

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

October 25, 2007

- I. **CALL TO ORDER** – The meeting was called to order at 1:32 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Lyle Aten; Mike Cravens; Linda Godfrey, Chair; Ed Holmes; Jim Mahan; Frank Penn; Carolyn Richardson; Lynn Roche-Phillips (arrived at 1:47 p.m.); and Joan Whitman (arrived at 2:34 p.m.). Absent were Neill Day and Randall Vaughn.

Planning staff members present: Chris King, Director; Bill Sallee; Traci Wade; Tom Martin; Cheryl Gallt; Chris Taylor; Rob Hammons; and Stephanie Cunningham. Other staff members present were Andrea Weddle, Department of Law; Chuck Saylor, Division of Engineering; Bob Carpenter, Division of Building Inspection; Tim Queary, Urban Forester; and Captain Charles Bowen, Division of Fire and Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Penn, seconded by Mr. Aten, and carried 7-0 (Day, Roche-Phillips, Vaughn, and Whitman absent) to approve the minutes of the September 27, 2007, Planning Commission meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **TATES CREEK HEIGHTS, LLC, ZONING MAP AMENDMENT & PINNACLE, LOT 1 (AMD.) ZONING DEVELOPMENT PLAN**

- a. MAR 2007-9: TATES CREEK HEIGHTS, LLC (10/25/07)* – petition for a zone map amendment from a Neighborhood Business (B-1) zone with conditional zoning restrictions to a Neighborhood Business (B-1) zone with modified conditional zoning restrictions, for 4.19 net (5.83 gross) acres, for property located at 1093, 1097 & 1099 Duval Street.

LAND USE PLAN AND PROPOSED USE

The Land Use Element of the 2007 Comprehensive Plan (Sector 10) recommends Retail, Trade and Personal Services land use for the subject property. The petitioner proposes the addition of a coffee shop to the site, which is already approved for a “sit-down” restaurant, offices and a florist shop on the subject property, as well as revisions to the signage and landscaping restrictions previously imposed.

The Zoning Committee Recommended: **Referral to the full Commission.**

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

1. Conditions originally put upon the subject property were not done in anticipation of a professional office use across Duval Street from the subject property. This would constitute a change in the physical and economic nature of the area since 1996, which makes this site eligible for a revision to the very limited conditional zoning restrictions originally placed thereon.
2. The expanded uses currently requested are still consistent with the Retail, Trade and Personal Services land use recommendations of the 2007 Comprehensive Plan and the prior 2001 Comprehensive Plan.
3. This recommendation is made subject to the approval and certification of ZDP 2007-50: Pinnacle, Unit 1 (Amd.) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of any Planning Commission approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall now be subject to the following use restrictions, (with all edits shown below in italicized text from the previous conditions):
 - a. The B-1 site shall *contain a maximum of four buildings and be used only as either a sit-down restaurants without drive-through facilities or the service of “fast food,” a florist shop, and/or a use permitted in the P-1 zone other than a bank, a credit institution, a television studio or a hospital; however, notwithstanding any provision to the contrary, a single drive-through shall be permitted solely for the use of a coffee shop (the “permitted drive-through”).*
 - b. *In the event the permitted drive-through should cease to be used solely in connection with a coffee shop, or should a coffee shop cease to operate as a coffee shop (excluding any reasonable number of days necessary for repair, remodeling, or reconstruction as a result of or required by a lawful order or decree of a governmental or regulatory authority, a casualty loss, other than such a loss caused by the owner of the property), then the permitted drive-through shall be removed, no future drive-through shall be allowed on the property, and the use of the coffee shop building shall be restricted to the uses permitted herein.*
 - c. *The portion of the property used for the coffee shop shall be permitted to display on the east-facing portion of the building only a single logo, and the words may be displayed a single time on the east-facing façade, the letters of which shall not exceed 18 inches in height, and the logo shall not exceed 36 inches in height, and in no event shall the words or the logo be backlit or internally lit. Signs on the other sides of the building and on the property shall be regulated under the Zoning Ordinance.*
 - d. The existing (“**original**”) structure shall be preserved except to the extent it must be modified to permit the construction of additions and/or renovations as described below.

