

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

February 26, 2009

- I. **CALL TO ORDER** – The meeting was called to order at 1:30 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Patrick Brewer; Marie Copeland; Mike Cravens; Neill Day; Ed Holmes; Mike Owens; Frank Penn; Carolyn Richardson; Lynn Roche-Phillips; Randall Vaughn; and Joan Whitman (arrived at 1:43 p.m.).

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Tom Martin; Cheryl Gallt; Chris Taylor; Kenzie Gleason; and Stephanie Cunningham. Other staff members present were Rochelle Boland, Department of Law; Chuck Saylor and Andrew Grunwald, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Bob Carpenter, Division of Building Inspection; and Captains Charles Bowen and Allen Case, Division of Fire and Emergency Services.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Day, seconded by Mr. Owens, and carried 10-0 (Whitman absent) to approve the Planning Commission meeting minutes of January 29, 2009.

III. **POSTPONEMENTS AND WITHDRAWALS**

1. **TRUSTEES OF THE FIRST UNITED METHODIST CHURCH OF LEXINGTON, KENTUCKY, ZONING MAP AMENDMENT & FIRST UNITED METHODIST CHURCH ZONING DEVELOPMENT PLAN**

- a. MAR 2008-31: TRUSTEES OF THE FIRST UNITED METHODIST CHURCH OF LEXINGTON, KENTUCKY (2/26/09)* - petition for a zone map amendment from a Two-Family Residential (R-2) zone to a Downtown Center Business (B-2B) zone, for 0.4789 net (0.5859 gross) acre; and from a High Density Apartment (R-4) zone to a Downtown Center Business (B-2B) zone, for 0.9066 net (0.9846 gross) acre, for property located at 200 West High Street (a portion of); 318 South Mill Street; and 323 & 327 South Upper Street.

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 expanding the existing historic church on West High Street and maintaining the other structures on the property, including the accessory office building on South Mill Street, and the two residences on South Upper Street.

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

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

1. A restricted Downtown Center Business (B-2B) zone is appropriate and the existing Two Family Residential (R-2) zone and High Density Apartment (R-4) zone are inappropriate, for the following reasons:
 - a. The proposed B-2B zone will allow the church to bring their entire property into one zoning category, which is reasonable, and will simplify their planning and building processes. This will eliminate the need for the church to seek approval of a conditional use permit from the Board of Adjustment in the future.
 - b. If restricted via conditional zoning, the proposed B-2B zone will be no more intensive a land use than the existing zoning would allow, as recommended by the *Downtown Lexington Masterplan* and 2007 Comprehensive Plan.
 - c. A restricted B-2B zone allows the church property to provide for a compatible step-down of land uses between the Historic South Hill Neighborhood and the downtown business core, and less uncertainty regarding future allowable uses than if the property remained in three zoning categories.
 - d. Macks Alley as a physical boundary, and Rokeby Hall as a land use transition, bolstered by conditional zoning restrictions, create an appropriate land use between the existing historic neighborhood and the higher intensity church facilities and uses.
2. This recommendation is made subject to approval and certification of ZDP 2008-147: First United Methodist Church, 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 Article 6-7 of the Zoning Ordinance, the following uses are to be prohibited on the subject property via conditional zoning:
 - a. Cocktail lounges and nightclubs.
 - b. Establishments for the display, rental, or sale of automobiles, motorcycles, trucks and boats.
 - c. Indoor or outdoor amusement enterprises, such as circuses, carnivals, horse racing or automobile racing, motion picture theatres, billiard or pool halls, bowling alleys, dance halls, skating rinks and arcades.
 - d. Major or minor automobile or truck repair.
 - e. Drug stores.
 - f. Automobile service stations and gasoline pumps of any kind.
 - g. Mining of non-metallic materials.
 - h. All buildings shall be limited to a maximum height of 40 feet.

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

- i. The historic Rokeby Hall, located at 318 South Mill Street, shall be further limited to church offices, professional offices or residential use.

These restrictions are appropriate and necessary to ensure that uses on the subject property create a compatible transition from the Historic South Hill Neighborhood to the southwest of this location and to the downtown business core.

- b. ZDP 2008-147: FIRST UNITED METHODIST CHURCH (2/26/09)* - located at 200 West High Street.
(Foster - Roland)

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

1. Provided the Urban County Council rezones the property B-2B; 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 buffer.
5. Urban Forester's approval of tree inventory map.
6. Denote existing zoning on plan face, including the addition of H-1 Overlay zone to site statistics.
7. Denote parking areas.
8. Clarify zone-to-zone screening note.
9. Addition of adjacent property information (to the southwest of this site).
10. Resolve the minimum open space requirements for residential uses.

Petitioner Representation: Foster Ockerman, Jr., attorney, was present representing the petitioner. He noted that the petitioner is continuing to work with the nearby neighborhood association, and requested a one-month postponement in order to allow more time for those negotiations.

Action: A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 10-0 (Whitman absent) to postpone MAR 2008-31 to the March 26, 2009, Planning Commission meeting.

