the area. The petitioner is proposing conditional zoning restrictions that mirror the existing restrictions on some of the other B-3 properties in the area, which would make the subject property compatible with the remainder of the B-3 zoning in the vicinity. The staff is recommending approval of this request, with the conditional zoning restrictions as proposed by the petitioner, for the reasons as listed in the staff report and on the agenda.

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Development Plan Presentation: Ms. Gallt presented the corollary development plan, further orienting the Commission to the location of the subject property. She stated that the existing building on the subject property is approximately 14,000 square feet in size, with sufficient existing parking spaces to meet the Zoning Ordinance requirements for the proposed B-3 retail use. Ms. Gallt stated that the Subdivision Committee recommended approval of this development plan, subject to the 11 conditions as listed on the agenda.

Petitioner Representation: Mike Meuser, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations, including the conditional zoning restrictions.

Citizen Comment: There were no citizens present to comment on this request.

Zoning Action: A motion was made by Ms. Richardson, seconded by Mr. Cravens, and carried 9-0 (Brewer and Holmes absent) to approve MAR 2009-15, including the proposed conditional zoning restrictions, for the reasons provided by staff.

Development Plan Action: A motion was made by Ms. Richardson, seconded by Mr. Cravens, and carried 9-0 (Brewer and Holmes absent) to approve ZDP 2009-85, subject to the 11 conditions as listed on the agenda.

2. KAITEN PATEL ZONING MAP AMENDMENT & BRYAN PROPERTY ZONING DEVELOPMENT PLAN

- a. MAR 2009-16: KAITEN PATEL (2/11/10)* - petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Highway Service Business (B-3) zone, for 7.35 net (7.60 gross) acres, for property located at 1810 Bryant Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 8) recommends Light Industrial (LI) land use for the subject property. The petitioner proposes a hotel, retail space, and associated off-street parking at this location.

The Zoning Committee Recommended: **Postponement**, for the reasons provided by staff.

The Staff Recommended: **Postponement**, for the following reasons:

1. The effects of the proposed zoning and uses on the established residential neighborhoods and the adjacent agricultural property need to be further evaluated. The applicant's proposal to significantly increase the intensity of use without restriction is a major concern.
2. No buffers have been proposed by the applicant near the Timber Creek subdivision.

- b. ZDP 2009-86: BRYAN PROPERTY (2/11/10)* - located at 1810 Bryant Road.

(Vision Engineering)

The Subdivision Committee Recommended: **Approval**, subject to the following requirements:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of building dimensions.
8. Label construction entrance(s).
9. Addition of existing and proposed utility easement(s).
10. Delete note number 7 and correct note number 11.
11. Label building canopies.
12. Addition of bearings and distances for lot line on lots 1 & 2.
13. Denote: Mitigation for the loss of significant trees (per Article 26 of the Zoning Ordinance) will be identified at the time of final development plan.
14. Denote: Screening requirements and lighting adjacent to residential property will be resolved at the time of final development plan.
15. Identify internal pedestrian connection from proposed hotel to trail.

Zoning Presentation: Ms. Wade presented the staff report, noting that the location of the subject property on Bryant Road is one street to the east of the property on Plaudit Place for which the Commission just recommended approval of a zone change. Bryant Road was a rural section until Man O' War Boulevard, which bisected it, was constructed. It currently terminates at the Brighton Rails-to-Trails trailhead. The subject property is one of two parcels which are still zoned A-U along Bryant Road. In the vicinity of the subject property, there is I-1 zoning to the north and south; B-3 zoning at the termination of Bryant Road; and the Timber Creek and Andover Forest subdivisions to the south and east. The subject property is bordered by the residential area

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on one side. Ms. Wade noted that the frontage of this property has not been improved, since the use of the property has been either residential or agricultural throughout its history. Other portions of Bryant Road, however, have been improved as redevelopment has occurred there.

Ms. Wade said that the petitioner proposes to rezone the property to B-3 in order to construct a hotel, as well as approximately 25,000 square feet of retail space and associated parking areas. The 2007 Comprehensive Plan recommends Light Industrial land use for the subject property, so the requested B-3 zone cannot be considered to be in agreement with that recommendation. The Planning Commission should, therefore, consider whether there has been a major change of a social, physical or economic nature in the immediate area; or whether the existing zoning is inappropriate and the proposed zoning is appropriate.

