

MINUTES FOR BOARD OF ADJUSTMENT MEETING

January 25, 2008

- I. **ATTENDANCE** - The Chairman called the meeting to order at 1:01 p.m. in the Council Chambers, 200 East Main Street, on January 25, 2008. Members present were Chairman Mike Owens, Carolyn Edwards, Barry Stumbo, Louis Stout, Joanne Bell, Jim Griggs and Kathryn Moore. Others present were Jim Hume of the Division of Building Inspection; Barry Brock of the Division of Engineering; Jim Gallimore of the Division of Traffic Engineering; and Rochelle Boland of the Law Department. Staff members in attendance were Jim Marx, Bill Sallee and Wanda Howard.

- II. **APPROVAL OF MINUTES** - The Chairman announced that the minutes of the meeting held on November 30, 2007 would be considered at this time.

Action – A motion was made by Mr. Stout, seconded by Ms. Moore, and carried unanimously to approve the minutes of the November 30, 2007 meeting.

III. **PUBLIC HEARING ON ZONING APPEALS**

- A. **Sounding The Agenda** - In order to expedite completion of agenda items, the Chairman sounded the agenda in regard to any postponements, withdrawals, and items requiring no discussion.

1. **Postponement or Withdrawal of any Scheduled Business Item** - The Chair announced that any person having an appeal or other business before the Board may request postponement or withdrawal of such at this time.

- a. **V-2008-9: GEORGIA RODES** - appeals for a variance to increase the allowable height of a privacy wall/screen from 8 feet to 13 feet in a Single-Family Residential (R-1C) zone, on property located at 966 Mason Headley Road. (Council District 11)

The Staff Recommended: Disapproval, for the following reasons:

1. Granting the requested variance will alter the character of the general vicinity, by allowing the retention of a wall/fence of a height (13') not commonly found on adjoining or nearby properties.
2. Granting the requested variance will result in an unreasonable circumvention of the requirements of the Zoning Ordinance, given that the 5' additional wall/fence height requested is for the purpose of providing visual screening rather than for maintaining reasonable levels of privacy.
3. There are no special circumstances pertaining to the subject property that require additional wall/fence height in order to maintain reasonable levels of privacy and use of the land. While the English Garden is no doubt a special feature of the property, a wall/fence of 13' in height is not needed to maintain or enjoy the garden.
4. The circumstances surrounding this variance request are a direct result of the appellant's actions, as the fence was placed on top of the wall without obtaining a permit from the Division of Building Inspection.

Representation – Mr. Richard Murphy, attorney, was present representing the appellant and requested a withdrawal of the variance application, noting having spoken to Building Inspection, the president of the neighborhood association and the next door neighbor. He informed the Board that the portion of the wall that was the subject of the variance appeal would be taken down within two weeks.

No action from the Board was necessary.

- b. **A-2008-6: ATHENS SCHOOLHOUSE PARTNERS, LLC** - appeals for an administrative review to allow antique sales and an accessory restaurant,

considered by the appellant as a change in nonconforming use, on properties zoned Single-Family Residential (R-1D) and Agricultural-Rural (A-R), located at 6251 and 6270 Athens-Walnut Hill Road. (Council District 12)

The Staff Recommended: Disapproval, for the following reasons:

1. The proposed retail use, for the sale of antiques with an accessory restaurant, is first listed as a principal permitted use in the Zoning Ordinance in the Neighborhood Business (B-1) zone, which is a much less restrictive zone than the Agricultural Rural (A-R) zone. The retail sale of antiques is prohibited in the A-R zone, whereas the prior use for a school for academic instruction at this location is actually allowable in the A-R zone as a conditional use. Therefore, based on an analysis of zoning categories, the proposed use is not in the same or a more restrictive classification as the prior use, and does not satisfy the criteria set forth in Article 4-3(e) of the Zoning Ordinance.
2. The fact that schools for academic instruction, retail sale of antiques, and restaurants are all permitted in the B-1 and B-2B zones is insufficient justification for concluding that the proposed retail/restaurant use is in the same classification as a school use. If zoning categories are to be used as an indicator of how uses are classified, the entire scope of the Zoning Ordinance, and how particular uses are treated in all zones, must be evaluated in order to make a reasonable determination.
3. The proposed use is anticipated to be more intense, with greater potential for adversely impacting the surrounding community, than the prior use. This is expected due to a likely increase in the number of people visiting the property, a substantial increase in the demand for off-street parking (as supported by a comparison of parking requirements for a retail use compared to a school), and more frequent activities on weekends and in summer months. Therefore, based on a comparison of potential adverse impacts associated with the prior and proposed uses, the proposed use would be considered to involve an "increase in scope" compared to the prior use, and does not satisfy the limitations set forth in Article 7-6(c) of the Zoning Ordinance.

Representation – Mr. Jim Hodge, attorney, was present representing the appellant and requested a postponement until the February 29, 2008 meeting, in order to discuss the case-related issues with staff.

Action – A motion was made by Mr. Stout, seconded by Mr. Stumbo, and carried unanimously to postpone **A-2008-6: ATHENS SCHOOLHOUSE PARTNERS, LLC** until the February 29 meeting.

- c. **C-2007-106: KY DATA LINK, INC.** - appeals for a conditional use permit to construct a public utility building (fiber optic terminal) in a Light Industrial (I-1) zone, on property located at 307 Newtown Pike. (Council District 2)

The Staff Recommended: Postponement, for the following reasons:

1. More detailed information is needed to correctly identify the subject property, with notices sent to surrounding property owners based on a corrected 400' notification area map. This information shall include a full copy of any consolidation plats that affect the subject property.
2. Unless the proposed location of the building is shifted to satisfy the 20' front yard requirement, this application must be amended to include a variance request to reduce the required front yard.
3. A revised site plan, drawn to scale, is needed that clearly shows the subject property, proposed building, and how vehicular access to the property will be achieved.

Mr. Marx informed the Board that the staff was recommending a one-month postponement of the subject appeal, in order for the appellant to amend his application to include a variance; and that the appellant conveyed to him that he had no objection to the recommended postponement.

Action – A motion was made by Mr. Stout, seconded by Ms. Edwards, and carried unanimously to postpone **C-2007-106: KY DATA LINK, INC.** until the February 29 meeting.

2. No Discussion Items - The Chairman asked if there were any agenda items where no discussion was needed...that is, (a) The staff has recommended approval of the appeal and related plan(s), (b) The appellant concurs with the staff's recommendations. Appellant waives oral presentation, but may submit written evidence for the record, (c) No one present objects to the Board acting on the matter at this time without further discussion. For any such item, the Board proceeded to take action.

At this point, Chairman Owens asked all those present who would be speaking or offering testimony to stand, raise their right hand and be sworn.

ABBREVIATED HEARINGS:

- a. **V-2008-7: CHARLESTON DEVELOPMENT, INC.** - appeals for a variance to reduce the required setback for a free standing sign from 10 feet to 5.67 feet to allow an existing sign to remain where currently located in a Professional Office (P-1) zone, on property located at 2250 Thunderstick Drive. (Council District 6)

The Staff Recommended: Approval, for the following reasons:

1. Granting the requested variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity. The installed sign complies with the overall size limitations of the Zoning Ordinance; and, due to its low height, blends well with the surrounding landscaping in front of the building it serves.
2. The design features of the sign, in particular its low height, and the location of the required landscaping for the parking lot, resulted in a special situation that favored placement of the sign a few feet less than the 10' minimum required setback.
3. Strict application of the Zoning Ordinance would force the appellant to move the sign 3.33' farther back from the street. At that location it would have to be elevated, probably on a pole, thereby making it much more visually intrusive and possibly interfering with sight triangles for each access drive that serves the property. Moving the sign farther back would also result in a loss of parking spaces, as well as a potentially awkward appearance of the parking lot and associated landscaping.

This recommendation of approval is made subject to the following conditions:

1. The sign may remain where currently located in accordance with the submitted application and site plan.
2. A sign permit shall be obtained from the Division of Building Inspection within 30 days of action by the Board, ensuring that all other aspects of Article 17 of the Zoning Ordinance have been complied with.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Myke Robbins, with Foster-Roland, Inc., was present representing the appellant and stated that they understood, agreed with, and would abide by the conditions for approval.