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

- e. *An additions* to the existing ("**original**") structure shall be allowed, but shall only be in accordance with a final development plan submitted to and approved by the Planning Commission; and such additions in total shall not exceed 3,000 square feet and shall be governed by all of the restrictions and limitations that apply to the new building as described below.
 - f. Parking will be in accordance with a final development plan submitted to and approved by the Planning Commission; *provided, however, that a visual buffer of hedges and trees shall be placed on the east-facing side of the property.*
 - g. The property owner shall preserve the existing mature trees on site except as necessary for the construction of ~~one new~~ the office building, the additions to the existing structure, the aforementioned coffee shop and accessory parking, all as approved by the Planning Commission on the final development plan for the site and subject to all restrictions and limitations contained herein, and such trees, if removed, shall be replaced in equal number to preserve the buffer between the site and Bates Creek Road;
 - ~~f. Signage shall be limited to the signage shown on and approved by the Planning Commission on the final development plan for the site and in accordance with the limitations contained herein;~~
 - h. Existing trees which provide a visual buffer from surrounding properties shall be preserved, *and* damaged or diseased trees may be removed if also replaced. ~~in equal number and kind on the site; and Deciduous trees shall be planted in the exterior parking lot.~~
 - i. *In addition to the above-referenced coffee shop building,* the construction of ~~one~~ a single additional ~~new~~ building shall be permitted (the "office building"); however, such building shall not exceed 36,000 square feet, shall not exceed 36 feet in height at its highest point as measured from the existing grade level as of September 20, 2005, including all fixtures, equipment and any other materials (except that any equipment located on the roof shall be completely screened from view by parapet walls which are permitted to rise an additional 6 feet solely for that purpose), shall primarily utilize only a brick siding or masonry façade which must cover no less than 55% of the exterior surface of the building excluding the roof, windows and doors, and the roof shall vary in height with no less than three (3) articulating roof heights. ~~In addition~~ Furthermore, the easternmost edge of the office ~~such~~ building shall be ~~no closer at any point than 30 feet from the right-of-way bordering Bates Creek Road~~ at least 100 feet from the easement line on the east side of the property.
- b. [ZDP 2007-50: PINNACLE, LOT 1 \(AMD.\)](#) (10/25/07)* – located at 1093, 1097 and 1099 Duval Street.
(EA Partners)

Note: The purpose of this amendment is to add a coffee shop with a drive-through, delete sign information, and to relocate buildings and parking.

The Subdivision Committee Recommended: Referral. There were questions regarding compliance with the off-street parking requirements of the Neighborhood Business (B-1) zone and compliance with the applicant's proposed conditional zoning restrictions.

Should this plan be approved, the following requirements should be considered:

1. Provided the Urban County Council revises the conditional B-1 zoning of the property; 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 parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping, including arterial screening.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
7. Revise conditional zoning restrictions.
8. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
9. Dimension drive aisles and new buildings.
10. Addition of record plat information for this development.
11. Clarify easement information.
12. Clarify required off-street parking (restaurant and coffee shop use) based on the number of seats.
13. Clarify note number 13.
14. Correct the spelling in site statistics.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner and requested postponement to the November 29, 2007, meeting.

Action: A motion was made by Mr. Penn, seconded by Mr. Mahan, and carried 7-0 (Day, Roche-Phillips, Vaughn and Whitman absent) to postpone MAR 2007-9 to the November 29, 2007, Planning Commission meeting.

2. FORTUNE OFFICES, LLC, ZONING MAP AMENDMENT & EASTWOOD, UNIT 6, SECTION 1, LOT 6 ZONING DEVELOPMENT PLAN

- a. MAR 2007-20: FORTUNE OFFICES, LLC (11/10/07)* - petition for a zone map amendment from a Professional Office (P-1) zone to a Wholesale & Warehouse Business (B-4) zone, for 5.555 net (5.635 gross) acres, for property located at 2472 Fortune Drive.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 8) recommends Professional Services (PS) future land use for the subject property. The petitioner proposes constructing 57,000 square feet of warehouse and accessory office space, as well as off-street parking and loading areas.

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

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

1. The existing Professional Office (P-1) zoning is inappropriate, and the proposed Wholesale and Warehouse Business (B-4) zoning is appropriate at this location for the following reasons:
 - a. The B-4 zone requested would be compatible with adjacent commercial development and will not adversely affect the surrounding area or other 2007 Comprehensive Plan land use recommendations for this area.
 - b. The subject property would function well as a part of the existing business park development along Fortune Drive, and the requested zone change will allow it to function in this manner.
 - c. The subject property is separated from the adjacent P-1 zoned property to the south by an existing tree stand and from the residentially zoned property to the northeast by a large detention basin. The tree stand and detention basin are more appropriate and recognizable land use buffers between the office and residential uses and the proposed wholesale/warehouse use in this instance.
2. This recommendation is made subject to approval and certification of ZDP 2007-113: Eastwood Unit 6, Sec. 1, Lot 6, 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 use restrictions shall apply to the property via conditional zoning:

PROHIBITED USES

1. Machine shop.
2. Major or minor automobile or truck repair.
3. Tire re-treading and recapping.
4. Truck terminals and freight yards.
5. Circuses and carnivals, even on a temporary basis.
6. Any wholesale or trucking use operating between the hours of 11 p.m. and 7 a.m.

These use restrictions are appropriate and necessary at this location to ensure that the proposed development adequately protects the nearby neighborhood and assisted living facility.

- b. ZDP 2007-113: EASTWOOD, UNIT 6, SECTION 1, LOT 6 (11/10/07)* - located at 2472 Fortune Drive.
(Strand Associates)

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

1. Provided the Urban County Council rezones the property B-4; 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.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
8. Revise owner's certification and Planning Commission's certification.
9. Correct plan title.
10. Addition of written scale information.
11. Label building lines.
12. Verify the recordation of drainage easements.
13. Resolve building and drainage easement conflict.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner and requested postponement to the November 29, 2007, meeting.

