

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

June 26, 2008

- I. **CALL TO ORDER** – The meeting will be called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.
- II. **APPROVAL OF MINUTES** – Prior Planning Commission meeting minutes of May 22, 2008, will be considered at this time.
- III. **POSTPONEMENTS AND WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.
- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 5, 2008, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Lyle Aten, James Mahan, Randall Vaughn, Mike Cravens and Carolyn Richardson. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Jimmy Emmons, Denise Bullock, Chris Taylor, Cheryl Gallt, and Tom Martin; as well as Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire & Emergency Services; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

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

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

- A. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.
- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, June 5, 2008, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Frank Penn, Linda Godfrey, and Joan Whitman. The Committee reviewed applications, and made recommendations on zoning items as noted.

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

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

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

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

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

The procedure for these hearings is as follows:

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

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

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

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

- a. MAR 2007-9: TATES CREEK HEIGHTS, LLC (6/26/08)* – petition for a zone map amendment from a Neighborhood Business (B-1) zone with conditional zoning restrictions to a Neighborhood Business (B-1) zone with modified conditional zoning restrictions, for 4.19 net (5.83 gross) acres, for property located at 1093, 1097 & 1099 Duval Street.

LAND USE PLAN AND PROPOSED USE

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

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

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

1. Conditions originally put upon the subject property were not done in anticipation of a professional office use across Duval Street from the subject property. This would constitute a change in the physical and economic nature of the area since 1996, which makes this site eligible for a revision to the very limited conditional zoning restrictions originally placed thereon.
2. The expanded uses currently requested are still consistent with the Retail, Trade and Personal Services land use recommendations of the 2007 Comprehensive Plan and the prior 2001 Comprehensive Plan.
3. This recommendation is made subject to the approval and certification of ZDP 2007-50: Pinnacle, Unit 1 (Amd.) prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of any Planning Commission approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the subject property shall now be subject to the following use restrictions, (with all edits shown below in italicized text from the previous conditions):
 - a. The B-1 site shall contain a maximum of four buildings and be used only as ~~either a~~ sit-down restaurants without drive-through facilities or the service of "fast food," a florist shop, and/or a use permitted in the P-1 zone other than a bank, a credit institution, a television studio or a hospital; *however, notwithstanding any provision to the contrary, a single drive-through shall be permitted solely for the use of a coffee shop (the "permitted drive-through").*
 - b. *In the event the permitted drive-through should cease to be used solely in connection with a coffee shop, or should a coffee shop cease to operate as a coffee shop (excluding any reasonable number of days necessary for repair, remodeling, or reconstruction as a result of or required by a lawful order or decree of a governmental or regulatory authority, a casualty loss, other than such a loss caused by the owner of the property), then the permitted drive-through shall be removed, no future drive-through shall be allowed on the property, and the use of the coffee shop building shall be restricted to the uses permitted herein.*
 - c. *The portion of the property used for the coffee shop shall be permitted to display on the east-facing portion of the building only a single logo, and the words may be displayed a single time on the east-facing façade, the letters of which shall not exceed 18 inches in height, and the logo shall not exceed 36 inches in height, and in no event shall the words or the logo be backlit or internally lit. Signs on the other sides of the building and on the property shall be regulated under the Zoning Ordinance.*
 - d. The existing ("**original**") structure shall be preserved except to the extent it must be modified to permit the construction of additions and/or renovations as described below.
 - e. *An additions to the existing ("**original**") structure shall be allowed, but shall only be in accordance with a final development plan submitted to and approved by the Planning Commission; and such additions in total shall not exceed 3,000 square feet and shall be governed by all of the restrictions and limitations that apply to the new building as described below.*
 - f. Parking will be in accordance with a final development plan submitted to and approved by the Planning Commission; *provided, however, that a visual buffer of hedges and trees shall be placed on the east-facing side of the property.*
 - g. The property owner shall preserve the existing mature trees on site except as necessary for the construction of ~~one new~~ the office building, the additions to the existing structure, the aforementioned coffee shop and accessory parking, all as approved by the Planning Commission on the final development plan for the site and subject to all restrictions and limitations contained herein; and such trees, if removed, shall be replaced in equal number to preserve the buffer between the site and Bates Creek Road.
 - ~~f. Signage shall be limited to the signage shown on and approved by the Planning Commission on the final development plan for the site and in accordance with the limitations contained herein;~~
 - h. Existing trees which provide a visual buffer from surrounding properties shall be preserved, and damaged or diseased trees may be removed if also replaced. ~~in equal number and kind on the site; and Deciduous trees shall be planted in the exterior parking lot.~~
 - i. *In addition to the above-referenced coffee shop building, the construction of one a single additional new building shall be permitted (the "office building"); however, such building shall not exceed 36,000 square feet, shall not exceed 36 feet in height at its highest point as measured from the existing grade level as of September 20, 2005, including all fixtures, equipment and any other materials (except that any equipment located on the roof shall be completely screened from view by parapet walls which are permitted to rise an additional 6 feet solely for that*