Action – A motion was made by Mr. Stout, seconded by Ms. Bell, and carried unanimously to approve **V-2008-7: CHARLESTON DEVELOPMENT, INC.** (a variance to reduce the required setback for a freestanding sign from 10 feet to 5.67 feet to allow an existing sign to remain where currently located in a Professional Office [P-1] zone, on property located at 2250 Thunderstick Drive) for the reasons listed by the staff, subject to the two conditions listed by the staff, and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- b. **V-2008-8: WAR ADMIRAL PLACE, LLC** - appeals for variances to: 1) reduce the required setback from a floodplain from 25 feet to 0 feet; and 2) reduce the required perimeter setback from 50 feet to 28 feet in order to construct a restaurant with accessory parking in a Planned Shopping Center (B-6P) zone, on properties located at 2251 and 2277 War Admiral Way. (Council District 6)

The Staff Recommended: Approval of the requested variances for the restaurant and deck, for the following reasons:

1. Granting the requested variances should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity. The deck will be built on pilings and will not extend into the actual floodplain, and will allow public enjoyment of the greenway associated with the floodplain. The enclosed portion of the restaurant building will not extend into the floodplain buffer; its location closer than 50' from the B-6P boundary will have no visual or other impact, due to the adjoining floodplain that separates this development from other portions of the shopping center.
2. The location and extent of the floodplain that adjoins this property is a special circumstance that contributes to justifying the request.
3. Strict application of the Zoning Ordinance would force the appellant to move the restaurant building and deck much farther away from the edge of the floodplain, which would likely cause a total redesign of the development, including a significant loss of potential off-street parking spaces. Such a redesign would not have any clear benefits in this particular case, and would likely result in some areas outside of the floodplain being unusable.

This recommendation of approval is made subject to the following conditions:

1. The restaurant and deck shall be constructed in accordance with the submitted application and site plan, or as amended by the Planning Commission.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
3. Action of the Board shall be noted on an amended Final Development Plan for the subject property, subject to approval by the Planning Commission.
4. All portions of the deck closer than 25' from the edge of the floodplain shall be constructed on pilings or other features that elevate the deck above the area intended as a floodplain buffer, subject to approval by the Division of Engineering.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Matt Carter, with Vision Engineering, was present representing the appellant.

Mr. Marx noted the staff's additional condition for approval, which was shown on the overhead and read, as follows: (#5) With respect to the floodplain, all necessary state and federal permits shall be obtained prior to applying for a grading permit. In response to the Chairman, Mr. Carter stated that they understood and would abide

by the imposed conditions, including the added provision.

Action – A motion was made by Ms. Edwards, seconded by Mr. Stumbo, and carried unanimously to approve **V-2008-8: WAR ADMIRAL PLACE, LLC** (variances to: 1] reduce the required setback from a floodplain from 25 feet to 0 feet; and 2] reduce the required perimeter setback from 50 feet to 28 feet in order to construct a restaurant with accessory parking in a Planned Shopping Center [B-6P] zone, on properties located at 2251 and 2277 War Admiral Way) for the reasons listed by the staff; subject to the four conditions listed by the staff, including the addition of Condition #5 as stated herein; and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- c. **C-2005-139: CAROLYN WAGONER** – appeals for a 6-month review (from date Certificate of Occupancy was issued) of a conditional use permit to allow a vehicle storage yard in a Light Industrial (I-1) zone, on property located at 937 Williamson Street. (Council District 2)

At its December 2005 public hearing, the Board approved a conditional use permit to allow a vehicle storage yard in a Light Industrial zone, with several conditions imposed. One condition was a 6-month review of the conditional use from the date the Certificate of Occupancy was issued by the Division of Building Inspection in order to determine compliance with the conditions imposed and to determine whether use of the property as a vehicle storage yard would have any negative impact on surrounding properties. The conditions to be reviewed are as follows:

1. The vehicle storage yard shall be operated in accordance with a revised site plan, indicating a full 5' landscape buffer to be provided along the southern property line. Plantings within this buffer area shall comply with that required by Article 18-3(a)(1)A.3 of the Zoning Ordinance.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to occupying the property as a vehicle storage yard.
3. The property shall be paved and resurfaced, as necessary, prior to obtaining an occupancy permit, to comply with the requirements of the Division of Building Inspection.
4. The existing 8' chain link fence shall be restored, as necessary, prior to obtaining an occupancy permit, to provide a fully functional fence that surrounds the entire property.
5. Storm water management shall be provided in accordance with the adopted Engineering Manuals, as determined to be necessary by the Division of Engineering.
6. Access to the gated entrance at the northwest corner of the property shall be limited to the stretch of Driscoll Street that leads directly to Manchester Street from the entrance.
7. That the applicant obtain the determination relative to the 100-year floodplain in the area.
8. That the applicant work with the Divisions of Engineering and Building Inspection.
9. That the parking and resurfacing of this property be completely adhered to relative to all of the regulations regarding operation of this type of business.
10. A six-month review by the Board of Adjustment, following issuance of a Certificate of Occupancy, to include a report from the Division of Building Inspection.
11. That the applicant ensure that sufficient records relative to operating such a business are on file and adhered to.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response. He then asked if the applicant or representation was present. Mr. Marx responded that Ms. Wagoner was unable to attend today's

meeting; but that Mr. Hume had recently been in contact with her and had some new information.

Mr. Hume reported that he had spoken with Ms. Wagoner and her representatives, noting that they did not necessarily wish to withdraw because the request to operate a vehicle storage yard was never fully exercised; and that he was waiting to receive a letter from them stating that fact in writing, after which Building Inspection would write it off the books. Mr. Hume said it was really a non-issue at this point.

For clarification, Chairman Owens asked whether the business was ever operated there. Mr. Hume said that was the appellant's intention; but after some discussions with him, they realized that it would be more expensive than originally anticipated to meet the imposed conditions, particularly with regard to repaving the sizeable lot, which may have been a financial burden to complete. Therefore, they decided not to do it at all.

Chairman Owens related his understanding that a Certificate of Occupancy had been issued. Mr. Hume acknowledged that he issued the occupancy permit in good faith, after a long discussion with the applicant who was in the process of securing bids and getting set up.

Chairman Owens inquired whether vehicles are stored on the premises presently. Mr. Hume responded that there are some vehicles there now, which didn't belong to Ms. Wagoner; and that he has been in contact with the owner to get that problem resolved. He explained that he and Code Enforcement are working on some issues that involve the entire lot; and although a number of things are going on there, he said it was not, in effect, related to Ms. Wagoner's application.

Chairman Owens asked how the Certificate of Occupancy got issued without the conditions being met. Mr. Hume reiterated that the CO was issued by him in good faith after some discussions regarding the appellant's plans and contracts out for bids; but for whatever reason(s), they didn't follow through.

Chairman Owens asked whose vehicles were stored on the property. Mr. Hume said the vehicles belonged to a business owner down the street from the subject property, whom he had spoken with and made aware of the problem. He said the owner was willingly working with him and Code Enforcement; and as of Wednesday, they were in the process of having those vehicles removed.

It was Ms. Boland's recommendation to postpone this matter and keep it on the docket since a 6-month review was required by the Board. She said once the letter was received from the applicant abandoning this conditional use, the Board could then take action to remove this item from the docket.

Chairman Owens asked whether a 30-day postponement would be sufficient. Mr. Hume replied yes, noting that this should be cleared up within 30 days. The Chairman then asked for a motion.

Prior to the motion, however, Mr. Stout asked why the Board would hear this again if the applicant didn't intend to operate the business there at all. Mr. Hume responded that the applicant never notified Building Inspection about that. He went on to say that the applicant never communicated back to Building Inspection until this issue came up. Mr. Stout said it seemed to him that the Board would take action relative to the required 6-month review. Mr. Hume responded that he could request a revocation hearing, which would be the next step; but since the applicant would be writing a letter to Building Inspection stating that the requested conditional use was never exercised, he preferred to go this route.

Chairman Owens asked whether the Certificate of Occupancy that was previously issued became null and void at that point. Mr. Hume replied absolutely, because it was issued to the applicant, Carolyn Wagoner.

Ms. Bell inquired whether the applicant would receive formal notification that the conditional use permit no longer exists. Mr. Hume said if that was the Board's wish, he would comply. Ms. Bell, Mr. Stout and Chairman Owens concurred that it should be put in writing.

Chairman Owens asked counsel whether a postponement was still necessary. Ms. Boland replied yes, because the Board couldn't really take action today without the applicant being present. She said hopefully, in February, Mr. Hume can bring Ms. Wagoner's letter to the Board indicating that she has not, nor does she intend, to exercise the conditional use permit, as well as his letter back to her acknowledging that fact and notifying her that the conditional use permit is null and void. At that point, she said the Board could make a motion to remove this item from the agenda, which would be the end of it.

Action – A motion was made by Mr. Stout, seconded by Ms. Bell, and carried unanimously to postpone **C-2005-139: CAROLYN WAGONER** for 30 days.

- d. **C-2007-103: DJ ACQUISITIONS, LLC** - appeals for a conditional use permit to construct a parking lot to serve an adjoining commercial use in a Professional Office (P-1) zone, on property located at 2011-2015 Liberty Road. (Council District 5)

The Staff Recommended: Approval, for the following reasons:

1. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The two lots to be used for employee parking will be incorporated into an overall development for an automobile dealership that will be subject to approval by the Planning Commission. All of the surrounding properties are zoned for commercial purposes, and there are no adjoining or nearby properties that will be disturbed by use of the subject lots for parking.
2. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The subject property shall be developed in accordance with the submitted application and revised site plan (designating use of the two P-1 lots for employee parking), or as amended by the Planning Commission.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
3. The parking lot shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
4. The final design of the parking lot shall be subject to review and approval by the Division of Traffic Engineering.
5. A storm water management plan shall be implemented in accordance with the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Matt Carter, with Vision Engineering, was present representing the appellant and stated that they understood, agreed with, and would abide by the conditions for approval.