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Action: A motion was made by Mr. Aten, seconded by Mr. Mahan, and carried 7-0 (Day, Roche-Phillips, Vaughn, and Whitman absent) to postpone MAR 2007-20 to the November 29, 2007, Planning Commission meeting.

3. **BOAR 2007-3: ALLEN R. FOSTER** (10/25/07)* – an appeal of the denial of a Certificate of Appropriateness to allow a deck to remain as built in a Planned Neighborhood Residential/Historic District Overlay (R-3/H-1) zone, on property located at 129 Ransom Avenue.

The Staff Recommends: Disapproval and that the decision of the BOAR be upheld, for the following reasons:

1. The denial of a Certificate of Appropriateness by the Board of Architectural Review is consistent with their charge in determining appropriateness of requested exterior alterations, based on the design guidelines established by the local Historic Preservation Commission, specifically Guidelines 14-4 and 39-2, as they apply to the deck at 129 Ransom Avenue and the subsequent loss of green space in the rear yard.
2. If a Certificate of Appropriateness had first been requested for the deck, as is required by Article 13 of the Zoning Ordinance for any exterior change to a property in an historic district; and if a permit had been requested from the Division of Building Inspection, as is required by Article 5 of the Ordinance, this situation would likely have been averted.

Staff Comment: Mr. Sallee stated that the staff had received a phone call from the petitioner's representative, requesting a one-month postponement of this item.

Commission Question: Mr. Penn asked how many times this item could be postponed. Mr. Sallee responded that the Commission has the ability to postpone it within the initial 90 days after filing. After that time, the petitioner can continue to request postponement as many times as they choose. He noted that the Commission had the ability to deny this or any request for postponement.

Action: A motion was made by Mr. Penn, seconded by Mr. Mahan, and carried 9-0 (Day and Vaughn absent) to postpone BOAR 2007-3 to the November 29, 2007, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, October 4, 2007, at 8:30 a.m. The meeting was attended by Commission members Carolyn Richardson, Neill Day, and Mike Cravens. Committee members in attendance were: Charles Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Jimmy Emmons, Chris Taylor, Cheryl Gallt, Denice Bullock, Bill Sallee, Traci Wade and Tom Martin; as well as Ed Gardner, Department of Law; Captain(s) Bill Woodward and Charles Bowen, Division of Fire & Emergency Services; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, October 4, 2007, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Linda Godfrey, Ed Holmes, Frank Penn, Randall Vaughn, and Joan Whitman. 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
- Petitioner's report(s)
- Citizen Comments - (a) in support of request, and (b) in opposition to the request

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- Rebuttal - (a) petitioner's comments; (b) citizen comments; (c) staff comments
- Hearing closed and Commission votes on zone change petition and related plan(s)

1. **VALUE PLACE REAL ESTATE SERVICES, LLC, ZONING MAP AMENDMENT & LAKEPOINTE, BLOCK "B," LOT 1 (AMD.) ZONING DEVELOPMENT PLAN**

- a. MAR 2007-17: VALUE PLACE REAL ESTATE SERVICES, LLC (AMD.) (12/30/07)* – an amended petition for a zone map amendment from a Professional Office (P-1) zone to a Highway Service Business (B-3) zone, for 2.22 net (3.75 gross) acres, for property located at 2374 Lake Park Road (a portion of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 8) recommends Professional Services (PS) land use for the subject property. The petitioner proposes to develop an extended-stay hotel with 121 units and associated off-street parking.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommends: Postponement, for the following reasons:

1. The requested B-3 zoning for the subject property is not in agreement with the 2007 Comprehensive Plan future land use recommendation.
 2. Given that the amended application was submitted within the past three days, additional time is needed for the staff to fully consider whether the applicant's proposed conditional zoning restrictions are adequate and appropriate at this location.
- b. ZDP 2007-80: LAKEPOINT SUBDIVISION, BLOCK "B," LOT 1 (A PORTION OF) (12/30/07)* - located at 2374 Lake Park Road.
(EA Partners)

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

1. Provided the Urban County Council rezones the property R-5; 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 zone-to-zone screening.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
8. Addition of all existing easement information.
9. Addition of name and address of developer.
10. Addition of written scale.
11. Addition of New Circle Road cross-section.
12. Addition of building dimensions and building lines.
13. Addition of existing screening easements.
14. Addition of proposed uses in site statistics.
15. Addition of storm drainage information.
16. Remove dumpster detail information.
17. Provision of Article 21-4(f) of the Zoning Ordinance for the adjacent P-1 property on plan face.
18. Discuss compliance with minimum useable open space requirements.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property. She noted that this application had been amended from the original submission, and distributed to the Commission copies of a revised staff report. With this amended application, the petitioner is requesting rezoning of the northern portion of the subject property, rather than the southern portion which was the subject of the original request.

