

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

November 29, 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 (arrived at 2:00 p.m.); Mike Cravens; Neill Day (arrived at 2:05 p.m.); Linda Godfrey; Ed Holmes (arrived at 1:53 p.m.); Jim Mahan; Frank Penn; Carolyn Richardson; Lynn Roche-Phillips; Randall Vaughn, Chair; and Joan Whitman (arrived at 1:35 p.m.).

Planning staff members present: Chris King, Director; Bill Saltee; Barbara Rackers; Jimmy Emmons; Traci Wade; Tom Martin; Cheryl Galt; Chris Taylor; and Stephanie Cunningham. Other staff members present were Andrea Weddle, Department of Law; Hillard Newman, Division of Engineering; Tim Queary, Urban Forester; Jeff Neal, Division of Traffic Engineering; and Bob Carpenter, Division of Building Inspection.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Godfrey, seconded by Mr. Penn, and carried 7-0 (Aten, Day, Holmes, and Whitman absent) to approve the prior Planning Commission meeting minutes of July 12, 2007, and October 25, 2007.

Note: Ms. Whitman arrived at this time.

- III. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal were considered at this time.

1. **ZOTA 2007-7: AMENDMENT TO ARTICLE 8-1(d) TO ALLOW AN ANTIQUE MALL AS A CONDITIONAL USE IN THE A-R ZONE (4/12/08)*** - petition for a Zoning Ordinance text amendment to allow an antique mall, including an accessory restaurant, as a conditional use in the Agricultural Rural (A-R) zone.

REQUESTED BY: Athens Schoolhouse Partners, LLC

PROPOSED TEXT: (Note: Text underlined indicates an addition to the current Zoning Ordinance.)

8-1 AGRICULTURAL RURAL (A-R) ZONE

8-1(d) Conditional Uses (Permitted only with Board of Adjustment Approval)

x. Antique Mall, including an accessory restaurant, but only when all of the following conditions are met:

- a. The establishment shall be located within the boundary of a Crossroads Community type of Rural Settlement as described in the Comprehensive Plan;
- b. The establishment shall be located in an enclosed, existing building that formerly was used as a public school or a church, which is of historical, architectural, cultural, or symbolic significance to the community; and
- c. There shall be no changes to the exterior of the building without the approval of the Board of Architectural Review.

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

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

- 1. Additional time is needed to carefully review any impacts of the text amendment as proposed. Consideration must be given to the potential unintended consequences of adding retail sales, with an accessory restaurant, as a conditional use in the A-R zone. Additional time will also allow for appropriate review of more suitable locational criteria, or a size restriction for this new proposed use.
- 2. The staff wishes to avoid any text amendment to the Zoning Ordinance that could have a detrimental effect to the rural character that makes Lexington-Fayette County unlike any other place in the United States.

Petitioner Representation: Jim Hodge, attorney, was present representing the petitioner and requested postponement of this item to the December 13th meeting.

Action: A motion was made by Ms. Godfrey, seconded by Ms. Richardson, and carried 8-0 (Aten, Day, and Holmes absent) to postpone ZOTA 2007-7 to the December 13, 2007, Planning Commission meeting.

2. **ZOTA 2007-8: AMENDMENT TO ARTICLE 17-7(g) TO ALLOW ADVERTISING SIGNS TO USE DIGITAL TECHNOLOGY (4/12/08)*** - petition for a Zoning Ordinance text amendment to allow advertising signs (billboards) to use digital technology.

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

REQUESTED BY: The Lamar Companies

PROPOSED TEXT: (Note: Text underlined indicates an addition to the current Zoning Ordinance.)

ARTICLE 17 – SIGN REGULATIONS

- 17-7(g) HIGHWAY SERVICE BUSINESS, WAREHOUSE/WHOLESALE, AND INDUSTRIAL ZONES (B-3, B-4, I-1, I-2)** - Permitted signs may be free standing or wall mounted as specified; signs may be non-illuminated, indirectly illuminated, internally illuminated or directly illuminated unless specified otherwise; no free standing business sign shall exceed twenty-five (25) feet in height; no free standing advertising sign shall exceed forty (40) feet in height.

(8) Advertising signs may utilize an Electronic Message Display System provided that only Light Emitting Diodes (LEDs) or Liquid Crystal Diodes (LCDs) or similar digital technology may be used and provided that the minimum time between message changes shall be eight seconds and that such signs shall contain no scrolling, moving, or animated display. Existing advertising signs are permitted to convert to this technology upon the issuance of a building permit. No permit shall be required for the change of message on an advertising sign using an Electronic Message Display System.

The Zoning Committee Recommended: **Postponement.**

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

1. This amendment to the Zoning Ordinance is legally inadvisable, given the fact that off-premise electronic message display signage is specifically prohibited by state law. The existing state law prohibits flashing, moving or intermittent off-premise advertising signs and restricts each sign to no more than two messages per face. The LFUCG does not have authority to allow a type of sign that is prohibited by state and/or federal law.
2. Electronic and/or digital signage was contemplated when the signage regulations were significantly revised for Lexington-Fayette County in the early 1980s, and this type of sign was purposefully limited for on-premise signage and completely prohibited for off-premise signage.
3. Electronic message display systems should continue to be regulated in a manner consistent with the stated intent of Article 17 of the Zoning Ordinance, namely to maintain the overall aesthetics of the community; to improve public safety by minimizing undue distraction to the traveling public; to reduce intrusions and protect property values; and for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image.

Petitioner Representation: Rena Wiseman, attorney, was present representing the petitioner and requested postponement of this item to the January 31, 2008, meeting.

Action: A motion was made by Ms. Godfrey, seconded by Mr. Mahan, and carried 8-0 (Aten, Day, and Holmes absent) to postpone ZOTA 2007-8 to the January 31, 2008, Planning Commission meeting.

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

- a. MAR 2007-9: TATES CREEK HEIGHTS, LLC (11/29/07)* – 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.

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

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.
 - 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.) (11/29/07)* – 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:

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

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 of this item to the December 13th meeting.

Action: A motion was made by Mr. Penn, seconded by Ms. Godfrey, and carried 8-0 (Aten, Day, and Holmes absent) to postpone MAR 2007-9 and ZDP 2007-50 to the December 13, 2007, Planning Commission meeting.

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

- a. MAR 2007-20: FORTUNE OFFICES, LLC (11/29/07)* - 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.

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

- b. ZDP 2007-113: EASTWOOD, UNIT 6, SECTION 1, LOT 6 (11/29/07)* - 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 of this item to the January 31, 2008, meeting.

Citizen Objection: Jennifer Daum, 2107 Stonewood Lane, stated that today's meeting is the third month in a row that she and many of her neighbors have taken time off work and come to the Council Chamber to speak in opposition to this request, only to have it postponed. She said that the neighborhood residents do not receive advance notice of the petitioner's intention to request postponement, or they would have chosen not to attend the meeting today. Ms. Daum asked that the Planning Commission not allow any further postponements of this item past the requested January 31st meeting date.

Petitioner Comment: Mr. Murphy stated that he had been personally calling all the interested parties for whom he had contact information to notify them of the petitioner's intent to request postponement. He said that he would be willing to add Ms. Daum to that contact list if she could provide her contact information. Mr. Murphy noted that no further postponements should be necessary.

Staff Comment: Mr. Sallee stated that the staff had no objection to this request for postponement.

Action: A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 8-0 (Aten, Day, and Holmes absent) to postpone MAR 2007-20 and ZDP 2007-113 to the January 31, 2008, Planning Commission meeting.

5. **BOAR 2007-3: ALLEN R. FOSTER** (11/29/07)* – 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: Ms. Rackers stated that she had been in contact with the petitioner's representative, and the petitioner has requested postponement to the January 17, 2008, meeting.