Ms. Wade stated that the staff considered the appropriateness of the proposed B-3 zoning, and found that the existing A-U zoning could be considered inappropriate at this location, considering the location of urban zoning categories on three sides of it. The A-U zone is intended, in essence, as a "holding zone" for properties until adequate public facilities can be provided, and those types of facilities have already been provided in the vicinity of the subject property. In assessing the appropriateness of the proposed B-3 zoning, the staff was concerned about the property's proximity to two residential neighborhoods, so they recommended postponement of this request at the Zoning Committee meeting two weeks ago. The Zoning Committee recommended postponement of this application to the full Commission. In the meantime, the staff was able to meet with the petitioner and discuss proposed conditional zoning restrictions that would enable them to be comfortable recommending a restricted B-3 zone at this location, as has been approved for some other nearby properties. At that meeting, the petitioner agreed to several conditional zoning restrictions, including some prohibited uses as well as screening, buffering, and lighting restrictions. The staff is now recommending approval of this request, for the following revised reasons, including the staff's proposed conditional zoning restrictions:

The Staff Recommends: Approval, for the following reasons:

1. A restricted Highway Service Business (B-3) zoning is appropriate for the subject property for the following reasons:
 - a. The proposed zoning is compatible with existing B-3 zoned land within the immediate vicinity to the southwest of the subject property.
 - b. Most non-residential land recommended by the 2007 Comprehensive Plan in this area is in business zoning categories.
 - c. B-3 zoning, with appropriate restrictions, is less intense than the light industrial land use contemplated by the Comprehensive Plan and more compatible with the adjacent residential subdivisions, Timber Creek and Andover Forrest. The applicant has agreed to restrict the property's use, including landscape buffering and lighting restrictions.
2. The existing Agricultural Urban (A-U) zoning is inappropriate for the subject property due to the property's small size, its long, narrow shape and its location between residential uses to the east and existing commercial uses to the north, south and west.
3. This recommendation is made subject to the approval and certification of ZDP 2009-86: Bryan Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

PROHIBITED USES:

- a. Establishments and lots for the display, rental, sale, service or repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Automobile service stations.
- c. Indoor amusement such as billiard or pool halls, dancing halls, skating rinks, theaters or bowling alleys.
- d. Drive-in restaurants.
- e. Major or minor automobile and truck repair.
- f. All adult entertainment uses, massage parlors, adult bookstores, adult video stores and adult arcades
- g. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
- h. Kennels.
- i. "Advertising signs" (billboards) as defined in Article 17-3(b)(1) of the Zoning Ordinance.

LANDSCAPE BUFFER AND OTHER RESTRICTIONS:

- a. Outdoor lighting of any kind shall be directed downward and not toward any residentially zoned property.
- b. A 15-foot wide landscape buffer shall be provided along the common property line of the subject property with the Timber Creek Subdivision parcels. An earthen berm and a fence 6-foot in height shall be installed along this boundary.

These restrictions are appropriate and necessary for the subject property to protect nearby single family residential uses from the most intrusive of signage and land uses otherwise possible at this location in a B-3 zone.

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Commission Questions: Ms. Copeland asked why the staff was not in favor of maintaining the Light Industrial land use recommendation for the subject property. Ms. Wade answered that the zone change for the Ashley Furniture company property precipitated a change in the area. The Light Industrial use recommendation for the subject property came about as part of a much larger area in this vicinity, but, over time, most of that area has transitioned to residential land use. The 2007 Comprehensive Plan maintained the Light Industrial recommendation, but the area for which it was recommended has shrunk significantly as the residential areas increased in size. The staff now believes that a restricted B-3 zone could be more appropriate at this location than additional I-1 uses, such as those to the north of this location.

Mr. Penn asked if access would be provided from the subject property to the Brighton Trail. Ms. Wade responded that the petitioner had suggested a direct connection to the trail from their property. There is an existing tree stand at the rear of the property, which the petitioner believes would be a good location for a sidewalk connection to the trail.