Ms. Wade stated that the petitioner proposes to construct an extended-stay hotel on the subject property, with 121 units. Extended-stay hotels are considered a principal use in the requested B-3 zone, but they are a conditional use in the R-5 zone originally requested. These hotels are defined differently in the Zoning Ordinance, in that each unit is equipped with a kitchen, and there is a requirement that 75% of the hotel's rentals be by the week or greater.

The 2007 Comprehensive Plan recommends Professional Services use for the subject property. The existing P-1 zone would be considered to be in agreement with the Plan, and the requested B-3 zoning would not. Ms. Wade said that the Planning Commission, therefore, must consider whether there had been any unanticipated changes in the area since the adoption of the Comprehensive Plan, and there have not. In the absence of unanticipated changes, the Commission must

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consider whether the requested B-3 zoning is more appropriate than the existing P-1 zoning. The petitioner contends that their proposal for an appropriately restricted B-3 zone is more appropriate.

Ms. Wade said that the petitioner included along with the amended application a list of conditional zoning restrictions for this property, but the staff was originally concerned about the extent of those restrictions. Following a meeting with the staff, the petitioner was agreeable to additional conditional zoning restrictions.

The petitioner contends that the restricted B-3 zoning will accommodate the proposed extended-stay hotel, while still remaining compatible with the residential uses that exist on Lake Park Road, and the proposed office uses on the southern portion of the subject property. Ms. Wade noted that James Motor Company, located to the north of the subject property, is zoned B-3 and has a limited set of conditional zoning restrictions; the petitioner is proposing far greater restrictions for the subject property to help ensure an effective transition between the James Motor Company use and the professional and residential uses to the south and west.

The staff found that a reduction in Professional Office zoning in this area would not be detrimental to the existing uses, since an extended-stay hotel would be less intense than a typical P-1 use. Ms. Wade stated that the Zoning Committee recommended referral of the zone change request, because the staff was recommending postponement at the time of their meeting. Following revisions to the conditional zoning provisions, the staff now recommends approval, for the following reasons:

1. The requested restricted Highway Service Business (B-3) zone is appropriate for the subject property for the following reasons:
 - a. The extended-stay hotel use proposed at this location by the applicant would be less intense than the current professional office zoning would allow, thereby providing an effective transition between the commercial land uses along Richmond Road and the high density residential and planned professional office uses to the south and west.
 - b. The proposed restricted B-3 zoning and land use are appropriate because they are compatible with the adjacent P-1 zoning and apartment uses to the south and west, thereby allowing a clustering of similar land use with similar intensities.
2. The existing Professional Office (P-1) zone is inappropriate for the portion of the subject property proposed for rezoning. A reduction in the amount of professional office zoning at this location will not be detrimental in that an extended-stay hotel use would be less intense than a typical P-1 use, yet compatible with the residential use in the area because extended-stay hotel rooms are comparable to residential dwelling units, as defined in the Zoning Ordinance.
3. This recommendation is made subject to the approval and certification of ZDP 2007-80: Lakepointe Subdivision, Block B, Lot 1(AMD.), 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 shall be established for the subject property via conditional zoning:

PROHIBITED USES

- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
- b. Automobile service stations.
- c. Cocktail lounges and nightclubs.
- d. Car washing establishments, as a principal permitted use.
- e. Indoor amusements such as billiard or pool halls, dancing halls, skating rinks, or bowling alleys.
- f. Self-service laundry, or laundry pick-up station, or clothes cleaning establishments.
- g. Garden centers.
- h. Kennels.
- i. Minor automobile and truck repair.
- j. Barber shops, beauty shops.
- k. Circuses and carnivals.
- l. Taxidermy establishments.
- m. Pawnshops.
- n. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
- o. Drive-in and drive-through restaurants.
- p. Amusement parks, fairgrounds, or horse racing tracks.
- q. Outdoor theatres.
- r. Passenger transportation terminals.
- s. Mining of non-metallic materials.
- t. Above- and below-ground storage of any flammable material in gaseous form.

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- u. Loud speakers.

SIGNAGE

- a. "Advertising signs" as defined in Article 17-3(b)(1) of the Zoning Ordinance shall be prohibited.
- b. Any free standing sign along Lake Park Drive shall be limited to a maximum of ten (10) feet in height and a maximum of fifty (50) square feet in size.

These restrictions are appropriate and necessary for the subject property to provide an appropriate land use transition at this location and to protect the nearby residential dwelling units from incompatible signage that might otherwise be allowed.

Ms. Wade noted that the proposed conditional zoning restrictions for signage would limit any sign located on the Lake Park Road frontage to 10 feet in height, and 50 square feet in size. Normally a hotel in the B-3 zone would be allowed two freestanding signs, each up to 75 square feet in size and up to 25 feet in height.

Commission Questions: Mr. Aten asked if there were any other zones that would allow an extended-stay hotel. Ms. Wade answered that the only zones that would accommodate an extended-stay hotel are the R-5 zone; the requested B-3 zone; and the B-5P zone. In this location, the B-5P zone would be inappropriate because it is not located near an interstate interchange. The R-5 zone originally proposed by the petitioner was problematic for the applicant because of the open space requirement, and signage limitations. Ms. Wade stated that that is the reason behind the applicant's amendment of this request.