Action: A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 8-0 (Aten, Day, and Holmes absent) to postpone BOAR 2007-3 to the January 17, 2008, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 1, 2007, at 8:30 a.m. The meeting was attended by Commission members: Carolyn Richardson, Neill Day, Lyle Aten, Randall Vaughn and Mike Cravens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Traci Wade, Tom Martin, Cheryl Gallt, Chris Taylor, and Denice Bullock; as well as Rochelle

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

Boland, 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, November 1, 2007, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Linda Godfrey, Frank Penn, Lynn Roche-Phillips, 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
- 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. **RICHARDSON TODDS ROAD, LLC, ZONING MAP AMENDMENT & RUSSELL CAVE GLEN ZONING DEVELOPMENT PLAN**

- a. **MAR 2007-19: RICHARDSON TODDS ROAD, LLC (11/29/07)*** - petition for a zone map amendment from an Agricultural Urban (A-U) zone to an Expansion Area Residential 2 (EAR-2) zone, for 8.63 net (8.96 gross) acres, for property located at 2020 Russell Cave Road.

LAND USE PLAN AND PROPOSED USE

The Expansion Area Master Plan (EAMP), an adopted element of the 2007 Comprehensive Plan (Expansion Area 3), recommends Expansion Area Residential (EAR-2) land use for the subject property. The petitioner proposes 47 single-family units (a residential density of 5.25 units per gross acre) for the subject property.

The Zoning Committee Recommended: **Postponement**.

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

1. The requested EAR-2 zoning is in agreement with the 2007 Comprehensive Plan, and with the 1996 Expansion Area Master Plan which preceded it, for the following reasons:
 - a. The Plan recommends Expansion Area Residential-2 (EAR-2) future land use for the subject property, which is proposed by the petitioner.
 - b. The future EAR-2 land use recommendation of the Plan would suggest a density of between 26 and 53 dwelling units for the subject property. The proposed EAR-2 zone, for 47 single-family dwelling units, would be in agreement with this recommendation of the Plan.
2. This recommendation is made subject to approval and certification of the applicable portion of ZDP 2007-98: Russell Cave Glen, prior to being forwarded 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 property shall be subject to the following use and buffering restrictions via conditional zoning:
 - a. No principal or accessory structures shall be located within fifty (50) feet of any property platted as any unit of the Shandon Park or Foxborough Manor subdivisions, and the property located at 2060 Russell Cave Road.

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

- b. Within three hundred (300) feet of any property platted as any unit of the Shandon Park or Foxborough Manor subdivisions, and the property located at 2060 Russell Cave Road, the subject property shall be limited to single-family detached residential uses.
- c. A buffer yard shall be provided immediately adjacent to any property platted as any unit of the Shandon Park or Foxborough Manor subdivisions and the property located at 2060 Russell Cave Road. The landscape buffer shall contain one tree every forty (40) feet of linear boundary from group A, B, or C of the Plant List as referenced by Article 18 of the Zoning Ordinance, and shall contain a fence, hedge, wall or earth mound (or combination thereof) a minimum of six (6) feet in height.

These conditional zoning restrictions are appropriate and necessary to minimize the impacts of new development on the existing residential units within Shandon Park and Foxborough Manor subdivisions, and the existing residence at 2060 Russell Cave Road.

- b. ZDP 2007-98: RUSSELL CAVE GLEN (11/29/07)* - located at 2020 Russell Cave Road.

(EA Partners)

The Subdivision Committee Recommended: Postponement.

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

1. Provided the Urban County Council rezones the property EAR-2; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and areas of alluvial soils.
3. Urban County Traffic Engineer's approval of access and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Environmental Planner's approval of environmentally sensitive areas.
7. Correct plan title; complete adjacent property information.
8. Correct note number 9.
9. Discuss construction entrance location.
10. Discuss the timing of sanitary sewers.
11. Discuss stormwater drainage.
12. Discuss street layout proposed, including easement conflicts.
13. Discuss buffering.
14. Discuss tree protection proposed.
15. Discuss steep slopes.
16. Discuss protection of woodlands per Article 23A-2(v) of the Zoning Ordinance.

Zoning Presentation: Ms. Wade presented the staff report, noting that the staff had received two letters in opposition to this request, which she distributed to the Commission members. She briefly oriented the Commission to the location of the subject property.

Ms. Wade stated that the petitioner proposes to develop 47 dwelling units for the subject property, for a residential density of 5.25 dwelling units per gross acre. Primary access to the subject property is proposed through the existing Eden Court area, rather than Russell Cave Road.

Note: Mr. Holmes arrived at this time.

Ms. Wade stated that the subject property has been proposed for rezoning three times in the past. The first proposal, in 1996, was part of a larger rezoning request for the entire Expansion Area; the Council denied that request due to community-wide concerns. In 2005 and 2006, this property was part of a larger parcel, including the existing Shandon Farm property to the north, which was proposed for EAR-2 zoning. The Planning Commission recommended approval of the request in 2005, but it was withdrawn prior to Council consideration; in 2006, the Planning Commission recommended disapproval of the rezoning request due to citizen testimony with regard to sinkholes and flooding on the property, as well as some density issues. That request, too, was withdrawn prior to Council consideration. This request involves only the subject property, and does not include it as part of a larger parcel.

Ms. Wade displayed several photographs of the subject property and surrounding area. She said that the 2007 Comprehensive Plan carried forward all of the Expansion Area Master Plan recommendations for land use. The subject property is recommended for EAR-2 zoning, which is in line with the applicant's proposal. The EAR-2 zone requires a density of between three and six dwelling units per net acre, and allows for density transfer rights up to nine dwelling units per acre. The applicant is proposing 47 dwelling units on the subject property, but is not proposing to use density transfer at this time. The property would be recommended to be developed with between 26 – 53 units, so the applicant's proposal is in agreement with the recommendation of the Comprehensive Plan.

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

Ms. Wade stated that, for the first time in the history of the rezoning requests for this property, the applicant has provided a detailed development plan which shows the individual parcels and street layout proposed. The staff is recommending conditional zoning restrictions for the subject property as listed on the agenda and staff report, which are consistent with those recommended the previous three times this parcel was requested for rezoning. Those restrictions were proposed in order to minimize the impact of new development on existing neighborhoods in the area, as well as the parcel located at 2060 Russell Cave Road. With the addition of those conditional zoning restrictions, the staff is recommending approval of this request, for the reasons as listed on the agenda.

Note: Mr. Aten arrived at this time.

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 staff had distributed to the Commission members a revised recommendation, which he would discuss further later in his presentation.

Mr. Martin stated that the preliminary development plan includes a connection to Eden Road, which stubs into the subject property and the Shandon Farm property. The plan also includes cul-de-sacs leading toward Russell Cave Road and Pierson Drive. The plan is straightforward and contains a fairly typical proposed lotting pattern and street system.

Mr. Martin said that, when this plan was originally brought before the Subdivision Committee, eight discussion items, which are listed on the agenda, arose from their review. In the months since the Committee's initial review of the plan, no new plans have been submitted to attempt to address those discussion items. The staff, therefore, has revised their recommendation from postponement, which the Subdivision Committee also recommended, to disapproval, for the following reasons:

1. The plan as submitted does not include all required information per Article 21-6(a) of the Zoning Ordinance. Specifically items 9 and 10 requiring the identification of environmentally sensitive areas and proposed or existing easements, respectively. There is on the property areas of significant tree stands, and not all easements have been identified. These elements could significantly impact the proposed street and lotting pattern.
2. The plan, as submitted, does not meet the requirements of Article 23A-2(v) of the Zoning Ordinance. This article requires the protection of all significant woodlands in the expansion areas. This property is identified in the EAMP as having significant woodland areas. The proposed street and lotting pattern does not provide any protection of the identified woodland areas.
3. This area of our community has inadequate sanitary sewer capacity that is aggravated by several substandard pump stations. There is a regional pump station planned that will serve this area and help alleviate the problems. However, the timing of the construction of this pump station is not certain. Therefore, the approval of this plan would be premature until adequate public sewer facilities are known to be available, in accordance with Article 6-2 of the Land Subdivision regulations.

Mr. Martin stated that there are several heavily wooded areas of the site, which were not included on the development plan as required by the Zoning Ordinance. Without the proper tree information, the staff is unable to evaluate the impact of development on the site. The staff is also aware that there are easements on the property, which were not included on the plan. Mr. Martin said that the staff and the Subdivision Committee also had concerns about the sanitary sewer system, which is currently inadequate in this area of Lexington. A regional pump station was included as part of the Expansion Area Master Plan, but the timing of construction of that pump station is not known at this time.