Development Plan Presentation: Ms. Gallt presented the corollary zoning development plan, noting that the petitioner proposes to construct a hotel and retail buildings on the subject property, which is planned to be two lots. The hotel is proposed to be five stories tall, with 130 rooms. The petitioner also proposes to construct 25,000 square feet of retail/commercial space. The Subdivision Committee recommended approval of this development plan, subject to the 15 conditions as listed on the agenda. Ms. Gallt added that, should the Commission choose to approve the proposed conditional zoning restrictions, a new condition #16 would need to be added, to read: "Addition of conditional zoning restrictions."

Commission Questions: Mr. Penn asked if access would be provided from the subject property to the Brighton Trail. Ms. Gallt answered that the petitioner had identified a proposed access to the trail on this plan, and she pointed out that access on the rendered development plan. The petitioner has proposed either a sidewalk or path at the rear of the property to connect to the trail.

Mr. Owens asked Ms. Gallt to explain the need for condition #13. Ms. Gallt responded that the petitioner has included the location of an existing 36" white ash tree on the plan, which is considered a significant tree. Due to the effects of the Emerald Ash Borer, the staff is concerned about the fate of that tree, and added condition #13 to ensure that the tree will be replaced if it is lost due to disease. She noted that that issue could be dealt with at the time that the Final Development Plan is considered. Mr. Owens said that he is concerned that the trees may already be lost prior to the time of the final development plan. Ms. Gallt stated that any development plan for the property would have to meet the tree canopy coverage requirements of Article 26 of the Zoning Ordinance.

Ms. Roche-Phillips asked what the three other buildings included on the development plan will be used for. Ms. Gallt answered that the petitioner is proposing commercial or retail use for those buildings, but no plans have been finalized for specific tenants at this point. Ms. Roche-Phillips asked what the triangular-shaped portion of the eastern side of the property represented. Ms. Gallt responded that that is the area of a proposed stormwater detention facility. The petitioner has indicated that they might use underground detention on the property, which is another issue that could be resolved at the time of the final development plan.

Petitioner Representation: Matt Carter, Vision Engineering, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations, including the proposed conditional zoning restrictions.

Commission Questions: Mr. Owens asked if the petitioner has any definite plans for the proposed retail/commercial space shown at the rear of the property. Mr. Carter answered that the petitioner does not have any firm plans for that area at this point. Mr. Owens asked if the petitioner would object to the prohibition of full-service restaurants, cocktail lounges, and live entertainment on the subject property, due to its close proximity to residential areas. Mr. Carter responded that the petitioner would not be willing to agree to that prohibition, as they might want to include a full-service restaurant as part of the proposed hotel. Mr. Owens asked if there was any way to restrict such uses to the hotel area only, and prohibit them in the rear portion of the property. Ms. Wade answered that, as part of the zone change for the property currently occupied by the Liquor Barn, the staff recommended the restriction of certain uses if they were going to be located within 200 feet of a residential zone. Should such a condition be applied to the subject property, it would allow such a use to exist in the proposed hotel, but not in the retail area at the rear of the property nearest to the residential area.

Mr. Carter stated that the petitioner would be willing to agree to such a restriction.

Ms. Copeland asked how much I-1 property remains in the Hamburg area today. Mr. Sallee responded that the property adjacent to the subject property is still zoned for industrial use, and a parcel to the southwest remains recommended for industrial use. Ms. Wade added that there are some properties at the other end of Bryant Road/Pleasant Ridge Drive as well. Ms. Copeland said that she does not believe that the proposed hotel would serve the neighborhood, and that the loss of I-1 zoning in the area would not implement the "live/work/play concept." Ms. Wade said that the staff contends that I-1 uses do not usually serve a neighborhood. She added that a hotel could also provide jobs in the area.

Citizen Comments: There were no citizens present to speak on this zone change request.