Development Plan Presentation: Mr. Martin presented the corollary development plan, further orienting the Commission to the location of the subject property. He noted that the petitioner proposes a four-story building, 10,750 square feet in size, with one access to Lake Park Road. The petitioner proposes 121 units for the extended-stay hotel, with 126 parking spaces, which exactly meets the minimum off-street parking requirement.

Mr. Martin stated that the Subdivision Committee reviewed the previous submission, rather than the one presented today, and recommended approval of the development plan. The staff recommends approval, with the following revised conditions:

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 zone-to-zone screening.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
8. Addition of all existing easement information.
9. Addition of existing screening easements.
10. Addition of proposed uses in site statistics.
11. Addition of storm drainage information.
12. Denote Article 21-4(f) of the Zoning Ordinance for the adjacent P-1 property on plan face.
13. Revise note 9 to read "building permits" instead of certificate of occupancy.
14. Delete note 10.
15. Addition of conditional zoning restrictions.

Commission Questions: Mr. Aten asked what the landscape requirement would be along Lake Park Road. Mr. Martin answered that vehicular use area screening would be required. Mr. Aten asked if any street trees or right-of-way landscaping would be required. Mr. Martin responded that no such landscaping would be required at this time; but, should the petitioner choose to subdivide the property, street trees would be required as part of the subdivision plan process. Mr. Aten said that the roadway system in the area should have the quality of a street, and street trees should be required along with appropriate screening and buffering.

Petitioner Representation: Rena Wiseman, attorney, was present representing the petitioner. She stated that the petitioner had been working with the staff for several months to try and solve the issues with this location. The petitioner initially requested an R-5 zone, but was unable to meet the open space requirement. The petitioner then met with the landowner and agreed to purchase the northern parcel of the lot, and determined that the B-3 zone was the only zone that could accommodate the proposed use. Ms. Wiseman stated that this request is either for "B-3 light," or "P-1 plus." Through the conditional zoning restrictions, most of the B-3 uses would be restricted, allowing only the addition of extended-stay hotels,

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restaurant and retail uses to the regular uses allowed by the P-1 zone. The development plan requirements for the two zones are very similar, and the current plan also meets most of the requirements for the more restrictive P-1 zone.

Ms. Wiseman stated that the petitioner is in agreement with the staff's recommendations, including the conditional zoning restrictions for prohibited uses and signage, and she requested approval.

Commission Questions: Mr. Penn asked if the small triangular parcel shown on the development would be used as an outlot. Ms. Wiseman stated that there no plans to use that parcel as an outlot, or as additional parking for the proposed extended-stay hotel. She said that the petitioner intends for that parcel to remain as open space.

Mr. Holmes stated that he is concerned about the number of prohibited uses proposed. He asked if the staff should consider changing the requirements of the P-1 zone to allow this type of use. Mr. King answered that the staff had considered that, and it may be something that they follow up on after this application.

Mr. Aten stated that he would like to submit an additional requirement to the conditions for approval for the development plan, to read as follows: "Additional buffering along Lake Park Road shall be provided at the time of the final development plan."

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Aten, and carried 8-0 (Day, Vaughn, and Whitman absent) to approve MAR 2007-17, for the reasons provided by staff, including the addition of the conditional zoning restrictions as recommended by staff.

Development Plan Motion: A motion was made by Mr. Aten and seconded by Mr. Penn to approve ZDP 2007-80, subject to the conditions as recommended by staff, adding a 16th condition as listed above.

Discussion of Motion: Mr. Cravens asked what type of buffering Mr. Aten hoped to achieve via the proposed additional condition. Mr. Aten answered that he believes that there need to be street trees along Lake Park Road, not just bushes for screening.

Action: Mr. Aten's motion was carried, 8-0 (Day, Vaughn, and Whitman absent).

2. HOUGHAM INDUSTRIAL ZONE MAP AMENDMENT & HOUGHAM PROPERTY ZONING DEVELOPMENT PLAN

- a. MAR 2007-24: HOUGHAM INDUSTRIAL (12/14/07)* - petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Light Industrial (I-1) zone, for 40.68 net (45.57 gross) acres, for property located at 1100 Alexandria Drive.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 7) recommends Light Industrial future land use for the subject property. The petitioner proposes a light industrial development with 34 individual lots.

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

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

1. The requested Light Industrial (I-1) zone is in agreement with the 2007 Comprehensive Plan's recommendation for Light Industrial (LI) future land use for the subject property.
2. This recommendation is made subject to the approval and certification of ZDP 2007-129: Hougham Property, 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 use restriction shall be established for the subject property via conditional zoning:
 - a. "Advertising signs" as defined in Article 17-3(b)(1) of the Zoning Ordinance shall be prohibited.

This restriction is appropriate and necessary for the subject property because sufficient signage of this type now exists along this expressway to the northeast and east of the subject property, and residential homes along Kelsey Drive are only a few hundred feet from the subject property.