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purpose), shall primarily utilize only a brick *siding or masonry* façade which must cover no less than 55% of the exterior surface of the building excluding the roof, windows and doors, and the roof shall vary in height with no less than three (3) articulating roof heights. ~~In addition Furthermore, the easternmost edge of the office such building shall be no closer at any point than 30 feet from the right-of-way bordering Yates Creek Road at least 100 feet from the easement line on the east side of the property.~~

- b. [ZDP 2007-50: PINNACLE, LOT 1 \(AMD.\)](#) (6/26/08)* – located at 1093, 1097 and 1099 Duval Street.
(EA Partners)

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

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

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

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

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

- a. [MAR 2007-20: FORTUNE OFFICES, LLC](#) (6/26/08)* - petition for a zone map amendment from a Professional Office (P-1) zone to a Wholesale & Warehouse Business (B-4) zone, for 5.555 net (5.635 gross) acres, for property located at 2472 Fortune Drive.

LAND USE PLAN AND PROPOSED USE

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

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

The Staff Recommended: Approval, for the following reason:

1. The existing Professional Office (P-1) zoning is inappropriate, and the proposed Wholesale and Warehouse Business (B-4) zoning is appropriate at this location for the following reasons:
 - a. The B-4 zone requested would be compatible with adjacent commercial development and will not adversely affect the surrounding area or other 2007 Comprehensive Plan land use recommendations for this area.
 - b. The subject property would function well as a part of the existing business park development along Fortune Drive, and the requested zone change will allow it to function in this manner.
 - c. The subject property is separated from the adjacent P-1 zoned property to the south by an existing tree stand and from the residentially zoned property to the northeast by a large detention basin. The tree stand and detention basin are more appropriate and recognizable land use buffers between the office and residential uses and the proposed wholesale/warehouse use in this instance.
2. This recommendation is made subject to approval and certification of [ZDP 2007-113: Eastwood, Unit 6, Sec. 1, Lot 6](#), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the property via conditional zoning:

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PROHIBITED USES

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

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

- b. ZDP 2007-113: EASTWOOD, UNIT 6, SECTION 1, LOT 6 (6/26/08)* - located at 2472 Fortune Drive.
(Strand Associates)

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
8. Revise owner's certification and Planning Commission's certification.
9. Correct plan title.
10. Addition of written scale information.
11. Label building lines.
12. Verify the recordation of drainage easements.
13. Resolve building and drainage easement conflict.

3. CMW, INC., ZONING MAP AMENDMENT & MARK ACRE PROPERTIES, LLC, ZONING DEVELOPMENT PLAN

- a. MARV 2008-7: CMW, INC. (6/26/08)* - petition for a zone map amendment from a Mixed Use 2 – Neighborhood Corridor (MU-2) zone to a Downtown Frame Business (B-2A) zone, for 1.028 net (1.66 gross) acres, for property located at 502-526 South Broadway; 320 Pine Street; and 319 Cedar Street. A dimensional variance to the front setback is also being requested at this location.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 5) recommends Downtown Master Plan future land use for the subject property. The petitioner proposes a mixed-use development for approximately one acre, incorporating retail business, service-oriented business, 80 residential condominium units and associated off-street parking. The condominium units proposed are to be part of a boutique hotel use of the property.