Zoning Action: A motion was made by Ms. Richardson, seconded by Ms. Whitman, and carried 8-1 (Copeland opposed; Brewer and Holmes absent) to approve MAR 2009-16, for the reasons provided by staff, including the recommended conditional zoning restrictions, and adding an additional item "j" to the proposed prohibited uses, to read: "Restaurants, cocktail lounges, and nightclubs with entertainment, dancing and/or sale of alcoholic beverages, within 200 feet of a residential zone."

Development Plan Action: A motion was made by Ms. Richardson, seconded by Ms. Whitman, and carried 9-0 (Brewer and Holmes absent) to approve ZDP 2009-86, subject to the 15 conditions as listed on the agenda, and adding a new condition #16 to read: "Addition of conditional zoning restrictions."

V. COMMISSION ITEMS

- A. ANNUAL REPORT FROM PURCHASE OF DEVELOPMENT RIGHTS PROGRAM – Mr. Van Pelt began his presentation of the annual PDR report by distributing the necessary report information to the Commission members, as required by the Zoning Ordinance. He said that the PDR program currently has 23,928 acres participating, which is 47% of the goal of 50,000 acres by 2020. He noted that, between 1990 and 1998, over 4,700 acres of farmland were lost in Fayette County, which led to the creation of the Rural Land Management Plan.

The PDR program is voluntary, and a farm must have at least 20 acres in a core agricultural area to be considered for participation. Applicants are considered based on a LESA ranking system, which is weighted toward agricultural uses and environmental quality. Appraisers are hired to help evaluate each farm for assessment, and the purchase of property is funded by the LFUCG and various matching grants. Grant funding for the program has increased by \$5.5 million over the amount that was awarded at its inception. The Round 9 final ranking is scheduled for March of 2010.

Mr. Van Pelt stated that our PDR program is nationally recognized, and has been favorably compared with many famous preservation programs. It offers many benefits for Fayette County, including preservation of farmland; control of the Urban Service Area boundary; creation of agricultural jobs; protection of environmentally sensitive areas; and contribution to the tourism industry.

Commission Questions and Comments: Ms. Roche-Phillips stated that a graduate student had compiled a report about the PDR farms, which noted that they are mostly spatially contiguous. She asked if the Rural Land Management Board would consider increasing the acreage goal for the program, based on that information. Mr. Van Pelt answered that the Board would need to reconvene all of the stakeholders in order to make such a decision. Ms. Roche-Phillips asked if there are any plans to coordinate our PDR program with those of surrounding counties. Mr. Van Pelt responded that it would be difficult, since some of those counties do not currently have funding for their PDR programs. In addition, zoning and lot minimums are different for each of the counties, and the Fayette County program is far ahead of those in Scott and Woodford Counties.

Mr. Penn stated that Mr. King was one of the principals in the creation of the PDR program, and he wrote the ordinance which governs it. He noted that it took a large number of people to lobby for the state legislation that was necessary to create the program, which was intended to be a model for the other counties in Kentucky. Overall, he believes that the PDR program has been a "win-win" for Fayette County.

Director Comments: Mr. King stated that he is proud to be part of the PDR program. He noted that 2008 marked the 50th anniversary of the Urban Service Area boundary, and 2009 was the 10th anniversary of the Rural Land Management Plan. The PDR program is still a model for other communities, and Fayette County is considered an "innovative leader" in this area of land management and planning.

Mr. Penn thanked Mr. Van Pelt for his hard work with the PDR program.

Ms. Roche-Phillips asked if the Rural Land Management Plan is proposed to be updated. Mr. Van Pelt answered that it is not a static document, and it will continue to be updated. He noted, however, that it is important that the Plan not be updated piecemeal. The Rural Land Management Board will likely discuss such an update after the PDR program has reached the halfway point toward its acreage goal.

Mr. King noted that the Rural Land Management Plan is part of the purview of the Planning Commission, and that it will be updated as part of the preparations for the next Comprehensive Plan. During that process, the Planning Commission will be able to take part in the discussions of the RLMP.

Note: Chairman Penn declared a brief recess at 2:55 p.m. The meeting re-convened at 3:09 p.m.