- b. ZDP 2007-129: HOUGHAM PROPERTY (12/14/07)* – located at 1100 Alexandria Drive.

(Eagle Engineering)

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

1. Provided the Urban County Council rezones the property I-1; 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.

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

3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Environmental Planner's approval of environmentally sensitive areas.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Denote: There shall be no development of the property until the Planning Commission approves a final development plan or a preliminary subdivision plan.
10. Place site statistics within a box.
11. Add cross-section for New Circle Road.
12. Correct note number 14 (Final Development Plan), if necessary.
13. Label contour lines.
14. Increase font size for cross-section numerical information.
15. Addition of adjacent zoning information.
16. Addition of cross-section for Alexandria Drive.
17. Resolve access proposed to Alexandria Drive.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property. She said that the petitioner proposes to develop the subject property with an industrial subdivision consisting of 34 lots. The primary access is proposed to be through Enterprise Court; a secondary access with limited traffic movement is proposed for Alexandria Drive.

Ms. Wade stated that the subject property was the subject of an extensive rezoning in 1996 and 1997. At that time, I-1 zoning was requested for the property. That request was disapproved by the Urban County Council, and that decision was litigated, resulting in the upholding of the Council's decision. In 2005, a rezoning request to R-3 was submitted for the subject property. That request proposed over 100 attached four-plex type units. The Planning Commission recommended disapproval of that request, and the petitioner withdrew it prior to any action by the Council. Thus, the zoning of the subject property remains A-U.

The 2007 Comprehensive Plan recommends Light Industrial use for the subject property. Ms. Wade stated that, since the petitioner is requesting I-1 zoning, this request is considered to be in agreement with the Comprehensive Plan recommendation. Although this proposal is similar to the 1996 rezoning request, there are several circumstances that have changed in the last decade. There has been extensive development in the Enterprise Industrial Park; sewer access has been provided throughout the industrial park; and the petitioner is proposing a limited access to Alexandria Drive, which was one of the major concerns at the time of the 1996 request.

Ms. Wade said that the staff, along with the Zoning Committee, are recommending approval of this request, because the requested I-1 zoning is in agreement with the recommendations of the Comprehensive Plan. The staff is also recommending a conditional zoning restriction for advertising signs on the subject property, as listed on the staff report and the agenda.

Development Plan Presentation: Mr. Martin presented the corollary development plan, further orienting the Commission to the location of the subject property. He said that the petitioner proposes 34 industrial lots, with primary access via Enterprise Court and two detention basins. The proposed lots vary in size from just over an acre to three-quarters of an acre.

Mr. Martin stated that the Subdivision Committee recommended approval of this request, subject to the conditions as listed on the agenda. He said that condition #14 was redundant, and could be deleted. Condition #17 refers to the proposed access to Alexandria Drive, which generated a great deal of discussion among the staff and Subdivision Committee members. The general consensus was that provision of a local street would be the best solution for that access. Mr. Martin said that the petitioner proposes a limited access which would prevent tractor-trailers and other large trucks from using the access. The Division of Fire and Emergency Services is concerned about lack of emergency access to the subject property, but would be willing to accept a fire-gated entrance at the Alexandria Drive access. This issue does need to be resolved, but that resolution can be addressed at the time of the final development plan. Mr. Martin added that, should the Planning Commission choose to approve the conditional zoning restriction, a new condition #18 should be added to read: "Addition of conditional zoning restriction."

Commission Questions: Mr. Penn asked if a portion of Calumet Farm adjoined the subject property. Mr. Martin responded that it does. Mr. Penn asked about the status of another small parcel adjoining the subject property. Mr. Martin answered that that parcel was privately owned, and may be impacted by a possible future widening of the New Circle Road right-of-way.

Mr. Aten stated that the property did not appear to be the same shape on the rendered development plan and the zoning map. Mr. Martin responded that that discrepancy could be attributed to the differences in scale between the two renderings. Mr. Aten said that it appears that the subject property has several hundred feet of frontage on Alexandria Drive, according to the rendered development plan, but it does not appear so on the zoning map. He added that he was concerned that Enterprise Drive is the only connection between Alexandria Drive and Old Frankfort Pike. Mr. Martin answered that the frontage along Alexandria Drive is small. Mr. King stated that the Alexandria Drive frontage was just over 200 hundred feet. Mr. Aten asked how far it is from the subject property to Old Frankfort Pike, and if there are any interconnecting streets along the way. Mr. Martin responded that there are no interconnecting streets. He added that Enterprise Court will be extended to serve the subject property.

Traffic Study Presentation: Mr. Hammons presented the Traffic Impact Study, noting, with regard to Mr. Aten's question, that the distance from the subject property to Old Frankfort Pike is approximately three-tenths of a mile.