In response to Ms. Bell's question regarding Condition #5, Mr. Marx stated that this is part of the normal permitting process and the condition was put in for emphasis.

Action – A motion was made by Mr. Stout, seconded by Ms. Edwards, and carried unanimously to approve **DJ ACQUISITIONS, LLC** (a conditional use permit to construct a parking lot to serve an adjoining commercial use in a Professional Office [P-1] zone, on property located at 2011-2015 Liberty Road) for the reasons listed by the staff, subject to the five conditions listed by the staff, and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- e. **C-2007-108: BLUEGRASS MEATS, LLC** - appeals for a conditional use permit to allow live entertainment (music) and dancing in a Neighborhood Business (B-1) zone, on property located at 601 North Limestone Street. (Council District 1)

The Staff Recommended: Approval, for the following reasons:

1. Providing live music and dancing at this restaurant & bar should not adversely affect the subject or surrounding properties. A restaurant & bar is an established use at this location, with the prior owners approved for dancing with jukebox music. Off-street parking requirements will be satisfied through a joint parking agreement, and on-site parking conditions will improve with the provision of up to ten spaces. Since shared parking in this particular case is a continuation of a pre-existing condition, and minimum off-street parking requirements have been reduced for this use, it is recognized that the nonconformity associated with the 50% restriction outlined in Article 16-7(b) is being lessened significantly for this establishment.
2. All necessary public services and facilities are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. Live music and dancing may be provided between the hours of 8:00 PM and 1:00 AM on Thursday through Saturday, with other times reserved for dancing with a jukebox only.
2. A minimum of one off-street parking space for every 150 square feet of floor area (not including storage) within the establishment (22 spaces based on the current floor area of 3,285 square feet) shall be provided through a combination of on-site parking and the joint use of parking areas within 300' of the subject property.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Since neither the appellant nor representation was present at this time, the Board proceeded to hear the next case on the agenda without opposition, while the staff tried to make contact by phone.

(The Board returned to the aforementioned case following disposition of **C-2008-5: QUEST COMMUNITY CHURCH, INC.**).

Representation - Mr. Lester Miller now was present representing the appellant and apologized to the Board for his earlier absence. He stated that he understood, agreed with, and would abide by the conditions for approval.

Ms. Bell said she had a question regarding the Board's recent denial of a similar request for a restaurant located on Alexandria Drive that was close to a residential area. She asked what was the difference between this set of circumstances and

those for the other restaurant that also wanted to have live music.

Ms. Boland responded that the applicant in this case has not had to request a variance of the 100-foot distance to a residential zone; and another possible distinction was that, in essence, this use/activity has been conducted at this location for quite some time without any record of problems or complaints, although a jukebox for music was used.

Mr. Griggs commented about having read a wonderful review in the newspaper regarding the entertainment venue at the restaurant/bar, which lead to the question of live band music being offered prior to securing a conditional use permit. Mr. Miller responded that they (mistakenly) thought the problem had to do with the dancing aspect of the proposal; but when they realized that they were not in compliance, steps were taken to rectify the problem. He apologized to the Board for not having the necessary permit beforehand.

Chairman Owens asked the staff about including an added condition (#3) stating that soundproofing shall be in compliance with Building Inspection. Mr. Marx responded that an added condition to that effect could certainly be added, noting that it is required by the Ordinance that the use be soundproofed to the maximum extent feasible by using existing technology. Mr. Miller responded, when asked, that they would be happy to work with Building Inspection, to help them understand exactly what the added condition entails; and that they would be absolutely compliant with the condition.

Chairman Owens related his understanding that the parking situation has been taken care of. Mr. Marx responded that it will be a continuation of how it formerly operated, so a special review by Traffic Engineering was unnecessary.

Action – A motion was made by Mr. Griggs, seconded by Mr. Stout, and carried unanimously to approve **C-2007-108: BLUEGRASS MEATS, LLC** (a conditional use permit to allow live entertainment [music] and dancing in a Neighborhood Business [B-1] zone, on property located at 601 North Limestone Street) for the reasons listed by the staff; subject to the two conditions listed by the staff, including the addition of Condition #3, as follows: The use shall be soundproofed to the maximum extent feasible using existing technology; and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- f. **C-2008-1: OUR REDEEMER LUTHERAN CHURCH** - appeals for a conditional use permit to establish a nursery school for up to 50 children in a Single-Family Residential (R-1D) zone, on property located at 2255 Eastland Parkway. (Council District 6)

The Staff Recommended: Approval, for the following reasons:

1. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The number of children to be served is relatively small (not to exceed fifty), and can be accommodated by using the existing church facilities. Adequate off-street parking and suitable areas for dropping off and picking up children will be provided. A previously approved outdoor play area of approximately 3,000 square feet should be more than adequate, as it will be more than twice as large as the minimum size required.
2. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The nursery school shall be established in accordance with the submitted application and site plan, with enrollment not to exceed fifty children.

2. A Certificate of Occupancy for the expanded child care shall be obtained from the Division of Building Inspection prior to increasing enrollment above 10 children.
3. The child care shall be operated at all times in full compliance with all applicable state and local regulations.
4. A fenced and screened outdoor play area of at least 1,250 square feet shall be provided, in accordance with the requirements of the Division of Building Inspection. It is understood that the existing smaller play area can be used until the new play area is completed, provided that a minimum play area of 25 square feet is provided for each child enrolled.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Ms. Wendy Trivisonno was present representing the appellant and stated that she understood, agreed with, and would abide by the conditions for approval.

There was a brief discussion regarding the fencing for the proposed play area; the safety of the children as it relates to preventing access to a small creek that runs along a portion of the church property; how the children are/will be supervised and escorted to the outdoor play area across the parking lot; and the number of children currently enrolled at the nursery school (12).

Action – A motion was made by Mr. Stumbo, seconded by Mr. Stout, and carried unanimously to approve **C-2008-1: OUR REDEEMER LUTHERAN CHURCH** (a conditional use permit to establish a nursery school for up to 50 children in a Single-Family Residential [R-1D] zone, on property located at 2255 Eastland Parkway) for the reasons listed by the staff, subject to the four conditions listed by the staff, and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- g. **C-2008-2: GOOD SHEPHERD LUTHERAN CHURCH** - appeals for a conditional use permit to establish an elementary school, in addition to approval of an existing child care center, in a Planned Neighborhood Residential (R-3) zone, on property located at 425 Patchen Drive. (Council District 7)

The Staff Recommended: Approval, for the following reasons:

1. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. The number of children to be served is relatively small (not to exceed fifty), and can be accommodated by using the existing church facilities. Adequate off-street parking and a suitable area for dropping off and picking up children will be provided.
2. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The elementary school and child care shall be established in accordance with the submitted application and site plan, with combined enrollment not to exceed fifty children.
2. A Certificate of Occupancy for both the school and child care shall be obtained from the Division of Building Inspection. This certificate shall be obtained prior to opening the school and within sixty days of the Board's action for the continuation of the child care.
3. The school and child care shall be operated at all times in full compliance with all applicable state and local regulations.
4. A fenced and screened outdoor play area of at least 1,250 square feet shall

be provided, in accordance with the requirements of the Division of Building Inspection.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Roger Fisher was present representing the appellant and stated that they understood, agreed with, and would abide by the conditions for approval.

There was a brief discussion regarding compliance with all applicable state and local regulations as it relates to establishing an elementary school; the anticipated opening of the school in the Fall of this year; the existing child care center, with 14 enrollees, which requires a conditional use permit; and the square footage of the existing play area as it relates to Condition #4.

Action – A motion was made by Ms. Moore, seconded by Mr. Stout, and carried unanimously to approve **C-2008-2: GOOD SHEPHERD LUTHERAN CHURCH** (a conditional use permit to establish an elementary school, in addition to approval of an existing child care center, in a Planned Neighborhood Residential [R-3] zone, on property located at 425 Patchen Drive) for the reasons listed by the staff, subject to the four conditions listed by the staff, and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- h. **C-2008-3: NATIONAL ACADEMY, INC.** - appeals for a conditional use permit to incorporate an existing graveled bus/van parking area and asphalt parking lot as part of a previously approved private club and child care facility in a Townhouse Residential (R-1T) zone, on property located at 3500 Arbor Drive. (Council District 8)

The Staff Recommended: Approval, for the following reasons:

1. Granting the requested amendment to a previously authorized conditional use should not adversely affect the subject or surrounding properties, provided that permitting requirements are satisfied and unauthorized fill in the floodplain is removed or otherwise handled to satisfy requirements of the Division of Engineering. No enrollment increase over that previously approved by the Board is part of this application. The additional parking areas will be required to be landscaped and paved, as necessary, to improve the overall appearance of the property and meet Zoning Ordinance requirements.
2. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The additional parking areas may be retained in accordance with a revised site plan indicating that (a) the southern parking area for buses and vans will be paved, (b) that both parking areas will be landscaped in accordance with the requirements of Article 18 of the Zoning Ordinance, and (c) that fill placed in the floodplain will be removed or otherwise handled as determined to be necessary by the Division of Engineering.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to proceeding with any paving and other alterations to this property that may be required by this approval.
3. The northern parking lot shall be designed and striped in accordance with the requirements of the Division of Traffic Engineering.
4. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to

- acceptance by the Division of Engineering.
5. Any pole lighting for the parking areas shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing adjoining and nearby residential properties.
 6. Enrollment shall be limited to levels previously approved by the Board.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Richard Murphy, attorney, was present representing the appellant and stated that they understood, agreed with, and would abide by the conditions for approval.