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

The Staff Recommended: Approval, for the following reason:

1. The requested Downtown Frame Business (B-2A) zone is in agreement with the 2007 Comprehensive Plan, and with the *Downtown Lexington Masterplan*, an element of the Comprehensive Plan, for the following reasons:
 - a. The 2007 Plan recommends Commercial Residential Mixed Use (formerly Retail/Office Mixture) for the subject property, and for other sites to the south and west. The proposed mixture of residential condominiums, a "boutique hotel," restaurants and retail stores, along with the necessary off-street parking for those uses, meets this specific land use recommendation.
 - b. The *Masterplan* recommends an "increase in residential development," and to maximize residential density "while keeping new structures compatible in form and character with the existing neighborhood." The proposed development of the subject site will provide a compatible mixed-use development between South Hill and the approved Shelbourne Plaza mixed-use project, at a density of 77.82 dwelling units per net acre.
 - c. The *Masterplan* recommends almost 270,000 square feet of additional multi-family residential use in the entire South Hill area, for an additional 244 dwelling units. This proposed development would supply approximately one-third of that recommended amount.
2. This recommendation is made subject to approval and certification of ZDP 2008-34: Mark Acre Properties, LLC (Amd.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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3. Under Article 6-7 of the Zoning Ordinance, the following uses are to be prohibited on the subject property via conditional zoning:
- Hospitals.
 - Drug stores.
 - Indoor theatres.
 - Bowling alleys.
 - Establishments for the display, rental or sale of automobiles, motorcycles, trucks and boats.
 - Passenger transportation terminals.
 - Wholesale establishments.
 - Major or minor automobile or truck repair.
 - Establishments primarily engaged in the sale of supplies and parts for vehicles and farm equipment.
 - Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - Storage yards for delivery vehicles of a permitted use.
 - Mining of non-metallic minerals.
 - Gasoline pumps of any kind.

These restrictions are appropriate and necessary to ensure that uses on the subject property will not require large areas for off-street parking, and to ensure a compatible transition from the Historic South Hill Neighborhood to the east and the Shelbourne Plaza development planned to the immediate west of this location.

b. REQUESTED VARIANCE

- Reduce the required (front yard) setback along South Broadway, Plunkett Street and Cedar Street from 10' to 0'.

The Staff Recommends: Approval of the variance from 10' to 0', for the following reasons:

- This variance should not adversely affect the public health, safety or welfare, nor alter the character of the general vicinity, due to the wide sidewalks surrounding the building and the central courtyard feature of the proposed mixed-use development.
- This variance will not result in an unreasonable circumvention of the Zoning Ordinance, as the design of the proposed building will include architectural features to vary the appearance of the building along the streetscape.
- The special circumstances that contribute to justifying this variance are the relatively narrow width of the subject property, the fact that this property has four street frontages, and the wide sidewalk that will extend around the perimeter of the property.
- Strict application of the Zoning Ordinance requirement would likely result in a significantly smaller courtyard, which is one of the defining features of the proposed development.
- This variance is not the result of any prior actions of this applicant or the current owner, nor is it a result of a willful violation of the Zoning Ordinance.

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

- Provided the Urban County Council rezones the property B-2A; otherwise, any Commission action of approval of this variance is null and void.
- Should the property be rezoned, it shall be developed in accordance with the approved Preliminary Development Plan, or as approved by the Planning Commission via a certified Final Development Plan.
- A note shall be placed on the Preliminary Development Plan indicating the dimensional variance that the Planning Commission has approved for this property under Article 6-4(c) of the Zoning Ordinance.
- All necessary permits shall be obtained from Building Inspection prior to construction, after certification of a Final Development Plan, should this property be rezoned.

- c. ZDP 2008-34: MARK ACRE PROPERTIES, LLC (AMD.) (6/26/08)* - located on South Broadway, Pine Street and Cedar Street.
(CMW, Inc.)

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

- Provided the Urban County Council rezones the property B-2A; otherwise, any Commission action of approval is null and void.
- Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
- Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
- Building Inspection's approval of landscape buffers.
- Urban Forester's approval of tree inventory map.
- Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
- Clarify street tree details.

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4. **KEVIN CROUSE, PREMIER VILLAGES ZONING MAP AMENDMENT & OLD SCHOOL HOUSE LANE ZONING DEVELOPMENT PLAN**

- a. MAR 2008-14: KEVIN CROUSE, PREMIER VILLAGES (6/26/08)* - petition for a zone map amendment from an Agricultural Urban (A-U) zone to a Planned Unit Development-1 (PUD-1) zone, for 24.88 net (27.7 gross) acres, for property located at 4500 & 4524 Old Schoolhouse Lane.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 11) recommends Medium Density Residential future land use for the subject property. The petitioner proposes to construct 193 townhouse residential units, for a density of 6.97 dwelling units per gross acre.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommends: Postponement, for the following reasons:

1. Requirements of the Planned Unit Development-1 (PUD-1) zone have not been met with the application submitted to the Division of Planning. Specifically, a site inventory; any restrictive covenants (if necessary); evidence that two or more design professionals contributed to the corollary development plan; evidence that the plan respects any known natural or historic features; or, lastly, the continuation of Twain Ridge Drive on the proposed plan (or at least a right-of-way for such connection) are lacking from the submitted materials.
 2. The proposed design standards indicate a minimum lot frontage of 20' for this proposal. However, if the units front on open space and an alley, the actual frontage may be 0'. Further discussion of this and other standards may be warranted.
 3. Further consideration of the planned extension of Twain Ridge Drive, as recommended by the 2007 Comprehensive Plan, is necessary in light of the Schneider v. LFUCG et al. case.
- b. ZDP 2008-61: OLD SCHOOL HOUSE LANE (6/26/08)* - located at 4500 Harrodsburg Road.
(CDS Associates)

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

1. Provided the Urban County Council rezones the property PUD-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant location.
8. Division of Waste Management's approval of refuse collection.
8. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
9. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
10. Addition of tree inventory map (on plan face).
11. Resolve necessary access for dumpster service.
12. Resolve the need for additional Division of Fire emergency access.
13. Resolve location of stormwater detention basins and optimal street alignment for future Twain Ridge Drive extension.
14. Resolve the need for a street stub (from cul-de-sac) into adjacent church property.
15. Resolve local street terminus into floodplain area along with pedestrian access needed into that area.

5. **D.J. ACQUISITION, LLC, ZONING MAP AMENDMENT & OVERBROOK LAND COMPANY ZONING DEVELOPMENT PLAN**

- a. MAR 2008-19: D.J. ACQUISITION, LLC (8/7/08)* - petition for a zone map amendment from a Professional Office (P-1) zone to a Highway Service Business (B-3) zone, for 0.48 net (0.59 gross) acre, for property located at 1264 East New Circle Road (a portion of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Professional Services future land use for the subject property. The petitioner proposes constructing a parking lot for the display of automobiles for sale on this portion of the property, associated with the redevelopment of the larger parcel.

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

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

1. The requested restricted Highway Service Business (B-3) zone is appropriate for the subject property because the property is completely surrounded by more intense business and industrial zoning, and B-3 zoning is more consistent and compatible with the existing land uses in the immediate area. This would allow a clustering of similar land uses with similar intensities.
2. The existing Professional Office (P-1) zone is inappropriate for the subject property. P-1 zoning is infrequent along both the New Circle Road and Liberty Road corridors in this portion of the Urban Service Area. In this location, P-1 zoning no longer provides a buffer between residential and business zoning, nor does the P-1 zoning result in a transition of land use between a more intense and a less intense use.
3. This recommendation is made subject to approval and certification of ZDP 2008-81: Overbrook Land Company, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are appropriate for the property via conditional zoning:

PROHIBITED USES

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

OTHER RESTRICTIONS

- A. All outdoor lighting shall be directed away from the nearby residential properties and the public right-of-way.

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

- b. ZDP 2008-81: OVERBROOK LAND COMPANY (8/7/08)* - located at 1264 East New Circle Road.
(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
7. Clearly delineate area of zone change.
8. Clarify employee parking area.
9. Addition of standard development plan notes.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUEST

1. ZOTA 2007-8: AMENDMENT TO ARTICLE 17-7(g) TO ALLOW ADVERTISING SIGNS TO USE DIGITAL TECHNOLOGY (6/26/08)* - petition for a Zoning Ordinance text amendment to allow advertising signs (billboards) to use digital technology.

REQUESTED BY: The Lamar Companies

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

ARTICLE 17 – SIGN REGULATIONS

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

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

The Zoning Committee Recommended: **Postponement**.

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

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

VI. COMMISSION ITEMS

- A. CHEVY CHASE NEIGHBORHOOD ZONE CHANGE INITIATION REQUEST** – petition request by residents of the Chevy Chase neighborhood for Planning Commission initiation of a ND-1 overlay zone for residential properties bounded by Chinoe Road, Cooper Drive, Tates Creek Road and the rear property line of parcels along the south side of Fontaine Road.

The Zoning Committee Recommended: **Approval** of the initiation of an ND-1 overlay zone.

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

A. Planning Services Activity Report

- During the month of May, the Planning Services staff processed 14 zone map amendments, 3 Zoning Ordinance text amendments, 37 subdivision and development plan items, and 23 Board of Adjustment appeals. Processing of the above items included attendance and/or preparation of materials and presentations for the following: Technical, Subdivision and Zoning Committee meetings, one Planning Commission public hearing, one Planning Commission public meeting, one Planning Commission work session, and one Board of Adjustment public hearing. In addition, the staff held 4 pre-applications conferences for zoning changes, and several other pre-application meetings for subdivision, development plan and Board of Adjustment items.