Note: Mr. Day arrived at this time.

Commission Questions: Mr. Holmes asked when the proposed pump station will be constructed. Mr. Newman answered that the Division of Engineering staff is unsure at this time. He said that he had received information that the construction of that pump station would be completed as a Capital Improvement project, and would be funded by the city, but no information had been provided as to the timing of that project.

Mr. Penn asked why the staff was recommending approval of the rezoning request, with no mention of the sewer issue; while at the same time recommending disapproval of the development plan, with the inadequate sewer system as one of the reasons for their recommendation. Ms. Wade responded that the staff is recommending approval of the zone change, and had mentioned in their report that the sanitary sewer lines in the neighboring subdivisions are inadequate to serve this property. The staff report noted that the subject property would have to be served through the Kingston Hall property, located across Russell Cave Road, at such time as that property develops. Ms. Wade noted that the zone change could occur without the sanitary sewer available, with the developer agreeing to perform the necessary improvements to sewer the property prior to development.

Mr. Holmes asked if it was appropriate to recommend approval of the zone change if the infrastructure is inadequate to support the development. Ms. Wade stated that the staff's recommendation of approval was made with the knowledge that the infrastructure could be upgraded in the future. Ms. Weddle said that there are two different sets of standards to be considered. In looking at the zone change request, the statutory requirements are that the request be in agreement with the Comprehensive Plan; appropriate or inappropriate; and if there have been any changes that justify the rezoning outside the limits of the Plan. When considering the development plan, the Commission is required to consider problems with compliance with either the Subdivision Regulations or the Zoning Ordinance, with regard to public health, safety, and welfare issues. Ms. Weddle stated that, while the staff may recommend approval of the zoning because of the statutory standard, there may be other issues to consider on the zoning development plan.

Ms. Godfrey asked if it would be feasible to approve a rezoning request without an approvable development plan, since the applicant is required to have the plan approved in order for the zone change to go forward. Ms. Weddle answered that it is the position of the staff that this is a case in which the Commission could approve the zone change request, given the situations the staff has expressed. That is not always the case, but it is true in this instance.

Mr. King stated that one factor that contributes to the staff's recommendation is that, unlike other zones, the Expansion Area zones mandate a development plan. There are other cases on the docket today where the zone and the situation would not require a development plan, so the zoning action could occur without a development plan but with the knowledge that the developer would be free to do whatever is permitted in that zone. The initial plan for the Expansion Area was to rezone it all, then have development plans come in incrementally. The staff is comfortable in this case with the division of those issues.

Petitioner Presentation: Jon Woodall, attorney, was present representing the petitioner. He stated that this rezoning request is in accordance with the Comprehensive Plan, citing the following Goals in support of this assertion:

“Goal 7 – To support and uphold the Urban Service Area concept and related growth management strategies

Goal 7, Objective E – To encourage new development to be compact and contiguous

Goal 13 – To provide housing opportunities to meet the needs of all Lexington citizens”

In the EAR-2 zone, the petitioner would be permitted to develop between 26 and 53 dwelling units. The petitioner has proposed to construct approximately 5.25 dwelling units per gross acre, which would result in 47 units, which is in complete agreement with the recommendations of the 2007 Comprehensive Plan. Mr. Woodall stated that one of the key objectives of the Expansion Area Master Plan was the provision of housing in the Expansion Area that was affordable to all sections of the community. One of the strategies proposed to help achieve that object was to allow developers a significant amount of flexibility in terms of housing types and densities.

Mr. Woodall stated that the conditional zoning restrictions that have been placed on this rezoning request are onerous, oppressive, and arbitrary, and they “result in the emasculation of the recommendation of approval.” The Zoning Ordinance states that the power to impose conditional zoning restrictions should be “thoughtfully and sparingly used.” Mr. Woodall read into the record the following, from Article 6-7(a) of the Zoning Ordinance:

“A binding condition or restriction may be imposed whenever one or more of the specifications of the Zoning Ordinance for the proposed category would impair the integrity and character of the area in which the subject property is located, or adjoining areas.

No restriction or condition may be imposed which would deprive the applicant of a reasonable use of the land, or create an unnecessary hardship on the applicant.”

Mr. Woodall stated that the three conditional zoning restrictions proposed by the staff should not be part of the zone change request at all; rather, they should be considered as conditions for approval of the development plan. With regard to the first proposed conditional zoning restriction, Mr. Woodall said that the requirement of a 50-foot buffer from the surrounding neighborhoods and 2060 Russell Cave Road would result in the loss of 21 lots. The reduced number of lots would not be economically feasible, and would not be in conformance with the density recommendations of the Comprehensive Plan or the Expansion Area Master Plan. The petitioner believes that the requirement of a 50-foot buffer has no basis in the Zoning Ordinance or Subdivision Regulations, and is completely arbitrary.

With regard to the conditional zoning restriction prohibiting multi-family uses within 300 feet of the adjoining neighborhoods, Mr. Woodall stated that the petitioner did not intend to construct any multi-family units, but would prefer to have the option to if they so chose.

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

Mr. Woodall said that the proposed landscape buffer, as outlined in the third conditional zoning restriction, would require the removal of existing mature trees in order to plant those required for buffering. The petitioner believes that imposing this restriction would be in violation of the Zoning Ordinance, in that buffering between like uses cannot be imposed when the densities of those uses are similar.

Mr. Woodall requested approval of this request, not subject to the proposed conditional zoning restrictions. Those concerns could be addressed more appropriately as conditions for approval of the development plan, in the same manner as the sewer issues previously discussed. The petitioner will not be able to begin construction until adequate sewer and water facilities are in place, and that should not impact the Commission's consideration of the rezoning request. Mr. Woodall said that, if the Planning Commission approves the zone change request and disapproves the development plan, according to the staff's recommendations, the petitioner would not be able to obtain approval of the plan within the required 14-day period, which would render the Commission's approval of the zone change null and void. He stated that this application will not "go away," or be withdrawn, if the Planning Commission chooses to pursue that course of action. If the Commission does not want to see this request go forward, they should simply disapprove the zone change request and allow the petitioner to be heard before the Council. However, Mr. Woodall stated that the most appropriate action would be for the Commission to approve this request, without the proposed conditional zoning restrictions, and allow the staff's concerns to be addressed as development plan issues.

Citizen Support: No citizens were present in support of this request.

Citizen Opposition: Jack Burch, 2060 Russell Cave Road, submitted a letter of opposition for distribution to the Planning Commission. He said that the petitioner is proposing to construct streets along the entirety of the southern and eastern boundaries of his property, which would leave his home bounded on three sides by streets. Appendix 23-B of the Zoning Ordinance requires that the petitioner minimize the impact of development on adjoining properties; Mr. Burch believes that the proposed development would have a significant negative impact on his property.

Mr. Burch referred to an attachment to his letter, which indicates that there is a scenic easement located on his property, which is not referenced on the petitioner's development plan. That easement provides that no developer can construct streets or houses too close to Mr. Burch's property. The matter is now being litigated through Circuit Court, and Mr. Burch asked that the Planning Commission not take any action that would affect that easement until the Court has had the opportunity to make a decision.

Mr. Burch said that he fully supports the proposed conditional zoning restrictions, which have been proposed for the subject property since the first rezoning request in 1996. He displayed several photographs of his property and the subject property.

Knox Van Nagell, Fayette Alliance, stated that she and her organization support the staff's recommendation of approval of this rezoning request with the proposed conditional zoning restrictions, but they are concerned about the proposed development plan. The Fayette Alliance is concerned about the planned removal of significant trees and the overall density of the proposed development. Ms. Van Nagell stated that the Fayette Alliance therefore supports the staff's recommendation of disapproval of the development plan, and believes that more time is needed to address the sanitary sewer and storm water problems, the proposed density of the project, the environmental sensitivity of the site, and the proximity of this location to prime agricultural land.