2. THOMAS & CORBETT, LLC, ZONING MAP AMENDMENT & THE RESERVE AT TATES CREEK (AMD.) ZONING DEVELOPMENT PLAN

- a. MAR 2008-23: THOMAS & CORBETT, LLC (2/26/09)* - petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 7.19 net (9.60 gross) acres, for property located at 1060-1097 Bridlewood Lane, 5200-5205 Tykes Pass, 5121 Middleton Place and 5397 Tate's Creek Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 11) recommends Low Density Residential future land use for the subject property. The petitioner proposes 38 townhouse and single family (detached) residential units in an R-3 zone.

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

The Staff Recommends: Disapproval, for the following reasons:

1. The existing Single Family Residential (R-1C) zoning, with conditional zoning restrictions, is in agreement with the 2007 Comprehensive Plan.
 2. The existing R-1C zone is more appropriate than an R-3 zone for the subject property, for the following reasons:
 - a. The existing pattern of residential development in the immediately surrounding neighborhoods is well below 4.0 dwelling units per gross acre.
 - b. The predominant zoning designation in this portion of the Tate's Creek Road corridor is R-1C.
 - c. R-1C zoning is much more common along the edge of the Urban Service Area than R-3, as there has been a consistent and historical precedent for lower density residential development along this boundary for decades.
 3. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in early 2007 that would support an argument for R-3 zoning for the subject property.
- b. ZDP 2008-109: THE RESERVE AT TATES CREEK (AMD.) (2/26/09)* - located 1060-1097 Bridlewood Lane, 5200-5205 Tykes Pass, 5121 Middleton Place and 5397 Tate's Creek Road.
(EA Partners)

Note: The purpose of this amendment is to depict a 38-unit townhouse and single family residential development.

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding the location of the sanitary sewer line relative to the location of the proposed townhouses, and compliance with Floor Area Ratio restrictions.

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

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1. Provided the Urban County Council rezones the property R-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 buffer.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Depict the tree canopy information on plan.
8. Denote the square footage in the site statistics information and dimension units (including number of stories).
9. Denote compliance with floor area ratio requirements (townhouse portion).
10. Resolve existing conflict with the proposed townhouses and platted easements.

Petitioner Representation: Rory Kahly, EA Partners, was present representing the petitioner and requested a two-month postponement of this item.

Action: A motion was made by Mr. Holmes, seconded by Ms. Richardson, and carried 10-0 to postpone MAR 2008-23 to the April 23, 2009, Planning Commission meeting.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, February 5, 2009, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Mike Cravens, Mike Owens 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, Denise Bullock, Chris Taylor, Cheryl Galt, Tom Martin, Traci Wade, Barbara Rackers, and Rob Johnson, as well as Rochelle Boland, Department of Law; Capt. Charles Bowen and Capt. Allen Case, Division of Fire & Emergency Services; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

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

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

- V. ZONING ITEMS** - The Zoning Committee met on Thursday, February 5, 2009, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Marie Copeland, Lynn Roche-Phillips, Randall Vaughn, and Joan Whitman. The Committee reviewed applications, and made recommendations on zoning items as noted.

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

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

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

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

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

The procedure for these hearings is as follows:

- Staff Reports (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.

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1. **RML CONSTRUCTION, RLLP (AMD.), ZONING MAP AMENDMENT & ADAMS PROPERTY (AMD.) ZONING DEVELOPMENT PLAN**

- a. MAR 2008-32: RML CONSTRUCTION, RLLP (AMD.) (2/26/09)* - an amended petition for a zone map amendment from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone, for 0.08 net (0.09 gross) acre; and from a Planned Neighborhood Residential (R-3) zone with conditional zoning restrictions to a High Density Apartment (R-4) zone, for 0.35 net (0.40 gross) acre, for property located at 852 Campbell Lane.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 9) recommends Medium Density Residential future land use for the subject property. The petitioner proposes R-4 zoning and removal of a conditional zoning restriction, applied to a portion of the subject property in 2005, in order to construct a 24-unit multi-family residential building, which would result in the expansion of the adjacent multi-family residential development at 3050 Helmsdale Place.

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

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

1. The requested High Density Apartment (R-4) zoning is in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Comprehensive Plan recommends Medium Density Residential future land use for the subject property, defined as 5-10 dwelling units per net acre.
 - b. The Comprehensive Plan recommends High Density Residential future land use for the associated Adams Property, defined as 10-25 dwelling units per net acre.
 - c. The proposed re-zoning, with the associated development plan, would be within that recommendation, if the density were averaged for each portion of the property. An overall density of 17.13 units per acre is proposed, wherein the Plan recommends 24.6 units per acre, when including the subject property.
2. This recommendation is made subject to approval and certification of ZDP 2008-148: Adams Property (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.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning for the subject property:
 - a. Any lighting installed on the subject property shall be directed downward and shall be directed away from any single-family residential zone.

This restriction is appropriate in order to protect the adjacent residential properties to the north and west of the subject property from the possible light pollution associated with the proposed apartment building and its associated off-street parking area.

- b. ZDP 2008-148: ADAMS PROPERTY (AMD.) (2/26/09)* - located at 852 Campbell Lane.