Much of the staff's time was spent answering approximately 1,000 inquiries from people concerning zoning, subdivision plans, development plans, Board of Adjustment appeals and related matters. The staff also provided floodplain assistance for 19 property inquiries.

B. Long Range Planning Activity Report

- Employee of the Year – Administrative Specialist Pam Whitaker was named Public Works Employee of the Year by Commissioner Don Kelly at the annual Public Works Week picnic. In the award citation, Commissioner Kelly noted Pam's high level of professionalism and ever-present smile. As part of the week-long activities, Planning staff assembled a display that show-

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cased the work of the Division of Planning. The display was available for public review on the mezzanine at the Government Center along with displays from other divisions in the Department of Public Works.

- East End Small Area Plan – The East End Steering Committee, which includes representatives of neighborhoods, schools, government, and community service agencies, met for the first time with consultants who will lead a year-long project to develop a small area plan for the East End. The East End Steering Committee will review and advise the work of EHI Consultants, a Lexington-based planning and design firm headed by Ed Holmes, with the goal of creating an adopted community plan that will guide development decisions.

The consultants discussed the role of the steering committee and a general timeline for future meetings, including public input and comment meetings. The steering committee includes Councilmembers Andrea James and Tom Blues and Planning Commission member Joan Whitman.

At a later meeting, EHI met with staff to review the details of future public input events.

- Airport – Staff attended the monthly meeting of the Transportation Technical Coordination Committee held at Blue Grass Airport. At the business meeting, airport staff presented plans for changes, including a new Runway 9-27 (general aviation), along with new support buildings for the runway, a new aviation museum, and other improvements. LRP staff reported on the relationship between the 2007 Comprehensive Plan and the Long-Range Transportation Plan, which is being developed. After the meeting, airport officials led a tour of the baggage handling area and the new concourse and guest lounge.
- Coldstream Research Park – Staff participated in a review of proposals to study a new model for UK's Coldstream Research Park. UK officials sought ideas to market and potentially redesign the master planned business park, including recruitment of global clients and consideration of new land uses, infrastructure, zoning, and building design. UK hopes the selected consultant can begin work this summer.
- KAPA Conference – Staff attended the spring conference of the Kentucky American Planning Association at Cumberland Falls State Resort Park. Sessions included a presentation by LFUCG planning staff about policies and tools for infill and redevelopment, effective public hearings and meetings, how to involve the Latino community in growth initiatives, and one-way to two-way street conversions.
- Training – Staff attended several training sessions, including a two-day GIS workshop at UK, a one-day conference entitled "Eliminating Language Barriers," and other LFUCG-sponsored workshops.
- General Work Activities – Staff answered questions about land use and other comprehensive plan issues, as well as neighborhood association issues. Staff updated the Neighborhood Association data base. Using GIS, Census data, and PCensus software, staff created maps and data sets for other LFUCG offices, Fayette County Public Schools, and other citizens and officials outside the government.

C. Transportation Planning Activity Report

- Administration – Committee meeting packets were prepared and distributed for the following Transportation Planning/MPO meetings in May: the Transportation Policy Committee (TPC); the Transportation Technical Coordinating Committee (TTCC); the Bicycle and Pedestrian Advisory Committee (BPAC); the Air Quality Advisory Committee (AQAC); and the Congestion Management Committee meeting. Other important meetings with MPO staff participation during May included: the I-75 Working Group meeting; Statewide Transportation Planning Quarterly meetings; the KY Lifesavers Conference; the Downtown Lexington Streetscape Committee; Infill & Redevelopment Committee meetings; World Equestrian Games Committee; Federated Transportation Services of the Bluegrass (FTSB) Board meeting; and the Bluegrass Airport Board of Directors meeting. Also, staff participated in the Division of Planning's regularly scheduled development review meetings, and provided review and input on transportation and traffic impact study-related issues.
- Transportation Improvement Programming (TIP) – The primary program activities in May included the re-evaluation and comparison of the existing TIP versus the KYTC's recommended 2008 Six-Year Plan and upcoming FY 2008-FY 2011 TIP program. An appraisal of program funding figures and an examination of SAFETEA-LU regulatory requirements are under review, consideration, and development. The MPO staff coordinated a meeting with the LFUCG Division of Engineering project managers and the Kentucky Transportation Cabinet/Division of Planning MPO liaison Charles Schaub in late April to identify TIP project issues. In early May, nine (9) recommendations were identified for further review by staff and the KYTC Program Managers for follow-up in June. The MPO, the Division of Engineering, and KYTC Division of Planning partners collectively identified TIP STP-SLX Lexington program funding and phasing recommendations for review by the KYTC Division of Program Management. In the upcoming summer months, the state and local transportation partners will assess the recommendations against the current project phasing and program funding while awaiting the pending Kentucky Transportation Cabinet recommended Six-Year Plan to be voted on by Kentucky's decision-makers later this year. The Kentucky Legislature's Six-