David Atcher, 280 Swigert Avenue, distributed to the Commission a packet of documents and a letter in opposition to the proposed rezoning. He said that his opposition to the proposed development is based largely on the lack of adequate infrastructure in the area; specifically, inadequate sanitary and storm sewers, houses constructed in a floodplain, and the topography and underlying karst features of the area. The construction of 47 homes on the subject property would greatly increase the stormwater runoff in the area, adding to the area's existing flooding problems. Mr. Atcher displayed several photographs of flooding near the subject property and in the surrounding neighborhoods.

Mr. Atcher stated that there is a 30-foot drop in elevation on the subject property, which causes some of the runoff in the area to flow toward the existing neighborhood. Prior to the construction of the existing subdivisions, the properties in the area contained a pond, sinking spring, and sinkhole. All those areas were filled in order to construct those neighborhoods, but no provisions were made for flooding. One of the sinkholes located on Shandon Farm holds water to the extent that, during periods of heavy rainfall, water actually flows out of it, further exacerbating the problem. Mr. Atcher stated that, until such time as the infrastructure in the area is upgraded to help mitigate those water flows, any additional construction will only serve to cause further flooding problems for the existing area residents.

Katherine Perkins, 258 Swigert Avenue, stated that she was present representing the Joyland Neighborhood Association as their current secretary. She and her neighbors are concerned about the effects of the proposed development of the subject property on agriculture and the equine industry. Suburban development around the rural areas of Lexington has raised concerns about the loss of equine farmland, and the impacts of that loss on the local economy. The importance of Lexington to the world equine industry led to the decision to hold the World Equestrian Games here in 2010; however, the conversion of large tracts of farmland to tract housing around Lexington has resulted in the World Fund Foundation placing this area on its "Top 100 Most Endangered Sites in the World" list. Many of the new, dense housing developments have rear yards that adjoin working horse and farms, which can place the livestock in danger.

Ms. Perkins asked that the Planning Commission disapprove this request, which could lower the agricultural value of the farms surrounding the subject property, and increase the fears of the farmers with regard to suburban encroachment. She asked that, if the Planning Commission should choose to approve this request, the developer be required to be responsible for installing sizable buffer areas between the development and any agricultural properties, as well as the conditional zoning restrictions proposed by staff. Ms. Perkins believes that disapproval of the zone change request and the development plan would be in the best interest of the community.

Vicki Reed, 1717 Palmyra Avenue, stated that she was present representing the Elkhorn Park Neighborhood Association as its president. She said that she and her neighbors have several issues with the proposed development, but particularly the possibility of increased traffic in Dover Road. That roadway is the only "straightaway" that runs between Russell Cave Road and North Broadway, and is very heavily traveled. The residents of the area recently requested, and received approval for, a reduced speed limit to 25 mph on Dover Road in attempt to introduce some traffic calming. They initially requested the installation of speed bumps, but were told that that could not be done due to the use of the street by the emergency vehicles leaving the nearby fire station. Ms. Reed and her neighbors believe that, as there are currently several developments under construction in the Russell Cave Road area, any additional development is going to result in severely increased traffic along Dover Road.

Ms. Reed stated that her neighborhood also has severe flooding problems during periods of heavy rain. A house that had built on a former spring area was recently purchased by the government and leveled in order to mitigate flooding problems in the area.

Ms. Reed said that Russell Cave Road crests over a small rise just after it passes over Interstate 75, and the view of the countryside from that vantage point is one of her favorite sights in Lexington. She fears that the proposed development might impair that view, particularly if the mature trees on the subject property are removed.

William Woodward, 282 Swigert Avenue, stated that the lots proposed for the new development are too small to provide for adequate parking for all the residents, which would result in parking on the streets in the area. He believes that the density proposed is too intense for the size of the subject property, and that this request should be disapproved. If the Planning Commission should choose to approve this request, he asked that they consider restricting the density.

Josie Giurgevich Jones, 689 Kingston Road, stated that she has lived in her home her entire life, and loves the area. She does not believe that the proposed development should have access to Russell Cave Road, due to safety hazards caused by a lack of visibility for drivers. If no access is provided to Russell Cave Road, the traffic from the proposed development will be forced through the existing neighborhood, which contains both a park and an elementary school. Ms. Jones stated that she did not believe it was appropriate to approve a zone change request prior to the availability of adequate infrastructure in the area.

Turner Lyman, 2209 Pierson Drive, stated that his home is located approximately 500 feet from Interstate 75, and sound measurements taken on his property indicate that it is located in an area of noise pollution. The existing residents in the area would like to have a sound wall constructed to protect them from noise pollution, and do not believe that any new homes should be built in the area unless those pollution problems are addressed.

Lee Terrell, 756 Kingston Road, stated that he has lived in his home for 31 years. He has seen flooding and traffic problems increase in his neighborhood in recent years, and he believes that those problems should be corrected prior to the approval of a rezoning that would allow additional development in the area.

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Petitioner Rebuttal: Mr. Woodall stated that there is no permanent access proposed to Russell Cave Road for the proposed development. The Division of Engineering suggested that a temporary access be located there to allow for construction traffic, so that heavy trucks would not have to travel through the adjoining neighborhoods.

Mr. Woodall said that there are no sinkholes or steep slope areas located on the subject property. Those were part of the concerns when the subject property was requested for rezoning as part of a larger parcel, but they are located on the adjacent property to the north.

Mr. Woodall noted that the petitioner is aware of the tree protection standards required by the Zoning Ordinance, but does not believe that compliance with those standards should result in the loss of lots in the proposed development. The Planning Commission should not encourage tree protection standards that are so onerous that the developer chooses to simply remove all the trees from the site prior to filing a rezoning request.

With regard to the possible negative impact of the proposed development on adjoining farms and the equine industry, Mr. Woodall stated that the conversation about the harmful effects of residential uses on agricultural areas was held during the Expansion Area Master Plan and Comprehensive Plan processes. Part of the result of that process was the recommendation of the subject property for EAR-2 zoning and residential development. The submitted rezoning request and development plan are in agreement with the recommendations of the Comprehensive Plan, and should be approved by the Planning Commission for that reason, without the staff's proposed conditional zoning restrictions.

Citizen Rebuttal: Mr. Atcher stated that he did not believe that flooding would be a problem on the subject property; rather, that the additional impervious surface via construction of the proposed development would result in increased amounts of runoff, which would exacerbate the flooding problems in surrounding neighborhoods.

Staff Rebuttal: Ms. Wade stated that the staff has recommended EAR-2 zoning and conditional zoning restrictions for the subject property consistently through four public hearings for the subject property. EAR-2 restrictions were developed during a public planning process for the Expansion Area Master Plan in 1995-1996. As part of that process, these conditional zoning restrictions were brought forward as a result of conversations with the existing neighborhoods in the area. The area in which the subject property is located is unique, in that the existing adjoining neighborhood was adjacent to land outside the Expansion Area; but, it also had residential stub streets into the undeveloped parcels, so that it was generally expected that residential development would locate there eventually. Ms. Wade noted that there was an intent at that time that the whole Expansion Area would be rezoned at one time, which was attempted, but not approved. That is why such importance was placed on those conversations with the neighborhoods, and why the conditional zoning restrictions were brought forward. The staff believes those conditional zoning restrictions are still appropriate today. The staff does not believe that adherence to the restrictions would prevent development of the property or result in the loss of 21 units, as the petitioner contended.

Ms. Wade stated that the staff initially recommended postponement of the development plan in order to pursue further discussion with the petitioner about the issues of concern. In the past four months, no such discussion with the petitioner has occurred, and no revised plan has been submitted that would provide more appropriate alternatives for the development of the property.

Commission Questions: Ms. Roche-Phillips asked what the rationale was for the buffering between the proposed development and the existing neighborhoods. Mr. King responded that this was a unique area among those areas that were added to the Expansion Area, in that it was the only one where there was an abutting neighborhood with streets that would interact. During the rezoning process that was engaged immediately after the adoption of the Expansion Area Master Plan, there were numerous meetings and conversations with representatives of the adjoining neighborhoods on ways and methods that the impact of the new development might be blended better with those existing neighborhoods. Those conditions that were recommended at that time were developed out of that process.