- B. ANNUAL REPORT FOR THE COURTHOUSE AREA DESIGN REVIEW BOARD - Mr. Van Pelt stated that the Courthouse Area Design Review Board has gained a new member, Harry Richards, in 2009. He said that the Board granted 11 approvals in 2009, and there were 11 staff approvals. There was a small increase in staff-level approvals this year, following the recent inspections of

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student housing areas by the Divisions of Code Enforcement and Fire and Emergency Services. Mr. Van Pelt displayed several photographs of recent changes to structures in the Courthouse Area, and noted that the Board meets once quarterly or as needed.

Commission Comments: Mr. Penn asked if any expansion is proposed to the Courthouse area in the future. Mr. Van Pelt answered that there is not, but discussions are taking place with regard to the treatment of historic buildings outside the Courthouse area. He noted that a text amendment may be proposed at some point in the future to deal with issues of historic preservation.

Ms. Roche-Phillips asked if the discussion of the text amendment will deal with the argument of economic impact, which applicants sometimes use as a justification for removal of a historic structure. She noted that, in such cases, the applicant has to prove economic infeasibility, and that can be difficult to quantify. Mr. Van Pelt answered that the Board is working on a list of such items, and noted that those issues require careful study prior to proceeding with any text changes.

C. SUBDIVISION REGULATION TEXT AMENDMENT INITIATION - DELETE ARTICLE 6-4(i) REGARDING STREET ADDRESSING

AUTHORITY – The staff will request Commission initiation of an amendment to delete this Article of the Land Subdivision Regulations regarding the assignment of street addresses by the Commission. This regulation is in conflict with Section 17-2 of the Code of Ordinances. The conflict has led to some question about which government entity has the authority to assign street addresses. The Department of Law has recommended this amendment to the Division of Planning in order to eliminate any future uncertainty.

Staff Presentation: Mr. Sallee distributed to the Planning Commission members copies of a memorandum from the Department of Law, dated September 30, 2009. He noted that, on at least two occasions, there have been discussions about development plans and the Planning Commission's authority with regard to addressing a property, and the memorandum from the Department of Law should serve to clarify the situation. It explains that the Code of Ordinances has superseded the provision in the Subdivision Regulations that places the authority for addressing with the Planning Commission. The Law Department has informed the Planning staff that the Department of Public Safety should act as the authority for addressing. The Law Department also recommended that the conflicting sections in the Subdivision Regulations be removed. The staff is requesting, therefore, that the Commission initiate the change to the Subdivision Regulations that identifies the Planning Commission as having the authority for addressing. Mr. Sallee noted that, should the Commission choose to initiate this change, it would probably be presented at a public hearing in February or March.

Action: A motion was made by Ms. Richardson, seconded by Mr. Paulsen, and carried 9-0 (Brewer and Holmes absent) to initiate a text amendment to the Subdivision Regulations to delete Article 6-4(i).

VI. STAFF ITEMS

- A. PFR 2009-8: COMMONWEALTH OF KY FINANCE & ADMINISTRATION CABINET** – a public facilities review of new construction of the Eastern State Hospital Replacement Facility, located at 1350 Bull Lea Road, in the Coldstream Research Park.

SUMMARY FINDINGS: There are no Goals or Objectives of the Comprehensive Plan that are in opposition to use of the property as the Replacement Facility for Eastern State Hospital. Not only is it in compliance with the Land Use Element of the Plan (which is based on the current zoning), several Goals and Objectives, as well as text of the Plan, support the project. The property is within the Royal Spring Aquifer Protection Area and, merely by virtue of its development and occupancy 24/7/365, has the potential to contaminate the ground water system if Best Management Practices are not adhered to. Other than ensuring that a potable water supply for Scott and Fayette Counties is maintained, there are no significant issues that might be of concern in the proposed development and use of this property.

STAFF RECOMMENDATION: **Approval**, as requested, with the following recommendations:

1. Because the property is within the Wellhead Protection Area, it is recommended that the proposal be presented to the Royal Spring Water Supply Protection Committee, which is an advisory committee for Scott and Fayette Counties, the purpose of which is to review any development proposed within the Wellhead Aquifer Protection Area. The Committee is charged with protection of the water supply within the two counties and the ground water system that feeds it, in accordance with the requirements of the Kentucky Water Supply Planning Regulations (401 KAR 4:220).
2. It is recognized that the facility (primary hospital and other [personal care] buildings) will be LEED Silver Certified; however, because it is within the Wellhead Protection Area, Best Management Practices (BMP) should be used for all aspects of property development in order to protect the Cane Run Creek and its associated watershed.