Mr. Hammons said that the proposed level-of-service for the Old Frankfort Pike/Enterprise Drive intersection is "D," which is the minimum LOS as required by Article 6-1(c) of the Zoning Ordinance. The 2012 "build" and "no-build" levels-of-service are very similar, which indicates that the proposed development will not have a significant impact on the traffic in the area. The proposed Alexandria Drive access was projected to have a LOS of "A" or "B." All the intersections within the study area meet the requirements of the Zoning Ordinance. Mr. Hammons noted that he has been working with the Division of Traffic Engineering in optimizing the traffic signal at Old Frankfort Pike and Enterprise Drive, which could result in improvements to the existing and proposed LOS.

Mr. Hammons said that the Old Frankfort Pike/Alexandria Drive intersection is scheduled for re-construction in 2008, where a proposed roundabout system will replace the typical four-way intersection and will help improve the overall traffic circulation in the area. He noted, with regard to the possible widening of New Circle Road, that those improvements are currently being programmed, but no date has been set for construction.

Commission Questions: Mr. Aten asked if the proposed access at Alexandria Drive would be a permanent entrance. Mr. Hammons answered that the staff would prefer that a full local street be constructed at that location. He added that that issue would be considered much more closely at the time of the final development plan.

Ms. Roche-Phillips said that she is concerned about the potential for industrial traffic cutting through the neighborhoods on Alexandria Drive. She asked if there was any possibility of an interchange at this location on New Circle Road to help alleviate that possibility. Mr. Hammons answered that any such interchange, in his opinion, would be highly unlikely. The subject property forms a portion of the Urban Service Area boundary, and the proposed development would not generate a great amount of additional traffic in the area.

Petitioner Representation: Darby Turner, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations and the conditions for approval on the development plan.

Mr. Turner stated that, at the time of the rezoning request in 1996, the neighborhood association and Calumet Farm vigorously objected, due to the possibility of industrial traffic using an access to Alexandria Drive. The petitioner agrees with those concerns, and would prefer to have no access at all to Alexandria Drive. However, for safety reasons, it is necessary to provide an additional access. The petitioner has reached a compromise with the neighborhood association by constructing a private road, with a gate system that will allow only automobile and light truck traffic to Alexandria Drive, while preventing heavy trucks and similar vehicles from accessing Alexandria Drive. The gate is proposed to have an emergency access system to allow entrance for fire trucks and ambulances, to which Captain Woodward, Division of Fire, agreed. Mr. Turner stated that representatives from Calumet Farm and the Calumet Area Neighborhood Association were present, and in agreement with the proposed construction of the gated access system. The petitioner does not believe that Alexandria Drive is appropriate for use by heavy truck traffic under any circumstances, and feels that the gate system should provide for adequate emergency access while still protecting the neighborhood.

Commission Questions: Mr. Mahan asked if there was a sufficient buffer area between the subject property and Calumet Farm. Mr. Turner answered that the Calumet property does not actually adjoin the subject property, as Alexandria Drive and the railroad tracks lie between Calumet Farm and the subject property.

Citizen Support: Mike Meuser, attorney for Calumet Farm, stated that the farm does not object to the proposed rezoning. That lack of objection, however, is tied directly to the limited vehicular traffic now proposed onto Alexandria Drive. The farm is fully operational, and the owners are concerned that heavy industrial traffic on Alexandria Drive could disrupt their equine operations.

Staff Rebuttal: Mr. Martin stated that, with regard to the Alexandria Drive access, that it is not proposed to completely restrict vehicular access, just access to large truck traffic. Emergency vehicles, cars, and smaller trucks will still be able to utilize the access.

Commission Questions: Mr. Penn asked if that issue would be fully resolved at the time of the final development plan, including the type of gate, height, functionality, etc. Mr. Martin responded that it would.

Mr. Martin stated that the staff had re-written condition #17, to read: "Access to Alexandria Drive to be resolved at the time of the Final Development Plan or Preliminary Subdivision Plan."

Mr. Holmes asked what is considered to be "large truck traffic." Mr. Martin answered that semis and tractor-trailers are considered to be large trucks. Ms. Godfrey stated that those issues could be part of the resolution at the time of the final development plan.

Petitioner Comment: Mr. Turner stated that the petitioner would like for the additional condition to clarify that semis, tractor-trailers, heavy truck traffic, box trucks, and any vehicles other than automobiles and light trucks would be restricted from access to Alexandria Drive. He said that the final development plan would then include the actual design details of the gate system.

Ms. Godfrey asked if those restrictions could be incorporated into the additional condition for approval. Ms. Weddle said that the condition could be changed to read: "The design of the restricted access to Alexandria Drive to be resolved at the time of the Final Development Plan or Preliminary Subdivision Plan." Mr. Turner asked if specific language could be added to the condition to restrict all vehicles other than automobiles and light trucks from using the access. Ms. Weddle answered that she would be concerned about adding that language because of large solid waste and fire trucks. She said that the staff is in accord about the nature of the access, but would be uncomfortable adding that specific language. Mr. Turner suggested that the condition be changed to reference "automobiles, light trucks, and emergency equipment."

Mr. Cravens asked if it would be possible to have no access to Alexandria Drive. Ms. Godfrey answered that the staff would prefer an additional access to Alexandria Drive. Ms. Godfrey said that the point at this time should be to ensure that some restriction is imposed, but the details should be worked out at the final development plan stage.