A letter conveying safety-related concerns was submitted for the Board's review.

Chairman Owens asked if the issues related to the parking areas were being worked out to Building Inspection's satisfaction, in light of the requested delays by the applicant. Mr. Hume responded that some progress had been made during the interim; but he wished to request a timeline for completion of the project involving paving the graveled bus/van parking lot, since it has taken so long to get to this point. He wanted to confine the timeline to 6 or 9 months, noting the oncoming paving season. Mr. Murphy responded that the weather would be a consideration; but that Mr. Hume's timeframe of 6 months was fine.

Chairman Owens then asked if Mr. Murphy would be agreeable to a 6-month review, to which he responded affirmatively. The addition of the 7th condition was noted by the Chairman.

Mr. Marx asked the Chairman to clarify whether the review would only entail a report from Building Inspection. Chairman Owens replied that it would, for all of the conditions. Mr. Marx noted a correction to Condition #1 with regard to the floodplain. He explained that there wasn't a designated floodplain at this location, but rather a designated detention basin area; and that the word "floodplain" should be replaced with "detention basin".

Mr. Stumbo inquired about construction of the additional parking lot without authorization from the Board in either 1986 or 2000. Mr. Murphy responded that this facility with accessory parking was originally approved by the Board in 1986; and that a development plan was submitted for the Planning Commission's consideration as well. He said there had been some confusion about an old preliminary development plan that showed the location of the parking lot in question, which his client thought was approved in 1986. However, in checking further with the staff, there was no record of a signed final development plan although both Mr. Murphy and Dr. Wilhite thought there was one that may have been entered into the record at one of the previous actions on this property. He stated that when they came back to the Board with a subsequent request for an expansion in 2000, the parking lot in question was not shown on the site plan. Mr. Murphy went on to say that his client received a letter from Building Inspection with respect to paving the parking lot; but as the result of a misunderstanding, the parking lot on the north side of the facility was paved instead of the bus/van parking lot on the south side of the new building, which was approved in 2000. He reiterated about the confusion that had occurred, noting that a permit should have been obtained but wasn't; and that Dr. Wilhite apologized for the oversight. On another note, Mr. Murphy said that their engineer, Tim Thompson, has met with LFUCG Engineer Barry Brock in order to clear up/address the drainage issues regarding the northern parking lot.

Ms. Bell commented about the use of speed bumps, as she recalled the concern that

was raised at the original hearing in 2000 regarding excessive speed on Arbor Drive, particularly in the immediate vicinity of the school. She asked Mr. Murphy for comment, in light of the letter the Board recently received regarding the continued practice of speeding. Mr. Murphy related the school's concern about speeding in the general area, as well as on the property itself, as the photos shown of posted speed and cautionary signs indicated (i.e., 7 mph and 15 mph). He stated that all parents are told to obey the posted sign speeds and to slow down. As to speeding on public streets, he spoke about the procedure through LFUCG to request speed bumps or some other traffic calming measure to address that safety-related concern. Mr. Murphy said they would be supportive of all efforts to reduce the speed limit, including the installation of speed bumps on Arbor Drive.

Referring to the staff report, Ms. Bell asked for clarification regarding the statement that speed control devices can be required by the Board on the subject property. Mr. Marx said the staff was trying to convey that the Board can require such traffic-calming measures on the National Academy property; however, this may not address the issue of travel speeds on Arbor Drive, which is a public street.

Mr. Murphy responded that he didn't think speeding was a problem on the National Academy property, noting that the school controls its employees and the parents very well.

Mr. Gallimore commented that before the speed bumps can be installed, the neighborhood would have to be in full support of it; and that Traffic Engineering would have to do a feasibility study to determine whether the installation of the speed bumps is warranted. If so, the neighborhood typically has to pay part of the installation cost, the percentage of which is based on the average property value in the vicinity. Mr. Gallimore pointed out that school buses will not cross speed bumps, and there will be no snow removal by Streets and Roads if speed bumps are present. He suggested that before the neighborhood makes the request, they should meet with the Signs and Markings section of Traffic Engineering to make sure everyone fully understands the plusses and minuses of the speed hump program.

Mr. Stout asked about the need for a 6-month review by the Board since, according to Mr. Murphy, the paving of the lot will be completed in 6 months and the detention basin issue is being addressed. Mr. Hume stated that he was trying to hold the applicant's "feet to the fire" in order to get the paving completed in 6 months' time, as they said they would. He told the Board that it has taken a long while to get to this point.

Ms. Boland clarified that the earlier discussion was about having Building Inspection report back to the Board in 6 months as to whether the condition on the paving had been met; and then, based on that report, the Board could determine whether, in fact, they needed to call the applicant back for a hearing.

Mr. Stout said he apparently didn't hear that part of the discussion; but he was agreeable with the review after Ms. Boland's clarification.

Chairman Owens requested that the added condition (#7) relative to the review be shown on the overhead by staff. Mr. Sallee read the drafted condition, as follows: A 6-month review shall be conducted via a report from Building Inspection. In response to the Chairman's question, Mr. Murphy stated that he was in agreement with all 7 conditions.

Regarding the 6-month time frame on the parking lot, Ms. Boland inquired whether the related condition needed to be revised to reflect that the paving has to be done in 6 months; and for clarification, whether Condition #3 was referring to the north parking lot. Mr. Hume stated that the north parking lot had already been completed.

Ms. Boland advised the Board about the need for clarification regarding the items that must be completed within 6 months. Mr. Hume responded that the bus/van parking lot on the south side of the facility still needs to be paved. Ms. Boland suggested that Condition #1, subsection (a) be amended to add the wording "within 6 months" at the end of the sentence. Mr. Hume concurred.

Mr. Griggs felt that there also should be a timeframe for completion of the detention basin work and consideration given to having the applicant comply with all of the conditions within 6 months. Ms. Bell concurred, noting the importance of all the conditions. She felt that it wasn't unreasonable to have everything up to standard in 6 months.

Mr. Stout inquired whether that was satisfactory with Mr. Murphy, to which he responded affirmatively. Mr. Murphy noted that the detention basin issues will be worked out to the Division of Engineering's satisfaction, which he was agreeable to do.

For clarification, Ms. Boland asked if the Board wanted the additional wording "within 6 months" placed at the end of Condition #1. She noted that it couldn't be put at the end of Condition #6 (regarding enrollment) because this condition cannot be complied with by a set date; and it is an ongoing condition. She inquired again whether the northern parking lot was completed, to which Mr. Hume responded that it was, as far as the paving, landscaping, striping, etc. Ms. Boland said, with regard to the Board wanting all conditions complied with in 6 months, that she was trying to ascertain whether there was anything other than what was listed in Condition #1 that they were concerned with putting a time limit on; and that she wanted to make sure that the applicant is clearly instructed about what has to be done in 6 months, when the Board gets the report.

Ms. Moore questioned whether the idea was if something was not completed in the 6-month timeframe, another revocation hearing for noncompliance would be started; and therefore, the Board needs to include wording to the effect that this must be done within 6 months, in order to start a revocation hearing. Ms. Boland responded that she thought that was the Board's intent. Mr. Hume said that was his intent as well.

Chairman Owens related his understanding that the review would be subject to all of the conditions except Condition #6. Ms. Moore said she thought the question was whether it should be added under Condition #1 that all of these conditions must be complied with within 6 months; and at the time the conditions are reviewed, if those under #1 have not been met, a revocation can begin.

Ms. Boland replied if that was the Board's intent, then it was fine. Chairman Owens agreed.

Chairman Owens asked Mr. Murphy whether he was agreeable with the 7 conditions. Mr. Murphy answered that he was.

Action – A motion was made by Mr. Stout, and seconded by Ms. Bell to approve **C-2008-3: NATIONAL ACADEMY, INC.** (a conditional use permit to incorporate an existing graveled bus/van parking area and asphalt parking lot as part of a previously approved private club and child care facility in a Townhouse Residential [R-1T] zone on property located at 3500 Arbor Drive) for the reasons listed by the staff; and subject to 7 conditions, with Conditions #1, 2, 3, 4, 5 and 7 mandated for completion within 6 months.

Discussion - Mr. Stumbo acknowledged his confusion because he understood that completion in 6 months was applicable to Condition #1 only, rather than 2, 3, 4, etc. Mr. Stout related his understanding that it was all of the listed conditions except #6.