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Year Plan recommendations will determine the future funding amounts and provide a revised direction for approved project funding amounts.

- Staff is preparing TIP documentation, the financial data and checking the “bigger picture” for FHWA required fiscal constraint in balancing expenditures versus estimated costs. The Division of Planning: Transportation Planning Section/Lexington Area MPO, LFUCG Division of Engineering, and the Kentucky Transportation Cabinet were well-represented. In June, the financial data for the TIP and LRTP will be further refined for making adjustments to the new TIP. KYTC Transportation Planner Charles Schaub retired on May 31, 2008, and will be sorely missed by the MPO staff. Mr. Schaub was an excellent stakeholder in the MPO Planning process and participated in the TTCC, BPAC, and the TPC.
- Intelligent Transportation Systems (ITS) – The MPO staff continued to assist with implementation of the Bluegrass ITS (BITS) regional planning initiative on an as-needed basis.
- MPO Website Development – The stand-alone MPO web site can be accessed at <http://www.lexareampo.org/>. In May the website had 819 unique visitors; 1,795 visits; 3,993 page views; .57 GB bandwidth usage; and 18,955 hits. There were 308 links from search engines in May. MPO staff updated the web site with new links, graphics and content, including a new Green Living Tips page.
- Fayette & Jessamine Counties Cooperative Planning - The MPO staff continued to work with Jessamine County officials and the Bluegrass Area Development District to assess transportation system impacts in Jessamine County. The staff attended the Bluegrass ADD Transportation Coordination Committee. Staff continues to provide information to MPO counties, and records the requests in the MPO's database.
- Public Involvement – The Lexington MPO Public Participation/Involvement Access database continues to be updated for use as an advanced input/management tool for public comments. The Public Involvement Database now includes 595 records (9.2% increase over April). The Lexington Area MPO's stand-alone website (www.lexareampo.org) was updated and improved. The Mobility Office Marketing Campaign is focusing this year on reaching out to traditionally underserved persons covered by Title VI. The advertising on cable TV this year will include BET, Telemundo, ESPN, ESPN2, Hallmark Channel and Fox News, among other stations that include high percentages of minority and elderly viewership.
- Transit Planning – Senior Transit Planner Joseph David returned in May from three weeks of Family Medical Leave in April for the birth of a new baby boy. Staff continues to communicate with Rocky Burke and the Art-in-Motion president to update and inform Mr. Burke about AIM and how it functions. In May, the future design of bus shelters project was on-going and under consideration by Lextran. The Senior Transit Planner engaged in the following activities in May: (1) reviewed past, present, and future designs that could be prototypes for different applications based on geography, physical characteristics, and fiscal constraints of various chosen sites. The Senior Transit Planner continues to monitor the collaboration for a bus shelter conference/summit initiative. This initiative was proposed for the fall of 2008 to get public input on the direction of AIM for the future. The Senior Transit Planner attended a week-long class “Intro to Travel Demand Forecasting” at UC Berkeley. Now a TransCAD class is being sought to enable use of the LFUCG transportation model.
- Newtown Pike Extension Study – Staff will continue to be involved in (when needed) and monitor ongoing work that includes plan development, design issues, funding strategies, meetings/discussions, TIP amendments and modifications, presentations and other various works to assist and coordinate with the Newtown Pike Extension Corridor Study and Small Area Plan Process.
- MPO Newsletter - “Bluegrass Traveler” – The next “Bluegrass Traveler” newsletter is planned for a 2008 Summer Edition.
- Traffic Impact and Forecasting – The staff coordinated with the Planning Services section staff and the Zoning Review Committee to review recently submitted preliminary and final development plans, zoning map amendment applications, and text amendments for the monthly Zoning Review meeting. Upon request, information was provided to real estate professionals, consultants and citizens in May. All proposed developments were reviewed for “general consistency” among planning documents, ordinances, and subdivision regulations. The proposed application for zoning map amendment for the Old Schoolhouse Lane Development is being redesigned to address staff concerns. After a Planning Division-wide meeting, the staff collectively agreed that the urban collector from Twain Ridge Drive to US 68/Harrodsburg Road would relieve congestion and provide a route for all transportation modes to utilize. Staff members encouraged the completion of the collector roadway system and had Division-wide support. Staff continues to monitor the *Jessamine Journal* to track on-going land development. On-going work on the City of Nicholasville's Main Street project was reported to the TTCC on May 14, 2008. Nicholasville representatives reported to the committee that alternatives were provided to improve this busy street and were under consideration. A recent article gave an update on the downtown street improvement project. Jessamine County land development information was provided by Jesse Jackson at our regular coordination meeting.