Staff Presentation: Ms. Rackers presented the staff report, noting that the Eastern State Hospital Replacement Facility is proposed to be located within the existing Coldstream Research Campus at 1350 Bull Lea Road. She briefly oriented the Commission to the location of the subject property. The subject property is surrounded by P-2 zoning to the west, in the Coldstream Research Campus; I-1 zoning to the south in the Melbourne Industrial Park; A-U zoning in Oakwood Park subdivision; and P-1 zoning to the east for the Bluegrass Mental Health/Mental Retardation facility.

Ms. Rackers stated that the subject property is slightly less than 30 acres in size. A primary hospital facility is proposed on the property, along with up to four personal care homes, with associated parking. Access to the property is proposed from Bull Lea Road,

* - Denotes date by which Commission must either approve or disapprove request.

off of Citation Boulevard. The number of parking spaces proposed is between 400 and 500 spaces. As part of the required LEED certification for the property, parking spaces must be restricted to the minimum number required for the facility, with no extra spaces.

With regard to the recommendations of the 2007 Comprehensive Plan, Ms. Rackers said that the subject property is recommended for Office, Industry & Research Park land use. That recommendation is based on previous Comprehensive Plans, as well as the existing P-2 zoning for the property. Office, Industry & Research Park use is defined as one which has "compatible offices, research facilities and light industrial uses to provide jobs in a high-quality, park-like setting." The existing P-2 zoning would allow P-1 uses, some B-4 uses, some I-1 uses, and some B-3 uses.

Ms. Rackers stated that KRS 100 requires a Public Facility Review to determine compliance with the Comprehensive Plan any time land is acquired, disposed of, or changed for any public facilities. There are no Goals, Objectives, or text in the 2007 Comprehensive Plan that are in opposition to this request, and there are several Goals and Objectives that support the proposed relocation of Eastern State Hospital. The property is a remnant parcel that is owned by the state of Kentucky, which was rezoned to P-2 as part of the overall zone change for the Coldstream Campus. The hospital is proposed to be three stories tall, with a possible fourth story on one wing. Several personal care homes are proposed, each to be approximately 6,000 square feet in size. One of those homes is also proposed to house the administrative offices for the personal care outreach facility. Those homes are proposed to be used as transitional housing in order to allow residents the opportunity to learn to live independently, while still under supervision. The personal care community outreach facility currently shares a facility on Fourth Street with Eastern State Hospital, but it is a separate entity which cares for approximately 40 people. The relocation of the facility to the Coldstream location would allow it to increase the number of patients that could be served to approximately 60. That use of the property would support Goal 20 of the Comprehensive Plan, as well as its Objectives relative to human services and facilities. Objective D is "to encourage adequate and equitable distribution of safe and appropriately-located child and adult day care facilities and group residential care facilities and services throughout the Urban Service Area." Objective F is to "increase the level of human and social services provided to those citizens who are in need."

Ms. Rackers noted that one of the main tenets of the Comprehensive Plan is energy efficiency and environmental responsibility. The Plan refers to the U.S. Green Building Council and LEED certification, which stands for "Leadership in Energy and Environmental Design." LEED is a certification and rating program which sets standards for green building and site design. As of the completion of the 2007 Comprehensive Plan, there were no buildings in Lexington which were LEED-certified. The Commonwealth of Kentucky requires that this project be at least "Silver" certified, which requires 50-59 LEED points out of a possible 110. That level of certification is for "environmentally-friendly acts taken during construction and use of the building." As part of the LEED assessment, provision of public transportation is one means by which a project can accrue points. LexTran has agreed to work with the administration in order to provide a transit stop in front of the property, as well as Wheels van service. There will also be parking provided for vans using the LFUCG van pool program, which is administered through the MPO. The LEED certification of the hospital facility will account for a large part of the project's compliance with the Comprehensive Plan, since it will require environmental stewardship as recommended by the Plan.