Chairman Owens asked whether Condition #7 regarding the 6-month review was necessary if the wording "these shall be completed within 6 months" is included under Condition #1. Ms. Boland explained that if the Board is requesting that Building Inspection come back and give them a report as to compliance, then it really isn't a condition the Board is placing upon the applicant; but rather, the Board is asking their staff to provide a report in 6 months. She said since this is not the kind of condition that the property owner is either going to comply with or violate, it really wouldn't have to be a condition. Ms. Boland went on to say that the applicant was informed that the Board would be checking into the conditions in 6 months, and having that listed as a condition of the use was not necessary.

At this point, Mr. Stout amended his motion to include Conditions #1, 2, 3, 4 and 5, with the exception of #7 being eliminated. There was no second to the motion to amend the original motion.

For clarification, Ms. Bell asked what if, at the end of 6 months, one or two of the listed conditions has not been met. She questioned whether the motion makes it clear that the Board then would consider revoking this conditional use. Ms. Boland responded that any time the Board receives a report from Building Inspection informing them that the holder of a conditional use permit is not complying with a condition, the conditional use holder is subject to possible revocation. So, it's not as if the Board has to inform him/her of that because it's simply the state of having a conditional use permit.

Mr. Stout noted the pending motion for approval. Chairman Owens stated that a motion was on the floor, for all 7 conditions, which was seconded earlier. After determining that there were no further questions, the Chairman called for a vote. The motion for approval carried unanimously.

- i. **C-2008-4: TATES CREEK CHRISTIAN CHURCH** - appeals for a conditional use permit to expand the church (additional classroom and fellowship space) in a Single-Family Residential (R-1C) zone, on property located at 3150 Tates Creek Road. (Council District 5)

The Staff Recommended: Approval, for the following reasons:

1. The proposed expansion of this church should not adversely affect the subject or the surrounding properties. Additional classroom and fellowship space to be provided will be largely confined to the footprint of the existing church building, with just two additional small areas of expansion immediately adjacent to the existing building. There are no adjoining or nearby properties that are likely to be disturbed by the expansion.
2. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The church expansion shall take place in accordance with the submitted application and site plan.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
3. Any revisions to the existing off-street parking arrangement and/or traffic circulation necessitated by the expansion shall be reviewed and approved by the Division of Traffic Engineering.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Tom Cruze was present representing the appellant and stated

that they understood, agreed with, and would abide by the conditions for approval.

Action – A motion was made by Mr. Stumbo, seconded by Mr. Griggs, and carried unanimously to approve **C-2008-4: TATES CREEK CHRISTIAN CHURCH** (a conditional use permit to expand the church [additional classroom and fellowship space] in a Single-Family Residential [R-1C] zone, on property located at 3150 Tates Creek Road) for the reasons listed by the staff; subject to the three conditions listed by the staff; and based on the Certificate of Land Use Restriction attached as an appendix to these minutes.

- j. **C-2008-5: QUEST COMMUNITY CHURCH, INC.** - appeals for a conditional use permit to expand the church and parking areas on property zoned Light Industrial (I-1), Professional Office (P-1) and High Density Apartment (R-4), located at 410-413 Sporting Court. (Council District 9)

The Staff Recommended: Approval, for the following reasons:

1. Granting the requested conditional use permit should not adversely affect the subject or surrounding properties. Adequate off-street parking will be provided, and sufficient space has been allocated for the purpose of installing required landscaping and storm water management features. Adjoining and nearby properties are currently used for commercial and recreational purposes, and should not be disturbed by church activities. Traffic impacts will be minimized by the provision of alternative access routes to and from the church.
2. All necessary public facilities and services are available and adequate for the proposed use.

This recommendation of approval is made subject to the following conditions:

1. The church shall be expanded in accordance with the submitted application and site plan, or as amended by the Planning Commission. It is understood that all of the 250-space future parking area does not have to be constructed immediately, provided that minimum off-street parking requirements are satisfied.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction. Occupancy permits shall be conditioned upon a maximum number of sanctuary seats to be provided, to ensure that minimum off-street parking requirements are satisfied as the church grows.
3. All parking areas shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
4. The final design of the parking areas, access and circulation shall be subject to review and approval by the Division of Traffic Engineering.
5. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.
6. Any pole lighting for the parking areas shall be of a shoebox (or similar) design, with light shielded and directed downward to avoid disturbing nearby residential neighborhoods.

Chairman Owens asked whether or not there were objectors present to the subject appeal. There was no response; therefore, slides of the subject property were not presented.

Representation – Mr. Richard Murphy, attorney, was present representing the appellant and stated that they understood, agreed with, and would abide by the conditions for approval.

Referring to the staff report, Ms. Bell said it was mentioned that a future access is

proposed to connect via an easement through the Ashland Baptist Church property to Wellington Road, near the roundabout. She related concern about the impact of an access point in that location. Mr. Murphy clarified that the access in question was not part of the current request; and that it was shown only as a potential future access point. He explained that an amended development plan for the church property was submitted to the Planning Commission last week for consideration of approval; and as part of the development plan process, all potential future access points must be shown. Mr. Murphy stated that basically, the same plan was filed with the Board for the purpose of consistency; but that the access in question will not be constructed as part of the current project.

Mr. Hume said he wished to request a timeline for completion of the project involving paving the large graveled parking lot on the adjoining property to the west, which was installed some time ago without any evaluation, approval or permits, as well as the smaller lot on the adjoining property to the east. He felt that the lots in question should be barricaded and not utilized until such time as they are brought up to compliance, which included paving, striping and landscaping.

Chairman Owens asked whether Mr. Hume had a suggestion regarding the requested time limit. Mr. Hume related his understanding that there is an issue with a storm or sanitary sewer in proximity to the existing church building that has to be installed at a different location, which he realized would take some time to complete before any paving can be done on the adjoining lot to the east. However, he asked to have this lot done first and completed in 6 months; and the other large lot he asked to be completed within 9 to 12 months.

Mr. Brock noted that, to date, there had been no drainage plans submitted to the Division of Engineering for the improvements under discussion. He said they have consulted with the church's designers and discussed various options, but a final plan has not been accepted by Engineering.

As background information, Mr. Murphy stated that they came to the Board in February 2005 to get approval to occupy an existing building (formerly known as the Stadium) as a church; and that the Stadium had plans at that time to relocate to a yet-to-be constructed building on the adjoining property to the east (shown on the site plan to the right of the church property), which never materialized. The church subsequently purchased that property for the purpose of providing additional off-street parking, a portion of which was paved.

Mr. Murphy then spoke about the issue of relocating the storm water line that extends from Sporting Court along the left side of the existing church building into the large regional detention basin at the rear of the property. He said they are going to re-route the pipe from the left side to the right side of the building in order to facilitate construction of the proposed church expansion in the area from which the pipe will be removed (as indicated on the site plan); and once this is completed, the paving of the parking lot can be started. After conferring with Mr. Tomlin, the building and grounds manager for the church, he told the Board that they felt this can be accomplished in 6 months.

Lastly, Mr. Murphy stated that the lot under discussion on the left side currently is graveled. He explained that during previous discussions with others in Building Inspection about another lot and related parking, it was indicated to them that lots can be temporarily graveled until construction begins; and that over the last two years, the church anticipated building the new sanctuary addition on the site where the gravel parking lot is located. He said the lot was graveled because it would be temporary and would be built upon. However, in the last few months, the plans have been changed to put the building out front and leave the lot in question as a much needed parking area. Mr. Murphy noted that due to the staging of the construction

on that side, this area will take longer than 6 months to pave.

As to barricading the parking lots to prohibit their use, as Mr. Hume indicated, Mr. Murphy stated that the church (literally) would have to close down, because all of the parking would have to go out to Sporting Court and nearby streets. He said they currently are utilizing Meijer's parking lot, as well as some temporary parking at one of the other businesses in the vicinity; however, the lots under discussion are direly needed to accommodate the church's parking. It was noted that Quest has a team that operates the parking every Sunday morning placing cars where space is available, which is done very well and very efficiently.

Board Questions – For clarification, Mr. Stout asked how long it would take to pave the lot on the right once the storm water line is changed from the left side to the right side of the building. Mr. Murphy answered that they could have that done in 6 months. Mr. Stout inquired whether the large lot to the left could be paved within 12 months, to which Mr. Murphy responded affirmatively after conferring with Mr. Tomlin. Mr. Stout then asked if this was satisfactory with Mr. Hume. Mr. Hume responded that it was not; and that he couldn't imagine awarding anyone for doing something illegally. He maintained that the lot should be barricaded off until the other side is finished.

Mr. Griggs asked if he understood Mr. Murphy to say that someone in Building Inspection gave them permission to grade and gravel temporarily without a permit. Mr. Murphy replied that he, Mr. Tomlin and others from Quest had discussions with Mr. Dewey Crowe about the temporary use of the Lancaster lot, a vacant lot rented by the church; and that Mr. Crowe was informed about the short-term lease and the importance of the parking. He said it was indicated to them that the lot could be graveled and used for parking on a temporary basis, until building construction began. Mr. Griggs related his understanding that Mr. Murphy was told by Building Inspection that they could grade and gravel a lot without a permit. Mr. Murphy relied yes.