On May 1, 2008, several staff attended a KYTC-sponsored FHWA's **LAND USE BRIEFING: Coordinating Land Use and Transportation** course in Frankfort, Kentucky. The course was taught by Mr. Jim Thorne from the FHWA Resource Center Planning Team, and provided good training on how to identify the important links between land use and transportation; better

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understand the transportation characteristics of various land use patterns; and emphasize the Transportation and Land Use Planner Roles and Responsibilities. The course identified how the roles and responsibilities of local, regional, state, and federal agencies interrelate in the field of transportation and land use planning, and how Land Use and Transportation Plans explain how the land use plans are developed and applied. The course was very beneficial to transportation planners and will assist planners with the future coordination of MPO Land Use and Transportation Planning “best practices” to improve the coordination of land use with transportation plans, and the available tools and practices to improve coordination through the use of modern technology.

- Bicycle and Pedestrian Planning - The LFUCG Bicycle and Pedestrian section is found in the Strategic Planning monthly report. The BPAC and closely coordinate all bike and pedestrian activities with the MPO, BPAC members, the KYTC District 7, and the Kentucky Transportation Cabinet's project programming personnel. A BPAC meeting was held in May and was well attended.
- Travel Demand Model – Staff continued to work with the consultants and MPO staff on different projects, providing travel demand forecasts.
- Freight Planning – The final draft of the Freight Section Extension is complete and available for review by MPO members and interested parties. Staff continues to work toward a Freight Participation Plan with stakeholders. A freight study proposal was accepted for the next fiscal year and staff is working on the FP.
- Air Quality Activities – The big news was that David Schaars, Air Quality Planner, would be retiring on Friday, May 30, 2008. Dave's professionalism and dedicated assistance will be sorely missed by the MPO and the staff. The MPO staff met with the selection committee to discuss the Request for Proposals (RFP) to manage the Bluegrass Mobility Office/Air Quality program marketing campaign. The committee chose Ad Success, Inc., to manage the campaign for Fiscal Year 2009 beginning on July 1, 2009. The MPO provided an information booth at the Regional Air Quality conference held in Frankfort, KY on April 24, 2008. The Air Quality Planner served as a board member at the April 10th Federated Transportation Service of the Bluegrass meeting and also participated in the state-wide Transportation planning meetings held in Frankfort, KY, on April 17th. Staff received a great deal of useful information at the KY Lifesavers Conference held in Louisville, KY on April 21 – 23. Staff completed the committee packets and materials for the April 23rd Air Quality Advisory Committee meeting.
- Congestion Management Process (CMP) - Staff attended a number of transportation planning related committee meetings, such as: Transportation Technical Coordinating Committee (TTCC); Transportation Project Coordination; Traffic Safety Coalition (TSC); Bicycle Pedestrian Advisory Committee (BPAC), etc. Staff organized the May 14 Congestion Management Committee (CMC) meeting. In the CMC meeting, Ms. Bernadette Dupont of the Federal Highway Administration (FHWA) made a presentation concerning the federal requirements of congestion management process key issues. Staff with Traffic Engineering presented the KY-4 New Circle Road Case Study. Staff with MPO presented the Linking Planning and Operations program update. Staff attended the Preliminary Line and Grade meeting at the KYTC District-7 office concerning the Harrodsburg Road/New Circle Road Interchange roadway improvement project and made recommendations to the project staff. Staff attended two LFUCG training classes: Dealing with Angry and Upset Citizens, and Stress Management for Managers. One of the GeoLoggers loaned to the Div. of Traffic Engineering malfunctioned in March and April. Staff worked with the Division of Traffic Engineering staff and GeoStats staff attempting to resolve the malfunctioning issues. Staff had to send the GeoLogger unit to GeoStats for testing and repair in April. Staff received a replacement GeoLogger from GeoStat in May. Staff continued to work on the Congestion Management Process Overview document. Staff continued to work on the monthly, quarterly, and annual reporting.
- Downtown Development Plan - The staff advised and provided information to the Lexington Downtown Development Association (LDDA) and the selected consultants for the transportation element of this study. The MPO staff has received comments to the draft report that detail the Air Quality Analysis and MPO Position for: Initial Review of the Downtown Lexington Transportation Analysis (One-Way to Two-Way Streets Conversion Analysis).
- Mobility Office Activities – The Mobility Office marketing campaign continued in May and includes radio ads; spots on WLEX-TV; cable TV spots; streamed spots and links on the internet; and promotion of Bike Lexington, including a gold level sponsorship (due to donating well over \$1,000 in advertising) of the event for the first time. The Mobility Office had a booth at Bike Lexington and three staff members (Roger Daman, David Schaars and Sam Hu) not only worked the booth but helped with setup for the event. The Mobility Office had a very successful booth, giving out 280 3-in-1 tools, 205 pens, 160 memo mates, and 35 children's activities packets. The Mobility Office also gave out 20 3-in-1 tools, 20 memo mates and 52 pens along with other brochures and rideshare forms through the Division of Planning booth for Public Works Week. Staff worked on the new Ridepro ridematching software program, entering data into the program. The staff received an increased number of phone calls and emails regarding carpooling and vanpooling to work this month.