Note: Chairman Vaughn declared a brief recess at 3:03 pm. The meeting reconvened at 3:15 p.m.

Mr. Penn stated that this was a unique situation for him, in that he does not oppose the rezoning request, but has issues with the implementation of the development plan. He asked what plans the petitioner had to mitigate the serious sanitary sewer problems in the area. Mr. Woodall answered that the petitioner does not agree that the infrastructure problems are that serious. No development will be allowed on the subject property until those issues are resolved. The infrastructure issues should be considered as part of the development plan process, and should not have an impact on the current zone change request.

Mr. Penn said that the requested zoning is in agreement with the Comprehensive Plan, and he has no problem with that, but the Commission is usually presented with a development plan that they believe will work. Since there have been no revisions to the plan in four months, it appears that the zone change is more important to the petitioner than the development plan. Mr. Woodall responded that there was one meeting between the petitioner and the staff shortly after he became involved with this case, but it was the petitioner's belief that the main obstacle to this request is the onerous conditional zoning restrictions recommended by the staff in an attempt to "kill it." He said he has not heard from any of the concerned parties that a lack of sewer capacity should keep this property from being developed at this time.

Rory Kahly, EA Partners, stated that rezoning requests for the subject property and several other parcels in the area have included discussions of the need for infrastructure improvements. He said he was told at one time that the sanitary sewer issues in the area were not so bad that they would require the construction of the new pump station immediately. There is no moratorium in place or other procedure that would deny the developer access to the existing system.

Mr. Woodall stated that this issue should be considered in the same manner as any other zone change, where the development plan approval would be made contingent upon being able to adequately sewer the property, with no final development plan unless approved by the Planning Commission.

Mr. Aten stated that he understands that the proposed development meets the density recommendations for the proposed EAR-2 zone, but the Planning Commission must also consider the relationship of the subject property to adjacent property owners or possible environmentally sensitive areas. The Expansion Area Residential zones were formulated in order to deal with the issue of new development in rural areas thoughtfully and respectfully. Mr. Aten noted that he is appalled at the thought that many mature trees may be removed in order to accommodate the proposed density. The development plan proposes to fit many dwelling units into a small portion of land that may be more appropriate for other types of housing, particularly cluster housing. Mr. Aten stated that it may be appropriate at this time to investigate more innovative methods of solving problems such as the ones encountered on this site.

Mr. Cravens asked if the petitioner had considered other designs in preparing their development plan, or if the current plan had been the only option. He said he was aware that the petitioner had probably considered the surrounding housing types and completed feasibility and market studies as part of that process. Mr. Kahly answered that the subject property was first laid out with the Scott Farm as part of a parcel totaling approximately 100 acres. When that rezoning request was denied, the petitioner was left with the eight-acre parcel that is before the Commission today. Small parcels do not provide as much space in which to work with different designs; there was room only for one narrow street and one access point, which resulted in cul-de-sacs at each end. Mr. Kahly stated that there just were not that many options available with such a small piece of property, and the conditional zoning restrictions would preclude any type of housing other than single-family.

Mr. Cravens stated, with regard to Mr. Burch's comments about his property being surrounded by streets, that those streets would seem to provide a better buffer for his property than the back yards of homes. Mr. Kahly responded that the petitioner designed this plan with the consideration that Mr. Burch's property, which is also recommended for EAR-2 zoning, may someday develop. He said that the street configuration indicated on the plan seemed to be the most feasible to construct housing on that tract also.

Mr. Cravens asked if the existing trees cover the entirety of the subject property. Mr. Martin displayed for Mr. Cravens a map of the property showing the heavily treed area. Mr. Cravens asked if the 50-foot buffer currently exists as an easement. Mr. Martin answered that the buffer is included as part of the staff's recommended conditional zoning restrictions; it does not currently exist.

Mr. King stated that the 50-foot buffer has been a consistent recommendation of the staff since the initial 1996 rezoning of the subject property. It is part of the result of conversations during the master zoning process for the Expansion Area Master Plan, which the Planning Commission approved, but the Council decided at the last minute not to approve. Mr. Cravens asked if the petitioner was aware at the time of filing of the rezoning request that those conditions were recommended. Mr. King answered that those recommendations have been on the record every other time this property has been brought it for rezoning, so the petitioner should have been aware of the recommended conditional zoning restrictions.

Mr. Vaughn stated that some of the Planning Commission members had arrived late in the discussion of the zoning portion of this hearing. If those Commissioners have not thoroughly read the staff report and would not feel comfortable with voting on this item, they should note their abstention when the vote is called. Ms. Weddle noted that any Commissioner who should choose to abstain from the vote should also not participate in the discussion.

Ms. Roche-Phillips stated that she understands that the purpose of the EAMP was to regulate density in the Expansion Area, rather than land use. She said that she would have difficulty approving a rezoning request with a development plan that could allow such a wide range of density. Ms. Roche-Phillips stated that it was her understanding that the Expansion Areas were not rezoned all together in order to allow scrutiny of the development plans on a parcel-by-parcel basis.

Ms. Godfrey stated that there were other conditions, in addition to density, considered as part of the Expansion Area Master Plan process.

Zoning Action: A motion was made by Ms. Godfrey seconded by Mr. Aten, and carried 10-1 (Cravens opposed; Day, Holmes, and Whitman abstained) to disapprove MAR 2007-19, for the following reasons:

1. The applicant has failed to show a compelling need to grant this rezoning.
2. The proposed rezoning is inappropriate at this time due to the applicant's inadequate treatment of concerns related to environmentally sensitive areas, storm water runoff, water quality, and traffic.
3. The existing A-U zoning is appropriate.
 - a. The applicant has not submitted sufficient evidence to show that the property is unsuited for the uses permitted in the existing zone.
 - b. Retaining the existing zoning will maintain the status quo and prevent inappropriate or premature development from occurring while not precluding future development in agreement with the Expansion Area Master Plan.
4. Although the rezoning application falls within the minimum and maximum density requirements for EAR-2 uses, nonetheless it does not adhere to a number of other EAMP recommendations for development in the Expansion Area and therefore is in disagreement with the EAMP. For example, the application fails to provide adequate buffering and fails to depict an innovative design for new development.
5. The proposed zoning proposal fails to meet Goals 3, 15 and 16 of the 2007 Comprehensive Plan, as the development would not be sensitive to the environmentally sensitive areas, particularly the floodplain located on the property, and does not enhance the character and quality of existing neighborhoods in the vicinity, including the Shandon Park and Foxborough Manor subdivisions.

Development Plan Action: A motion was made by Ms. Godfrey, seconded by Mr. Penn, and carried 11-0 (Day, Holmes and Whitman abstained) to indefinitely postpone ZDP 2007-98.

2. BILL MATTHEWS ZONING MAP AMENDMENT AND GOO GOO PROPERTY ZONING DEVELOPMENT PLAN

- a. MAR 2007-25: BILL MATTHEWS (1/10/08)* - petition for a zone map amendment from a Professional Office (P-1) zone to a Highway Service Business (B-3) zone, for 1.20 net (1.35 gross) acres, for property located at 1537 North Limestone Street.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Very High Density Residential (VHD) land use for the subject property. The petitioner proposes to redevelop the property and construct a car wash on the subject property.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommended: Postponement, for the following reasons:

1. Given that the request is within a larger area that is recommended by the Comprehensive Plan for further study as part of a Small Area Plan, and that this property looks to be located at one "gateway" to this larger area, the requested rezoning is premature. It is certainly possible that this Plan will make recommendations for land use changes, as well as evaluate what type of gateway features, landscaping or streetscape improvements, that would be appropriate throughout the area, including that of the subject property.
 2. No conditional zoning restrictions have been offered as part of this application. This is probably necessary in this area, given the close proximity of the subject property to nearby residential uses.
- b. ZDP 2007-140: GOO GOO PROPERTY (1/10/08)* - located at 1537 North Limestone Street.
(CDP Engineers)

The Subdivision Committee Recommended: Referral. There were questions about emergency access to the site and spacing from New Circle Road.

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

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.