At this point, Mr. Hume attempted to contact Building Inspection for verification.

Chairman Owens asked about the church's seating capacity. Mr. Murphy responded that the seating will accommodate 800 church goers.

Mr. Stout asked the staff to comment on the issue at hand. Mr. Marx acknowledged that it was frustrating for everyone when the proper permits are not secured the way they should be; and that the staff was trying to resolve a potential problem (via the conditions). He noted that the intent of the permitting process is to ensure that things get built correctly, in order not to have an adverse impact; and if, by chance, the gravel was put in without having an adverse impact, he could see not making too big of a deal out of it. On the other hand, he said if there is some adverse impact associated with the ongoing use of the gravel parking lot, then it should be addressed right now.

Mr. Griggs commented that what he didn't want to see happen was a certain understanding that allows things to go in the wrong order, citing the example of the gravel parking lot installed without a permit on their 40 acres next to Dunbar high school. He felt that the appellant needs to start abiding by the regulations. Mr. Hume concurred.

Given the numerous parking spaces that essentially bypassed the permitting process, Chairman Owens asked if Mr. Murphy could approximate the minimum number of spaces the church could operate with until the compliance matter is resolved. Mr. Murphy said they would try to figure that out presently; and that the temporary lot is not as big as shown on the current plan, noting its importance to the

parking program. He recalled that providing adequate parking and keeping cars off the street was discussed at a previous hearing for the church, which was made a priority. Mr. Murphy said they should have gotten a permit, but it wasn't done because they anticipated building the new addition on this lot; and there would have been no purpose to paving the area when it would have to be torn up to put the building there later on. He acknowledged that this wasn't done correctly, but it was done in good faith and in trying to comply with what the church understood was paramount, which was not to create a parking problem in this area. It was noted that the church still operates the shuttle bus to/from Meijer's parking lot.

For clarification, Mr. Stout asked about the purpose of purchasing the lot on the left. Mr. Murphy responded that they originally planned to construct a new church building and additional parking there. With regard to the lot on the opposite side, which is partially paved and graveled, Mr. Stout then asked how many cars it can accommodate. Mr. Murphy answered under the plan as shown, once paved, it will accommodate 151 cars. Mr. Stout then asked about the number of attendees at Sunday church service(s). Mr. Murphy responded that they have four services over a weekend -- one on Saturday evening and three on Sunday morning; and they accommodate 2,200 to 2,300 members. Mr. Stout questioned that the lot for 151 cars would be able to accommodate each church service. Mr. Murphy explained that for the first service, church attendees are put over to the right; and for the second service, the attendees are put over to the left, to avoid traffic congestion. Mr. Stout said that Mr. Murphy's response answered part of his question, because the church has known all along that the graveled area would be used for parking in light of the congregation's growth; and that they should have contacted Building Inspection to find out how much of the lot needed to be paved. He felt this project had not been well thought out.

After speaking with Director Dewey Crowe, Mr. Hume stated that the church did not approach Building Inspection until he threatened to either take them to court or to the Board for a revocation hearing regarding this situation, which has been going on for 3 or 4 months. He said at no time did Mr. Crowe give them permission to gravel the lot and use it for as long as they wanted as a temporary lot on a long-term project, noting that Building Inspection doesn't do that.

Mr. Murphy clarified that he didn't say they had talked to Mr. Crowe about the lot under discussion on the left; but rather that he had met with Mr. Crowe over a year ago to discuss the Lancaster property and some other issues, and it was indicated that they could gravel the lot for temporary use since the church anticipated starting construction soon on the new addition.

Mr. Stumbo asked how many cars typically are parked in the gravel lot on the left during the biggest services on Saturday evening and on Sunday. Mr. Murphy responded 250 cars. Mr. Stumbo commented that if the lot were barricaded, the church would have to find other places to park 250 cars, which he didn't think was very reasonable.

Chairman Owens asked about the shuttle service that is provided from Meijer's parking lot, with respect to the number of vehicles being parked there currently for church services. Mr. Murphy answered 100 to 200 cars, including volunteers and staff vehicles. The Chairman then asked about the possibility of continuing this matter for 30 days, in light of the concerns with parking, to give the church an opportunity to evaluate their parking and come up with alternatives to help resolve this problem. Mr. Murphy conferred with Mr. Tomlin about the construction schedule before responding to the question.

Ms. Bell related her concern about the run off and drainage associated with the potential increase in the size of a hard surface (due to paving). She said the overflow

to the detention basin on the church property goes under New Circle Road and comes out on the Montessori school property on the other side of Stone Road, which has an enormous impact on the property. She asked what assessments have been made of the additional water that will be going into the detention basin. Mr. Murphy responded that when the whole Reynolds property was approved about 10 years ago, the NDC, the owners at the time, were required to do a comprehensive drainage study of this property, which included sizing all its facilities to assume development and adequacy of the detention basin to handle it. He said it will need to be demonstrated to the Division of Engineering that the detention basin is sized to handle whatever goes on these properties, assuming they will be developed. Ms. Bell said what was not assumed in either the study the neighborhood or the NDC had done was that there would be this much blacktop in that area, as she recalled that Ashland Baptist Church had planned a recreational area, a home for the aging, etc. She felt that the amount of blacktop that will be installed, if this plan is carried through, is much more than either of the hydrology studies assumed.

Chairman Owens asked Mr. Brock whether the gravel parking area was presenting any storm water related problems. Mr. Brock answered that they had not received any complaints or been made aware of any problems that have resulted from the graveled lot. As to some of the issues brought up by Ms. Bell, he said the detention basin at the rear of the church property would drain the parking lot to the right side; and the parking to the left side drains down to a different regional basin closer to Clays Mill Road.

In response to the Chairman's question regarding a possible continuance, Mr. Murphy stated that they would comply with the Board's wishes and wanted to continue to have a good working relationship with Building Inspection, Engineering, etc. He said Mr. Tomlin, the director of building and grounds, informed him that the lot on the right side can be paved within 6 months, once the storm water line project is done first; and the lot on the left side, within 9 months.

With regard to the concern Mr. Bell raised earlier, Mr. Murphy said this same plan is going through the Planning Commission development plan process, a part of which requires sign-off approval from the LFUCG Divisions of Engineering, Traffic Engineering, Sanitary Sewers, Building Inspection, etc. He related to the Board about having worked with the Ashland Avenue Baptist Church when they got their plan approved 10 years ago, noting that there was much more paving than what is currently being proposed. He said that plan consisted of a church, dormitories, a bible college, a senior citizens retirement facility and recreational fields. Mr. Murphy reiterated that they will have to demonstrate to Engineering that the detention basin can adequately handle the water before proceeding further.

Ms. Bell asked whether, as part of the notification regarding this appeal, the Montessori school was notified. Mr. Murphy replied that the school was within the 400' notification area and was sent a letter.

Chairman Owens asked, in light of the need for parking and since the sanctuary will not be built there, if paving of the lot on the left-hand side can be made a priority to help alleviate some of the parking problems. Mr. Murphy reiterated that the lot in question could be paved within 9 months.

Mr. Murphy made the following comments, on behalf of the church. In review, he spoke about the number of hearings in front of the Planning Commission and the Council regarding the 40-acre proposed church site on Man 'o War Boulevard, next to Dunbar high school, which he noted would have accommodated all the church's needs for 30 years. He acknowledged that this is a fast-growing church doing a mission that is needed in the community; and that after the Man 'o War proposal was turned down, the church came to its current location as a back-up position, because

they wanted to stay in Fayette County. He said the church had to adapt to the circumstances they found themselves in, which was the reason for purchasing the lot on the right to provide more parking; and that they took the opportunity to purchase the Ashland Avenue Baptist Church property for \$1.3 million last year when it became clear that the church was going to continue to grow. Mr. Murphy said the church is having to make do as best they can because of the unavailability of the other property, noting it is almost impossible to find an ideal piece of property in Fayette County, within the Urban Service Area boundary, that will accommodate them.

Mr. Stout commented that it seemed there may have been some things going on between Building Inspection and the church that Mr. Murphy was not aware of; and that it was his recommendation to postpone for at least 30 days until this gets worked out.

Action – A motion was made by Mr. Stout to postpone **C-2008-5: QUEST COMMUNITY CHURCH, INC.** for 30 days.

Mr. Griggs queried whether it would be agreeable to postpone until the church was compliant with the zoning laws. Mr. Murphy stated, with regard to the issue of paving, that if the lot on the left can be used temporarily for parking during construction, it will be paved by the time they come up to the 9 months for completion; but if parking was prohibited in that lot, it would be a major problem for the church. He said despite what the Board might think about the comments back and forth, they have been working well with the staff, including contact with Engineering about drainage and getting studies done. He also stated that the church fully intends to come into compliance with the zoning regulations, as well as all drainage and paving requirements; and that they agree, in principal, with what Mr. Griggs was saying.