D. Strategic Planning Activity Report

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- Infill and Redevelopment Activities – The Steering Committee will meet in August to review the implementation status. The consultants for the Non-Residential Market and Design Study are in the process of evaluating non-residential areas and collecting data for the market analysis. Staff presented the Infill and Redevelopment Task Force process and recommendations at the KAPA Spring Conference at Cumberland Falls State Resort Park.
- Underutilized Property Survey – The survey is complete and information is available to the public. The next phase of the project will include strategies for utilization.
- Housing Market Study - The RFP Selection Committee selected a firm for the study. The Department of Law is currently in the process of reviewing the contract.
- Neighborhood Conservation Zoning – Staff presented ND-1 information to the Westmoreland Neighborhood Association at their annual meeting on May 12th. On May 13th, staff met with the Montclair Neighborhood to discuss ND-1. The Chevy Chase ND-1 subcommittee met with Strategic and Planning Services staff to discuss the process of initiation and submitted materials for the their ND-1 application.
- Newtown Pike Extension/Southend Park Redevelopment Plans –The construction of the temporary housing is underway. The Planning Commission held a public hearing for the rezoning of the Southend Park Redevelopment plan. Staff has forwarded the preliminary draft of the Access Management and Commercial Design Standard Ordinance to the Department of Law for their review.
- Bluegrass Partnership for a Green Community - Staff assisted in the park class project at Bryan Station High School, attended the regular Steering Committee meeting and assisted in conducting a raingarden tour.
- Greenspace Commission - Staff prepared for and attended the Greenspace Commission meeting. Additionally, there was a meeting with Commissioners concerning potential amendments to Article 26.
- Technical Meetings - Staff prepared for and attended the monthly meetings for the Technical Review Committee, BPAC and the Greenway Coordinating Committee.
- Trails – Staff met with other LFUCG divisions to discuss the status of greenway trail projects.
- Downtown Streetscape Plan – Staff met with the consultants and attended design committee meetings.
- Complete Streets – A draft set of recommendations regarding street cross-sections and connectivity was distributed to Planning staff.
- Regional Bike/Pedestrian Plan – The final draft is available in digital format. Hard copies will be available in June.
- Bike Lane Restriping Study – The scope of the project has been revised. The project will be underway this summer.
- South Limestone Multimodal Study - The contract has been finalized. An RFP is under development.
- Safe Routes to School – Planning is underway for a pilot project to be conducted this year at William Wells Brown (Bluegrass Aspendale) School.
- Bike Lexington – Seventy-four bike events were featured on the Bike Lexington calendar to promote bicycling during May, National Bike Month. There were 800 participants in the city-sponsored family fun ride.

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

IX. MEETING DATES FOR JULY, 2008

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	July 3, 2008
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	July 3, 2008
Subdivision Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	July 10, 2008
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	July 17, 2008
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	July 23, 2008
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	July 24, 2008

X. ADJOURNMENT

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