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

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. Division of Fire's approval of emergency access and fire hydrant locations.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
9. Remove sign from plan face.
10. Denote easements.
11. Addition of developer's information.
12. Identify steep slope areas.
13. Resolve canopy height.
14. Resolve street improvements.
15. Resolve dumpster location.
16. Resolve detention basin proposed.
17. Resolve access and the need for a waiver.

Zoning Presentation: Ms. Wade presented the revised staff report, briefly orienting the Commission to the location of the subject property. She said that the subject property is currently vacant, but was formerly occupied by a nursing home facility. The petitioner is proposing to rezone the subject property to B-3 in order to develop a car wash establishment. Ms. Wade displayed several photographs of the subject property and surrounding area, noting that there is a very small parcel between the subject property and the New Circle Road right-of-way, and that subject property contains a retaining wall, which separates it from the parking lot for the adjacent Goodwill facility and Windstream offices.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Very High Density Residential land use for the subject property, which the staff believes reflects its former use as a nursing home facility. The Very High Density recommendation is defined by the Plan as 25 – 40 dwelling units per net acre. The requested B-3 zoning is therefore not in agreement with the Comprehensive Plan's land use recommendation, as the B-3 zone does not allow any type of residential development.

Ms. Wade noted that the subject property is located in the Central Sector, one of three areas designated by the 2007 Comprehensive Plan for further study in a small area plan. The Central Sector Coalition formed as a group of neighborhood associations and brought forward that request as part of the Comprehensive Plan process. They have identified numerous issues relating to the area, including density, land use, zoning, and traffic, among others. The Central Sector Coalition also stated that they would like for North Limestone Street to serve as a gateway into the Central Sector. Although the staff previously recommended that the petitioner postpone this request to allow for the preparation of that small area plan, the petitioner has stated that they wish to move forward with this request. The Planning Commission should remain cognizant that a small area plan is imminent for the subject property and the surrounding area, and be aware that any zone change and redevelopment of the property should be considered along with the goals and ideas of that study.

The petitioner has contended that the requested B-3 zone is appropriate at this location, and the existing P-1 zoning is inappropriate. The petitioner has stated that the requested B-3 zoning is appropriate because the property is surrounded by other B-3 zoning, and it would be more compatible and consistent with the existing land uses in the area. Ms. Wade stated that the petitioner also noted that the subject property was zoned B-3 until approximately 1971, at which time it was rezoned to P-1 to accommodate the nursing home facility. The petitioner has also contended that commercial zoning extends back at least 300 feet from New Circle Road in this area, with which the staff agrees. Ms. Wade stated that the staff would concur that the petitioner's justification is reasonable for this rezoning request.

In their previous recommendation of postponement, the staff raised the issue of the need for some conditional zoning restrictions for the subject property. Following the Zoning Committee meeting three weeks ago, the petitioner submitted the following list of proposed conditional zoning restrictions, which were agreeable to the staff, and are included on the revised staff report:

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. Indoor amusements, such as billiard or pool halls; skating rinks; theaters, or bowling alleys.
2. Circuses and carnivals, even on a temporary basis.
3. Taxidermy establishments.

4. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments and sexual entertainment centers.
5. Indoor and outdoor athletic facilities that may also require buildings which, as a result of their size and design, are not compatible with residential and business zone, but would be compatible in a Highway Service Business (B-3) zone, such as a field house; gymnasium; football stadium; tennis courts; soccer field or polo field; and baseball field.
6. Amusement parks, fairgrounds, or horse racing tracks.
7. Outdoor theaters.
8. Outdoor recreational facilities, including go-cart tracks; archery courts; skate-board and roller skating tracks; trampoline centers; rifle and other fire-arm ranges; swimming pools; water slides and other water-related recreational facilities, and other similar uses.
9. Pawnshops.
10. "Advertising signs" as defined in Article 17-3(b)(1) of the Zoning Ordinance.

These use restrictions are appropriate and necessary at this location to ensure that the proposed commercial development of the subject property will not be to the detriment of the nearby neighborhoods.

Ms. Wade stated that the Zoning Committee recommended referral to the full Commission at their meeting four weeks ago. The staff is now recommending approval of this request, 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 subject property is completely surrounded by B-3 zoning, and B-3 zoning is more consistent and compatible with the existing land uses in the immediate area. This allows a clustering of similar land uses with similar intensities.
 - b. The subject property was zoned B-3 until the early 1970s, when it was requested for rezoning to P-1 to accommodate the nursing home facility, which has since closed and ceased operation.
 - c. In the North Limestone area, commercial business zoning has historically been approved and generally accepted for an area approximately 300 feet deep along New Circle Road. The subject property is located within this distance.
2. The existing Professional Office (P-1) zone is inappropriate for the subject property. P-1 zoning is infrequent along both the New Circle Road and North Limestone corridors in this portion of the Urban Service Area. In this location, P-1 zoning does not establish a buffer or encourage a transition of land use between a more intense and less intense use.
3. This recommendation is made subject to approval and certification of ZDP 2007-140: Goo Goo 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.

Development Plan Presentation: Mr. Martin presented the corollary development plan, further orienting the Commission to the location of the subject property. The petitioner proposes a one-way access from North Limestone Street near New Circle Road that would provide circulation to the car wash payment stations. A two-way entrance is proposed further from New Circle Road, that corresponds with the existing access point to the property.

Mr. Martin stated that the development plan has been revised since the Subdivision Committee meeting. The revised plan provided an "escape gate" to meet some of the earlier concerns of the Division of Fire and Emergency Services, since several areas of the car wash are proposed to be gated. At the Technical Committee meeting, there was a great deal of discussion about the gate system, access to the property for emergency and solid waste vehicles, and dumpster location. The petitioner met with the staff following that meeting in order to attempt to address some of those concerns.

Mr. Martin said that the Subdivision Committee recommended referral, based on concerns about emergency access and the spacing of the access from New Circle Road. The Division of Fire and Emergency Services staff had strong concerns as well about possible emergency access to the site, and requested that they be added as a sign-off for this plan. The staff's major concern was the proposed access to the site from North Limestone Street; the proposed one-way access near New Circle Road will require a waiver at the time of the final development plan, as it does not meet the access spacing standards under the Zoning Ordinance. The minimum spacing required by the Ordinance is 400 feet, and none of the proposed access to the subject property would fit within that requirement. Mr. Martin stated that the access is proposed at a difficult intersection, and the addition of traffic entering and exiting the car wash could cause conflict with vehicles on North Limestone Street.

Mr. Martin stated that the staff had had several meetings with the petitioner, which resulted in the submission of the revised plan. Based on that plan, the staff is now recommending 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.
5. Urban Forester's approval of tree inventory map.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
9. Remove sign from plan face.
10. Denote easements.
11. Addition of developer's information.
12. Identify steep slope areas.
13. Resolve improvements to North Limestone at Final Development Plan.
14. Resolve dumpster location at Final Development Plan.
15. Resolve detention basin proposed at Final Development Plan.
16. Denote: Resolve access and the need for a waiver at the time of the Final Development Plan.

Commission Questions: Mr. Holmes asked how the concerns about the access are proposed to be resolved. Mr. Martin answered that the new requirements for approval include a provision that the access and need for a waiver must be resolved at the time of the final development plan.

Mr. Vaughn asked where the detention basin is proposed to be located. Mr. Martin responded that the petitioner is aware that special attention must be paid in this area to ensure that the stormwater runoff from the subject property is directed away from New Circle Road. He added that the Division of Engineering staff was comfortable with requiring that the detention basin be resolved at the time of the final development plan.

Petitioner Presentation: Rena Wiseman, attorney, was present representing the petitioner. She stated that the Goo Goo Car Wash Company started in 1945, and has since expanded operations throughout 12 states in the South. The petitioner is seeking a rezoning to B-3 because that is the first zone in the Ordinance in which a car wash is allowed as a principal permitted use.

Ms. Wiseman stated that the petitioner has met several times with the staff with regard to the development plan issues, and the petitioner understands that those concerns will have to be discussed and solved prior to the final development plan. She clarified that the access proposed closest to the New Circle Road/North Limestone Street intersection is intended to be right-in only. The petitioner has attempted to address the concerns of the Division of Fire and Emergency Services by providing escape gate from the service lane, as well as mountable curbs. The specifics of those gates have been provided to Captain Woodward, who has agreed that he is comfortable with the provision of those gates.