Mr. Hume related his understanding that the church could meet the 6-month deadline to pave the lot on the right, and the 9-month deadline for the lot on the left. Mr. Murphy replied that was correct. Mr. Hume said the time limits were reasonable, given the logistics of the whole project; and that Building Inspection just wanted to make sure there was something to hold the applicant to. He felt that putting them off another month would perpetuate the ongoing problem.

Chairman Owens asked whether Mr. Hume still wanted the parking lots barricaded until they are in compliance. Mr. Hume replied affirmatively, with respect to the lot on the left. He said they were going to be working on/in the area of the lot on the right, which he was sympathetic to. However, he said the huge rub was that the lot on the left was put in illegally.

Chairman Owens explained his reason for offering a continuance, to give the appellant some time to come up with alternatives and start the process of getting the lots under discussion into compliance. He noted not wanting to see the lots barricaded to the point where churchgoers would have to go a good distance for parking; however, he said he didn't appreciate the fact that the parking lot was installed without permitting and without being in compliance.

Mr. Hume said the church made the offer early on to provide the shuttle to transfer churchgoers back and forth, which was an acceptable alternative to having no parking; and he saw no reason to change that.

At this time, Ms. Sharon Clements spoke on behalf of the church minister, who was out of the country. She told the Board that they love being a part of Lexington; and that the rapid growth of the church had surpassed their projections. She said they wanted to comply with the LFUCG in every way that was necessary; and as soon as

construction allows, they would start work on the left-hand lot. Ms. Clements then spoke about the shuttle service the church has been providing with help from volunteers, noting that the people who park in the left-hand lot are primarily visitors and asking them to be shuttled a long distance would present a real obstacle. She reiterated that the church wanted to do whatever was required to make sure they can continue to serve the people of Lexington.

Chairman Owens said he recognized that Quest church was doing wonderful ministry work; and that he really didn't want to see the lots barricaded off. However, he felt that everyone in the city and county should adhere to the Zoning Ordinance. He asked if a 30-day continuance would be satisfactory with appellant, to try and come up with solutions to the problems that were heard today. Ms. Clements said they were willing to do that; and it would be great to still be able to park there while in the process of working things out.

Mr. Stumbo commented about the need for the church to look at alternatives in the next 30 days, noting the displacement of about 250 cars if the Board supports barricading the parking lot(s). He said he thought the Board would agree that they were a little disappointed that the zoning laws have not been complied with; and that he certainly understood Mr. Hume's position on this issue. Mr. Stumbo recognized that the church was acting in good faith, and they have a wonderful ministry; however, the proper steps have not been followed, which he felt concerned the Board today.

Ms. Clements apologized for the way things had gotten out of order, noting that they have been doing the best they can to stay up with the church's growth, which surprised them. She said they wanted to work with the LFUCG in every way they can to resolve the parking-related issues.

At this point, Chairman Owens said he was reminded by Mr. Stout of his earlier motion for a 30-day continuance of this matter. The motion was seconded by Ms. Edwards and carried unanimously.

Ms. Bell asked whether parking would be available in the left-hand lot during the 30-day period. Chairman Owens responded that it would be available for the next 30 days.

Mr. Stout suggested that the appellant work as closely as possible with Mr. Hume.

(At this point, the Board returned to hear C-2007-108: BLUEGRASS MEATS, since representation now was present.)

- k. **A-2007-73: CLAYTON SIGNS, INC.** - appeals for an administrative review to allow a pre-sale menu board as a free standing sign in a Planned Shopping Center (B-6P) zone, on property located at 2514 Nicholasville Road. (Council District 4)

The Staff Recommended: Disapproval, and that the decision of the Division of Building Inspection be upheld, for the following reasons:

1. A freestanding pre-sale menu board is not identified in the Zoning Ordinance as a permitted sign in the B-6P zone or any other zone. Article 17-7 of the Zoning Ordinance states that any sign not specifically permitted shall be considered as prohibited.
2. Although the Zoning Ordinance exempts signage from permitting requirements when not visible from beyond the boundaries of a lot, the appellant's proposed pre-sale sign would be visible from the surrounding K-Mart center and Nicholasville Road.
3. The Board of Adjustment has not been granted the authority to permit a design type for a sign that is not specifically permitted in the zone where the

sign is located, nor to increase the number of permitted signs on a lot, pursuant to Article 17-8(a) of the Zoning Ordinance.

Representation – Neither the appellant nor representation was present.

In the absence of representation for the appellant, Mr. Marx explained that this case was postponed several times and continued to today's meeting in the hopes that the applicant would be able to work out an exemption for the signage, by virtue of it not being visible from the surrounding properties; however, this didn't happen. Therefore, he recommended that the Board should go ahead and take action.

Action – A motion was made by Mr. Stout, seconded, and carried unanimously to deny **A-2007-73: CLAYTON SIGNS, INC.** (an administrative review to allow a pre-sale menu board as a freestanding sign in a Planned Shopping Center [B-6P] zone, on property located at 2514 Nicholasville Road) based on the staff's recommendation.

- B. **Transcript or Witnesses** - The Chairman announced that any applicant or objector to any appeal before the Board was entitled to have a transcript of the meeting prepared at his expense and to have witnesses sworn. There was no response.
- C. **Variance Appeals** - As required by KRS 100.243, in the consideration of variance appeals before the granting or denying of any variance, the Board must find:

That the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the Board shall consider whether:

- (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
- (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
- (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.

The Board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulations from which relief is sought.

- 1. **V-2007-99: JACK STEWART** - appeals for a variance to increase the allowable lot coverage from 2,600 square feet to 4,070 square feet in order to expand a residence in a Two-Family Residential/Historic District Overlay (R-2/H-1) zone, on property located at 359 South Mill Street. (Council District 3)

The Staff Recommended: Disapproval, for the following reasons:

- a. Special circumstances unique to the subject property have not been identified that would justify a significant increase in the allowable size of the building (from 2,600 to 4,070 square feet) in this historic neighborhood.
- b. Justification provided by the appellant, relating to the lack of any significant increase in the building footprint and no change to the front façade of the building, would have broad applicability to many other properties, possibly leading to a circumvention of the requirements of the Zoning Ordinance.
- c. Strict application of the Zoning Ordinance will not deprive the property owner reasonable use of the property or create an unnecessary hardship, as the subject property is larger than many other lots in the immediate vicinity. Since allowable square footage directly relates to property size, this property is already entitled to more square footage than many nearby properties.

Representation – Ms. Rena Wiseman, attorney, was present, along with Mr. Jack Stewart (architect), and Mr. and Mrs. Willem de Villiers, the property owners. She told the Board that they have met with the staff since the initial application was filed, in order to provide further information about the unique and special circumstances that warrant the requested variance. Ms. Wiseman stated that the de Villiers live in Lexington, and they desire, as their children have grown older, to move from the suburbs to the downtown area; and that they purchased the property on Mill Street last summer, but have not moved in yet because it is currently configured as a duplex. It is the de Villiers' intention to renovate and reconfigure the first floor of the existing structure for the kitchen, dining room and living areas, and to expand the second floor to accommodate three bedrooms and two baths. They also propose to build a two-car garage with extra living space on the second floor. It was noted that the property is zoned R-2/H-1 and is located in the Historic South Hill District. Ms. Wiseman said the de Villiers were aware that they had to go to the Board of Architectural Review when they purchased the property; and that Mr. Stewart was retained to design their home renovation. In trying to accommodate the de Villiers' needs within the confines of this home and after reviewing the Zoning Ordinance, Mr. Stewart advised them of the regulation limiting the size of living space for properties located in the Infill and Redevelopment Area. The house, a two-story brick structure with a one-story brick ell, is currently 2,350 square feet; and only another 250 square feet would be allowed without seeking a variance from the Board. The floor plan of the existing footprint of the house, which was originally built in the early 1800s, was shown on the overhead and described as basically a shotgun construction. Ms. Wiseman oriented the Board to the current layout of the duplex. To put the floor plan in context, photos were shown of the front, sides and rear of the existing structure. The proposed floor plan also was shown to illustrate what the property owners would like to do, working within the footprint of the home, with the exception of a slight pushout (1½ feet) to the south (i.e., formal living room, dining area, eat-in kitchen/breakfast area and porch on the first floor; two added bedrooms and one additional bath on the extended second floor). Ms. Wiseman said the need to add square footage above the 2,600 square-foot limitation stems from the property owners' desire to convert the duplex into a functional single-family home; and the additional square footage will primarily be used to expand the second floor to accommodate three bedrooms.