Director Comment: Mr. King stated that the staff would not be comfortable with this level of development that was only accessible by going over an at-grade railroad crossing. It would not be prudent to have that access as the only way in and out of the site, which would be the case if there was no access to Alexandria Drive.

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Mahan, and carried 9-0 (Day and Vaughn absent; Whitman abstained) to approve MAR 2007-24, for the reasons provided by staff, including the conditional zoning restriction as recommended by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Mr. Mahan, and carried 9-0 (Day and Vaughn absent; Whitman abstained) to approve ZDP 2007-129, with the 17 conditions as listed on the agenda; deleting condition #12; changing condition #17 to read: "The design of the restricted access to Alexandria Drive to be resolved at the time of the Final Development Plan or Preliminary Subdivision Plan;" and adding a new condition #18 to read: "Addition of conditional zoning restriction."

VI. COMMISSION ITEMS

- A. **RECOGNITION OF FORMER PLANNING COMMISSION MEMBER ANN ROSS** – Ms. Godfrey stated that, at this time, the Commission and the staff would like to take an opportunity to honor Ann Ross for her dedication and service to the Planning Commission and the Lexington-Fayette County community. Ms. Ross joined Ms. Godfrey and the other Commission members at the podium, and Ms. Godfrey read the following resolution into the record of the meeting:

"Whereas, we, the members of the Lexington-Fayette Urban County Planning Commission, acknowledge the fulfillment of the term of office of Ms. Ann Ross from the Planning Commission; and whereas, we wish to take this opportunity to recognize Ms. Ross for her valuable service to this Commission from June 23, 2003, to June 30 2007, having served on the Commission's Zoning Committee, and having served as parliamentarian of the Commission by a unanimous vote of her peers; and whereas, Ms. Ross has consistently shown a deep concern for the citizens of Fayette County, as reflected in her decisions regarding land use and development; and whereas, the members of the Commission and the staff feel that the service given by Ms. Ross will be greatly missed by this body.

Now, therefore, be it resolved: We, the members of the Commission, along with the staff, do hereby express our gratitude to Ms. Ross for her service to this Commission and to the citizens of Lexington and Fayette County; and we, the Lexington-Fayette Urban County Planning Commission and staff, do hereby wish for Ms. Ross much happiness and continued success,

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

and ask that she continue to give valuable guidance to members of this Commission; and be it further resolved that a copy of this resolution be presented to Ms. Ross and also spread upon the minute book of this body. Dated at Lexington, Kentucky, this 25th day of October, 2007."

Ms. Ross said that her service on the Planning Commission was a tremendous reward, and this recognition was simply "icing on the cake." She said that she appreciated having the opportunity to serve on the Commission with such a tremendous group of people, and she welcomed new Commission members Carolyn Richardson and Ed Holmes. Ms. Ross stated that, of all the positions she has held in government, her service on the Planning Commission was the most rewarding of all. She has been so gratified by the citizens of Fayette County and their enthusiastic participation in our government, and said that it has been a pleasure and an honor to serve them on the Planning Commission.

- B. APPLICATION OF KENTUCKY-AMERICAN WATER COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY** – Under the provisions of KRS 100.324(1), the Planning Commission has been notified that the Public Service Commission has scheduled a hearing on November 26 to consider an application by KAWC to construct water treatment and transmission facilities in Fayette, Franklin, Owen and Scott Counties. Under this KRS provision, the Commission is empowered to submit written comments or request intervention in the PSC proceedings.

Mr. King stated that the staff had received and distributed to the Commission a communication that the staff received from the state Public Service Commission regarding the application of Kentucky-American Water Company for a Certificate of Public Convenience and Necessity authorizing construction of Kentucky River Station 2 and associated facilities and transmission main. He said that this is one of the water solutions that have been discussed recently in the local media. This communication is to notify the Commission that a hearing will be held by the Public Service Commission on this matter on November 26, 2007. Mr. King wished to inform the Commission members that, as a Planning Commission, they have certain rights to submit comments regarding this facility, or request intervention. The Urban County Government is already an intervening party; however, typically, the Planning Commission would not be expected to act separately from the larger Urban County Government.

Commission Questions: Ms. Godfrey asked if the Planning Commission could request information from the staff, should they wish to comment separately on this issue. Mr. King answered that any action taken would need to be as a body.

Mr. Holmes stated that, since LFUCG is acting as an intervening party, he believes that the Commission should acquiesce and follow that procedure.

- VII. STAFF ITEMS** – No such items were presented.

- VIII. AUDIENCE ITEMS** – No such items were presented.

- IX. MEETING DATES FOR NOVEMBER, 2007**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November 1, 2007
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	November 1, 2007
Subdivision Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	November 8, 2007
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	November 15, 2007
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	November 28, 2007
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	November 29, 2007

- X. ADJOURNMENT** – There being no further business, the meeting was adjourned at 3:06 p.m.

TLW/TM/JWE/BJR/BS/src

Randall Vaughn, Chair

Frank Penn, Secretary