Ms. Rackers stated that there are two important considerations on the subject property: an area of FEMA floodplain, and the location of the property in the Royal Spring Aquifer Wellhead Protection Area. She referred to the site plan, noting the area of the floodplain as it relates to the property line. The floodplain area requires a 25' buffer, which is proposed to surround the parking area on the property. No development is allowed in the floodplain or the buffer area. Due to the property's location in the Royal Spring Aquifer Wellhead Protection Area, the preservation of water quality is a major consideration. As long as Best Management Practices are used to maintain water quality on the property, the development of the hospital should not negatively impact the aquifer area. At the time of the rezoning in 1991, an agreement was made that all facilities located within the Coldstream campus would meet the requirements for protection of the Royal Spring Aquifer. Best Management Practices are also required as part of the LEED certification for the project.

Ms. Rackers said that there is an extensive treeline along the property boundary, which should be maintained as much as possible. Supplementation of the landscaping on the property cannot be required, but the staff would like to encourage it, particularly if the landscaping does not meet the zone-to-zone screening requirements between the P-1 and P-2 zones.

Ms. Rackers stated that the staff is recommending approval of this Public Facility Review, with the recommendations as listed in the staff report and on the agenda.

Petitioner Representation: Sara Tuttle, Strand Associates, was present representing the petitioner. She said that the relocation of the Eastern State Hospital facility is a project that is long overdue, and that she is excited to be involved with it. She agreed with the staff and hoped that the Commission would find the project in compliance with the Comprehensive Plan.

Commission Questions: Mr. Cravens asked what the "Silver" designation means with regard to LEED certification. Ms. Tuttle responded that there are Bronze, Silver, Gold and Platinum levels of LEED certification. Joe Moore, Finance Cabinet, stated that the Silver certification is one step above basic LEED certification. He noted that that certification is required by the Commonwealth of Kentucky as part of the passage of high-performance energy standards.

Ms. Copeland asked if any construction is proposed for the floodplain area on the property. Ms. Tuttle answered that the petitioner was required to file a conditional Letter of Map Revision (CLOMR) to FEMA in order to build the proposed bridge across Cane Run Creek.

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As part of that request, the petitioner has already filed and received a conditional Letter of Map Revision for the Legacy Trail property. That CLOMR altered the floodplain area somewhat from what is depicted on the D-FIRM maps, so that the proposed parking area will not actually be as close to it as it appears on the site plan.

Ms. Copeland asked if the Legacy Trail is proposed to be in the floodplain area, and if it could serve as screening for the parking area. Ms. Tuttle responded that the portion of the Legacy Trail that is currently being constructed will not be located in this portion of the floodplain. She noted that, until such time as pedestrian access across Newtown Pike is provided, pedestrians on the trail will have to travel along Citation Boulevard until they reach the bridge over Cane Run Creek. At some point in the future, the Legacy Trail is proposed to be constructed along the creek.

Mr. Penn asked why only the minimum amount of parking is being proposed. Ms. Tuttle answered that, in order to qualify for LEED certification, only the minimum parking can be provided.

Director Comments: Mr. King stated that the new Eastern State hospital facility is needed and important, and that the Commission is aware of the importance of its relocation, as well as the relocation of the BCTC campus. He said that those changes will “echo through many parts of the community” and could have a major impact on the north end of Lexington in general.

Mr. Moore stated that he is also involved with the BCTC project, which is moving forward on schedule.

Action: A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 9-0 (Brewer and Holmes absent), finding that PFR 2009-8 is in full compliance with the 2007 Comprehensive Plan.

VII. AUDIENCE ITEMS – No such items were presented.

VIII. MEETING DATES FOR JANUARY, 2010

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 7, 2010
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	January 7, 2010
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 14, 2010
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 21, 2010
Council Planning Committee Joint Meeting.....	January 26, 2010
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	January 27, 2010
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 28, 2010

IX. ADJOURNMENT – There being no further business, Chairman Penn declared the meeting adjourned at 3:27 p.m.

TLW/TM/BJR/BS/src