Ms. Wiseman stated that one of the things the Board considers is whether there are special circumstances that warrant the requested variance. She submitted that: 1) the property is located within an historic area, where there is additional scrutiny of the design; 2) the shotgun-style construction of the home limits flexibility to do anything within the existing confines of the building; 3) the property owners desire to convert this duplex to a single-family home, which is the most prevalent use in the 300 block of South Mill Street; and 4) the proposed addition(s) will be in keeping with other homes in the immediate vicinity. In point, photos were shown of an adjacent house with a wing that is approximately the same height and size as what is being proposed. A chart was distributed to the Board showing five comparable single-family homes in the 300 block of South Mill Street that presently exceed the limits of the ordinance at issue (Article 8-8(o)1.b.10) with respect to the floor area ratio (maximum of .35 is allowed or 2,600 square feet, whichever is greater). The homes range in size from 2,690 square feet to 3,564 square feet (excluding outbuildings) and have floor area ratios ranging from 0.37 to 0.70. As to the proposed 460 square-foot, two-car garage with living space on the second floor, the floor area ratio would be .62, which is less than four of the five homes with outbuildings shown on the chart; and if the outbuildings are not included, the floor area ratio would be less than three of those homes. Ms. Wiseman explained the purpose of the floor area ratio restriction, which was adopted primarily to stop the proliferation of large vinyl box additions to homes in neighborhoods around the University of Kentucky for the purpose of providing rental units to college students. It was noted that these vinyl box additions were out of scale and larger than the original houses which, in effect, converted single-family homes to multi-family dwelling units. However, Ms. Wiseman submitted that this was not the case with the de Villier's proposal, to convert the existing duplex to a single-family home consistent with its historic use. She said that the whole point of this regulation is to ensure that additions to homes are in keeping with the neighborhood. It was noted that if the requested variance was approved, it would allow the size of the home the property owners desire; and that they will have to go back to the Board of Architectural Review for further approval.

Ms. Wiseman made reference to several letters of strong support from neighbors in the 300 block of South Mill Street, as well as the Historic South Hill Neighborhood Association. She pointed out that there was a special regulation adopted by the Council with respect to setbacks in infill and redevelopment areas that deals with yards, which she read as follows: "Unique circumstances may require appropriate Board of Adjustment action to allow some relief of yard requirements where strict application of the regulations would cause unusual hardship." Ms. Wiseman said she thought the Planning Commission and the Council contemplated that not all infill is alike when it came to imposing these rules; and that there probably are some cases where exceptions need to be made, which she believed this one was. She said the hardship is that the house, in its current configuration, will not accommodate the de Villier's needs, noting the importance of having additional space for their family. In closing, she said the variance will allow the house to be expanded and converted into a single-family residence of a size and quality consistent with others in the neighborhood.

Mr. Griggs commented that Ms. Wiseman made a very persuasive argument. He asked, in light of the recommendation for disapproval, if the staff was swayed by Ms. Wiseman's statements. Mr. Marx responded that the staff had met with Ms. Wiseman earlier this week to discuss the variance. He said the original application did not include any information at all about the floor plan, which was critical in this case; and without the additional information that was provided, there really weren't any special circumstances in the staff's mind to justify the variance. Regarding the 2,600 square-foot allowance he said, it was very easy, in general, to design a house with 3 bedrooms and other useable living spaces; however, it couldn't be done in this case because of the configuration of the existing structure. He noted that this is a historic structure that the applicants were going to make every effort to preserve in the way that Historic Preservation requires. He went on to say that the staff was a lot more comfortable with the variance request because of the additional information about the floor plan and how that constrains what the applicants are trying to do. Draft findings for approval were submitted for the Board's consideration.

Mr. Griggs related being a little uncomfortable about possibly setting a precedent, if the requested variance was approved. Mr. Sallee pointed out that since this property is in a historic district, he thought there was some protection on the precedent issue, noting the special design review that could require some modifications to the design.

At this time, Mr. Willem de Villiers, the property owner, addressed the Board. He related that he and his wife are from South Africa; and that he was recruited to the University of Kentucky Medical Center after completing his studies in England. He stated that they have lived in the Lexington area for the past 12 years and raised their three now grown children here; and on becoming empty nesters, he and his wife want to better experience community life downtown and to be part of the exciting revitalization. After looking at a number of other properties, he said they found the residence on South Mill Street historic and charming, being built in the early 19th century; but they were completely unaware of the dimensional limits imposed on the property. He spoke about their intention to maintain the character and integrity of this historic structure without significantly changing the current footprint, when it is converted back to the original single-family use. However, he said that the current configuration of the house does not allow sufficient space for the additional bedrooms, etc. needed to accommodate his family and visiting guests from overseas. Mr. de Villiers stated that this project would involve a significant investment for them and would also benefit the downtown revitalization effort. He respectfully asked for the Board's favorable consideration of the requested variance.

With respect to the house's current configuration, Mr. Griggs felt it could be turned back into a single-family home, as it was when originally built, without the proposed addition. In point, he noted having a 1,000 square-foot home with three bedrooms. Therefore, he felt the 2,600 square feet allowance was a lot of space.

In response to the Chairman, Ms. Wiseman stated that she had reviewed the staff's findings for approval, as well as the conditions, which they were in agreement with.

Action – A motion was made by Mr. Stout, and jointly seconded by Ms. Edwards/Mr. Stumbo to approve **V-2007-99: JACK STEWART** (a variance to increase the allowable lot coverage from 2,600 square feet to 4,090 square feet in order to expand a residence in a Two-Family Residential/Historic district Overlay [R-2/H-1] zone, on property located at 359 South Mill Street) based upon the following Findings for Approval and subject to the 4 recommended conditions:

- a. Granting the requested variance should not adversely affect the public health, safety or welfare, nor significantly alter the character of the general vicinity. The proposed size of the single-family residence, formerly a duplex, will be comparable to many other homes on the 300 block of South Mill Street. The front façade of the structure will not be changed, and design/architectural details will be subject to review and approval by the Board of Architectural Review to ensure compatibility with other historic structures in the South Hill Historic District.
- b. The relatively narrow shape of the lot, and the corresponding narrow configuration and floor plan of the existing two-family dwelling, are special circumstances that contribute to justifying the request. These existing conditions limit the design options that would allow a viable conversion of the duplex to a single-family home.
- c. Strict application of the Zoning Ordinance would allow an addition of just 250 square feet to the existing 2,350 square-foot building. Given the design of the duplex, such a limitation would allow, at most, a second story with two small bedrooms. Since the first floor is not desirable for even a single bedroom, the 250 square-foot limit would effectively prevent the conversion of this duplex in a single-family residence with three bedrooms. That could be considered as an unreasonable restriction and unnecessary hardship, given that most of the dwellings on this block of South Mill Street are single family, and many of those have floor area ratios exceeding what is proposed for the subject property.

CONDITIONS FOR APPROVAL

1. The additions shall take place in accordance with the submitted application and site plan, with total living area not to exceed 4,090 square feet.
2. All necessary permits shall be obtained from the Division of Building Inspection prior to construction.
3. All construction shall be done in accordance with a Certificate of Appropriateness issued by the Board of Architectural Review.
4. The detached garage with 460 square feet of living area shall not contain a kitchen, and shall not be used for rental purposes.

The votes were as follows:

Ayes: Bell, Stumbo, Edwards, Stout, Owens

Nays: Griggs, Moore

The motion for approval carried, 5 to 2.

D. **Conditional Use Appeals**

None Remaining

E. **Administrative Review**

None Remaining

IV. **BOARD ITEMS** - The Chairman announced that any items a Board member wished to present would be heard at this time.

- A. Election of Officers – At the January meeting each year, the Board shall elect a Chairperson, a Vice-Chairperson, a Secretary and any other officers it deems necessary. Nominations shall be made from the floor, and the candidate receiving the majority vote of the membership in attendance shall be declared elected and shall take office at the close of the meeting. The present officers are: Chair – Mike Owens; Vice-Chair – Louis Stout; and Secretary – Jim Griggs.
- Action – A motion was made by Mr. Stout, seconded by Mr. Stumbo, and carried unanimously to retain the current Board of Adjustment officers.
- B. In the past, the duties of Secretary have been delegated to the Planning Manager or a staff member appointed by the Planning Manager. The Chairman requested action on this item.
- Action – A motion was made by Mr. Stumbo, seconded by Ms. Edwards, and carried unanimously to delegate the duties of Secretary to Planning Manager Bill Sallee.
- V. **STAFF ITEMS** - The Chairman announced that any items a Staff member wished to present would be heard at this time.
- A. House Bill 55 Training Opportunity – Mr. Sallee reminded the Board of an upcoming training opportunity on Wednesday, February 13, 2008 at 4:00 p.m. in the Division of Planning conference room. The title of the conference, "Mastering Density", will count toward 1.5 hours of House Bill 55 training credit for the Board of Adjustment and Planning Commission members, as well as the staff.
- In response to Mr. Stout's question, Mr. Sallee said the staff would check the records for the Board members' required training hours and provide that information to them shortly thereafter.
- VI. **NEXT MEETING DATE** - The Chairman announced that the next meeting date would be February 29, 2008.
- VII. **ADJOURNMENT** - There being no further business, the Chairman declared the meeting adjourned at 3:30 p.m.

Mike Owens, Chairman

James Griggs, Secretary