Ms. Wiseman displayed a rendered graphic of the area surrounding the subject property, depicting the large number of properties devoted to commercial uses in the New Circle Road corridor. The subject property was zoned P-1 in 1970, when it rezoned for the specific purpose of allowing the nursing home to locate there; it has never been used for Professional Office uses. The nursing home left the property some time ago, and the existing building would require extensive updates in order to be usable. Ms. Wiseman noted that the subject property was designated for commercial uses in Comprehensive Plans dating back to 1967. The recommended use was changed to Very High Density Residential in the 2001 Plan, but the presumption is that that recommendation reflected the existing nursing home use. The petitioner contends that the large amount of commercial development in the area, combined with the fact that the subject property has never been used for Professional Office uses, results in the requested B-3 zoning being more appropriate for this property than the existing P-1 zoning. The proposed conditional zoning restrictions, along with B-3 zoning, would help to make the subject property more compatible with surrounding uses, while prohibiting some of the more intense uses typically allowed in the B-3 zone.

With regard to the upcoming Central Sector Small Area Plan and the proposed designation of the North Limestone corridor as a gateway, the petitioner is willing to work with LFUCG with regard to landscaping, buffering, rights-of-way improvements, etc., but it is too early in the process to discuss the specifics of those issues. The small area plan study has not yet been started, and, because the petitioner has the property under a purchase contract, they would prefer to pursue the rezoning at this time and not wait for the final results of that study. Ms. Wiseman requested that the Planning Commission consider the staff's revised recommendation of approval, as well as the proposed conditional zoning restrictions, and approve this request.

Commission Question: Ms. Roche-Phillips asked about the origin of the name "Goo Goo Car Wash." Roger Beck, grandson of the founder of the company, stated that his family had been in the car wash business since 1945. One of their locations in Columbus, Georgia, had previously been the Goo Goo Restaurant. After the drive-in restaurant burned and the owner replaced it with a car wash, he sold the business to the Beck family. The Goo Goo Restaurant had been

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an institution in Columbus, and the residents requested that the Becks not change its name. They then re-branded all of their car washes to the Goo Goo name.

Citizen Opposition: Martin Clifford, 760 North Limestone Street, stated that he is a resident and business owner in the area, and a member of the North Limestone Neighborhood Association and the Central Sector Neighborhood Coalition. He distributed to the Commission members a letter of opposition to this request. Mr. Clifford stated that he had opened his furniture shop on North Limestone nine years ago, and quickly realized that, although, the neighborhood has been improving in recent years, it still has some problems to overcome. Members of the community, police officers, and Council members have been working very hard in recent years to make North Limestone a more desirable place to live, work, and go to school.

Mr. Clifford said that he does not know if the proposed car wash would be an asset or a detriment to the North Limestone community. He was glad to note that the petitioner had proposed conditional zoning restrictions to regulate less desirable uses, particularly adult uses. He and his neighbors believe that the small area plan should be completed, however, prior to the approval of any rezoning requests.

Mr. Clifford stated that he is concerned about the possibility of additional traffic on North Limestone, particularly near its intersection with New Circle Road. There are no sidewalks in the area, and there is a great deal of pedestrian traffic that crosses New Circle Road to access the Kroger store across the street. Neighborhood residents are also concerned about the possibility of stormwater runoff problems in a known flood-prone area.

With regard to Ms. Wiseman's assertion that there are a large number of existing B-3 uses in the area, Mr. Clifford said that some diversity in land uses may actually serve to improve the area. There are at least five car washes located nearby, but no other nursing homes exist in the area. Mr. Clifford stated that he believes that the property may best serve the community through redevelopment as another nursing home. He noted that someone has graded off the small parcel between the subject property and New Circle Road, and he is concerned that it will be left as a "large ditch," or used inappropriately as stormwater drainage for the subject property.

Commission Question: Mr. Mahan asked how long it has been since the nursing home closed. Mr. Clifford answered that the nursing home had closed within the past year.

Petitioner Rebuttal: Ms. Wiseman stated that the small parcel located between the subject property and New Circle Road is a separate lot, and is not owned by the petitioner. She noted that the petitioner hopes that the addition of another viable business will help to stimulate the community, rather than detract from it. The petitioner intends to work as much as possible with LFUCG to implement the recommendations of the upcoming small area plan, but they are unable to wait for the results of the plan due to their pending contract on the subject property.

Commission Questions: Mr. Day asked the Division of Traffic Engineering staff if the proposed access configuration is acceptable. Mr. Neal answered that he did have some concerns about the access proposed so near New Circle Road, and the need for a waiver to the Subdivision Regulations, since the Traffic Engineering staff tries to encourage the reduction of access points near intersections whenever possible. Since this is a preliminary development plan, however, the staff has not been too concerned, as they believe the issues can be resolved at the time of the final development plan. The nearest access to the intersection is proposed as an entrance only, which should help alleviate some of the possible traffic problems.

Mr. Vaughn asked for clarification as to whether that access closest to New Circle Road is proposed as a right-in only, or an entrance only. Mr. Beck answered that it is proposed as an entrance only, but will allow right and left turns onto the subject property. He added that the Goo Goo Car Wash layout has been designed to minimize the stacking of cars that is typical of some car wash businesses, so that traffic should not back up onto North Limestone.

Mr. Day stated that he believes that the proposed access is located too close to the New Circle Road intersection. He noted that there is a car wash located near his business, and there are sometimes long queues of vehicles waiting to be washed. Mr. Beck responded that his company can process a car every 23 seconds, which means far less queuing than most car washes. He said that he is willing to work with the staff and the Division of Traffic Engineering with regard to the proposed accesses.

Mr. Cravens asked, with regard to the staff's original recommendation of postponement, what had transpired to provide the staff with some reassurance that the issues could be resolved. Mr. Martin stated that certain types of issues can be better resolved at the final development plan stage, which can also allow a zone change to move forward. The staff intended to stress that those issues existed, in order to bring them to the attention of the petitioner and the Commission, but they are comfortable that they can be resolved at the final development plan stage. Mr. Cravens stated that he is concerned that, should the petitioner submit a waiver request at the final development plan stage, that request may be

denied by the Commission due to its proximity to New Circle Road. Mr. Martin answered that he understood Mr. Cravens' concerns, but the preliminary development plan is intended to be conceptual in nature.

Mr. Holmes asked why the staff had changed their initial recommendation with regard to postponing this request in order to await the small area plan. Ms. Wade said that the staff changed their recommendation with the knowledge that, once an application has been filed, the Commission has only 90 days to make a recommendation on it to the Council. The staff was made aware that the petitioner was not willing to postpone their request until the Central Sector Plan was complete, so the staff had to consider the appropriateness of the requested zoning and prepare to move forward.

Petitioner Comment: Ms. Wiseman stated that the petitioner is aware of the problems with the access, and the possibility that a waiver request may not be approved, and they are prepared to deal with that situation should the need arise.

Mr. Holmes stated that it is often difficult to apply regulations and standards, particularly with regard to existing accesses, to infill properties. He believes that, as the city of Lexington focuses its efforts more on infill and redevelopment, the Commission will face this type of issue more often.

Zoning Action: A motion was made by Ms. Godfrey, seconded by Mr. Penn, and carried 11-0 to approve MAR 2007-25, for the reasons as listed on the revised staff report, including the conditional zoning restrictions.

Development Plan Action: A motion was made by Ms. Godfrey, seconded by Mr. Mahan, and carried 11-0 to approve ZDP 2007-140, with the 16 conditions as listed on the revised staff recommendation.

3. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT

- a. MAR 2007-26: URBAN COUNTY PLANNING COMMISSION - petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Single Family Residential (R-1B) zone, for 3.3 net (3.8 gross) acres, for properties located at 1960 (a portion of) and 1964 Shadybrook Lane; and from a Single Family Residential (R-1C) zone to a Single Family Residential (R-1B) zone, for 55.8 net (68.3 gross) acres, for properties located at 1803 – 1814 Lakehill Circle; 2128 – 2136 Lakeside Court; 2001 – 2213 Lakeside Drive; 2081 – 2093 Lakeside Place; and 2021 and 2025 Shadybrook Lane.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 3) recommends low density residential land use for the subject properties. The petitioner proposes Single Family Residential (R-1B) zoning, which requires minimum lot sizes of 15,000 square feet, and minimum lot frontages of 100'.

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

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

1. The requested R-1B zoning is in agreement with the 2007 Comprehensive Plan, which recommends low density residential use, defined as 0-5 dwelling units per net acre. The existing residential density is 1.3 units per gross acre, and will not significantly increase if the proposed R-1B zoning is approved for this area.
2. Based on the size of properties within the subject area (all meeting at least the minimum R-1B lot size of 15,000 square feet), the 100-foot or greater frontages for most lots, as well as the 40-foot or greater front yards in existence for most of the subject properties, the requested R-1B zoning is more appropriate than the existing R-1C or A-U zoning.

Staff Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject properties. She said that this downzoning application was initiated by the Planning Commission in September of 2007, at the request of the Lakeview Neighborhood Association. The downzoning area contains 93 single-family residential lots, completely surrounded by single-family residential zoning.

Ms. Wade stated that the staff had studied the downzoning area with regard to possible non-conformities should it be rezoned to R-1B. None of the lots would become non-conforming in terms of lot size; however, four lots, or 4% of the lots, would become non-conforming in terms of lot frontage, and another four lots would become non-conforming in terms of the building line or setback. The staff estimated that those setbacks were 30 or 40 feet, and, while they meet the requirements of the R-1C zone, they would not meet the requirements of the R-1B zone. Eight lots, therefore, would have some sort of non-conformity, but the staff considers that number minimal. The two lots that are currently zoned A-U on the south side of Shadybrook Lane are much larger than the other lots in the subdivision, but they are surrounded by lots zoned R-1B.

One of the events that precipitated this downzoning request was the subdivision of a large lot in the neighborhood. When lot size greatly exceeds the requirements of a zone, such subdivisions may become a problem; residents of the

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neighborhood may consider those smaller lots undesirable, or believe that they could alter the character of the existing neighborhood.

Ms. Wade stated that the 2007 Comprehensive Plan recommends Low Density Residential use for the Lakeview subdivision, or 0 – 5 dwelling units per net acre. Both the R-1B and R-1C zones would meet that land use recommendation. The existing density in the area is 1.3 units per gross acre, which does fall within the recommendations of the Comprehensive Plan. If the subdivision remained zoned R-1C, and every lot was subdivided, which would double the density, it would still fall within the recommendation of the Plan. However, the character of the neighborhood would change, which would be a detriment to the area.

In response to the neighborhood association's request that the Planning Commission consider conditional zoning restrictions with regard to lot size along with this request, the staff found that those restrictions would not be necessary. The Commission could impose a minimum lot size greater than the R-1B standard of 15,000 square feet, however, there are only two lots that could contemplate subdivision. With such a small number of properties able to subdivide, it did not seem necessary to recommend such a restriction. The two lots on the south side of Shadybrook Lane are much larger than the other properties in the area, and were not originally platted as part of this neighborhood. Ms. Wade stated that the staff believes that it would not be appropriate to recommend a lot size restriction for those properties either, so that they may have the potential to redevelop or subdivide in the future to bring them closer in size to the neighboring properties. The staff and Zoning Committee are recommending approval of this request, for the reasons as listed on the agenda.

Citizen Support: Edgar MacDonald, president of the Lakeview Area Neighborhood Association, stated that he and his neighbors appreciate the work of the staff and Planning Commission, particularly Ms. Wade, in assisting with the initiation of this downzoning request. He said that they support the staff's recommendation, and request approval.

Citizen Opposition: No citizens spoke in opposition.

Action: A motion was made by Mr. Penn, seconded by Mr. Aten, and carried 11-0 to approve MAR 2007-26, for the reasons provided by the staff.

VI. COMMISSION ITEMS – Commission items, if any, will be considered at this time.

- A. SOUTHEND PARK ZONE CHANGE REQUEST** – The staff will request that the Planning Commission consider initiation of a zone change from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone, to a Mixed Use: Neighborhood Corridor (MU-2) zone, and to a restricted Highway Service Business (B-3) zone, for properties in the area of the Southend Park, located on DeRoode Street, Versailles Road, McKinley Street, Byars Avenue, Neville Avenue, Merino Street and Patterson Street. The staff will present a map of this area at the meeting.

Staff Presentation: Mr. Sallee presented a rendered map of the area in question, noting that this area that has been studied in association with the Newtown Pike Corridor Extension Plan, and, more recently, as part of the Southend Park area study. He briefly oriented the Commission to the location of the subject area, which is just under 30 acres total.

Mr. Sallee stated that the timing of the request for initiation is significant, in that the Record of Decision has been made for the roadway project. In consulting with the Division of Engineering, the staff found that the first property acquisitions are planned for spring or summer of 2008. From a zoning standpoint, this is the appropriate time to consider the rezoning, since, once property transfers begin, notification of property owners can become a true problem. The staff anticipates that, should the Planning Commission choose to initiate this request, the request most likely will not be heard until approximately March of 2008. Mr. Sallee said that there are currently two properties located within the request area, 757 and 767 DeRoode Street, which are already zoned R-3 and will not need to be considered as part of this request. This rezoning would allow consideration of the redevelopment plan that the Commission has reviewed and considered previously.

Commission Questions: Mr. Vaughn asked if the proposed B-3 property will have access to Versailles Road. Mr. Sallee answered that that property does currently have access to Versailles Road, but that access probably does not meet the Subdivision Regulation spacing standards. Mr. Vaughn asked if Newtown Pike was proposed to be elevated at this location. Mr. Sallee responded that there will be some fill necessary as part of this project, but he is not sure whether that will be located on this proposed B-3 property. Mr. Vaughn stated that he is concerned about possible access to this property.

Ms. Weddle stated that one of the portions of this project that will be submitted to the Council is a corridor access and landscaping plan, similar to the one for Richmond Road. The access to this property is specifically addressed as part of that plan. Rachel Phillips, Strategic Planning, noted that the site access is proposed as right-in/right-out only, and will front on the proposed Newtown Pike.

Action: A motion was made by Ms. Godfrey, seconded by Mr. Mahan, and carried 10-0 (Holmes disqualified) to initiate this re-zoning request.

- B. OFFICIAL MEETING AND FILING SCHEDULE FOR 2008** – The staff presented copies of the recommended “Official Meeting and Filing Schedule for 2008” and requested the Commission’s consideration of adoption. After adoption by the Commission and by the Board of Adjustment, the 2008 schedule will be distributed.

Action: A motion was made by Mr. Penn, seconded by Ms. Godfrey, and carried 7-0 (Aten, Day, Holmes and Whitman absent) to adopt the “Official Meeting and Filing Schedule for 2008” as presented by staff.

- C. APPOINTMENT OF FLOODPLAIN APPEALS COMMITTEE MEMBERSHIP** – Mr. King stated that a handout had been distributed to the Commission detailing a list of possible appointees to the Floodplain Appeals Committee. Under Ordinance, it is the charge of the Planning Commission to nominate those members, all of whom have been contacted and have agreed to serve.

Action: A motion was made by Mr. Day, seconded by Ms. Godfrey, and carried 11-0 to nominate Don Kelly, Don Blevins, Lyle Aten, Bill Hodges, Fred Eastridge, and Doug Myneer to the Floodplain Appeals Committee, to serve terms as listed on the memorandum provided by staff.

VII. STAFF ITEMS – Staff items, if any, will be considered at this time.

- VIII. AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission’s formal action, such as zoning items for early re-hearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

IX. MEETING DATES FOR DECEMBER, 2007

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 6, 2007
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	December 6, 2007
Subdivision and Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 13, 2007
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	December 19, 2007
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 20, 2007

X. ADJOURNMENT

TLW/TM/JWE/BJR/BS/src

Randall Vaughn, Chair

Frank Penn, Secretary