(EA Partners)

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

1. Provided the Urban County Council rezones the property R-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 landscape buffer.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
8. Addition of required 25' floodplain setback information.
9. Correct note #5.
10. Denote adjacent property zoning information.
11. Correct building numbers to match E-911 information.
12. Denote final disposition of wetland area.
13. Denote required zone-to-zone screening.

Zoning Presentation: Mr. Sallee presented the staff report, noting that this is an amended zone change request from a Single Family Residential (R-1D) zone and from a Planned Neighborhood Residential (R-3) zone to a High Density Apartment (R-4) zone. He briefly oriented the Commission members to the location of the subject property, which is at the end of Campbell Lane, which is an older, rural residential street. Campbell Lane is located near the Cadentown neighborhood, which has been designated a Historic District for nearly 10 years. A narrow sliver of the subject property is zoned R-1D, and the larger portion of the property is currently zoned R-3. There are a number of conditional zoning restrictions enforced on the subject property. Mr. Sallee stated that the bulk of the property was rezoned to R-3 in 2005, and was originally intended as a recreational use for the

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adjacent apartment complex, which is located at the end of Helmsdale Place. That street now has a signalized intersection with Man O' War Boulevard, as does the Todds / Liberty Road intersection with Man O' War. The petitioner is now requesting a zone change to R-4 in order to construct an additional 24 apartment units on the subject property. There are currently 240 dwelling units in the apartment complex.

Mr. Sallee stated that the 2007 Comprehensive Plan recommends Medium Density residential use, or 5 – 10 dwelling units per net acre, for the subject property and adjacent vacant properties, and recognizes the existing High Density residential uses for the apartment complex. When averaging the density between Medium and High Density residential uses for the subject property, the Comprehensive Plan would suggest a maximum of almost 375 dwelling units for the adjacent complex, including the subject property. With the additional 24 units proposed, a total of 264 units are being requested, which would result in a density of 17.3 dwelling units per net acre. Since this number is below the maximum density recommended, it can be found that the requested R-4 zone is in agreement with the recommendations of the Comprehensive Plan.

Mr. Sallee noted that the loss of the existing conditional zoning restrictions on the subject property is somewhat mitigated by the removal of the residence closest to the subject property, since the time that those restrictions were initially imposed.

Mr. Sallee said that the Zoning Committee and the staff were recommending approval of this request, for the reasons listed in the staff report and on the agenda. The staff is recommending that one conditional zoning restriction, for lighting, to still remain in place on the subject property.

Note: Ms. Whitman arrived at this time.

Development Plan Presentation: Ms. Gallt presented the corollary zoning development plan, further orienting the Commission to the location of the subject property. She said that the petitioner proposes to construct one additional apartment building, to contain 24 one-bedroom units.

The Subdivision Committee recommended approval of this plan, subject to the 13 conditions as listed on the agenda. With regard to condition #8, the staff reviewed the floodplain area according to the new FEMA maps, and determined that the subject property is no longer included in the floodplain. Therefore, condition #8 can now be deleted.

Commission Questions: Mr. Holmes asked, with regard to condition #13, what type of zone-to-zone screening will be required for the subject property. Mr. Sallee answered that that screening can consist of a fence, solid wall, berm, or hedges, in addition to trees spaced every 40 feet. Mr. Holmes asked if that landscape plan had been presented to staff. Mr. Sallee responded that landscape plans with that level of detail are sometimes included with final development plans, but are most often submitted to the Division of Building Inspection with a very detailed landscape plan that includes species information for all the plantings.

Mr. Day asked if the subject property had originally been intended as a tennis court. Mr. Sallee answered that it was rezoned in 2005 in order to be used as a tennis court. Mr. Day asked if the screening requirements would be the same for the proposed apartment units as for the tennis courts. Mr. Sallee responded that the change to R-4 will only require landscape screening along the western edge of the property, adjacent to the single-family area. The property fronts on a public street, so no screening will be required there. Ms. Gallt added that the screening area will be provided between the proposed parking area and the existing single-family residences.

Mr. Sallee noted that condition #1 should read: "Provided the Urban County Council rezones the property R-4; otherwise, any Commission action of approval is null and void."

Petitioner Presentation: Rena Wiseman, attorney, was present representing the petitioner. She said that the petitioner is in agreement with the staff's recommendations, including the proposed conditional zoning restriction, and requested approval.

Citizen Comments: There were none.

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Cravens, and carried 11-0 (Whitman abstained) to approve MAR 2008-32, for the reasons provided by staff, and subject to the conditional zoning restriction as listed on the agenda and in the staff report.

Development Plan Action: A motion was made by Mr. Penn, seconded by Mr. Cravens, and carried 11-0 (Whitman abstained) to approve ZDP 2008-148, correcting condition #1 to read "R-4" instead of "R-3", and deleting condition #8.

2. PROPERTY PARTNERS, LLC, ZONING MAP AMENDMENT & BIG RUN INDUSTRIAL PARK, UNIT 3, ZONING DEVELOPMENT PLAN

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- a. MAR 2009-2: PROPERTY PARTNERS, LLC (4/16/09)* - petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Light Industrial (I-1) zone, for 1.16 net (1.26 gross) acres, for property located at 550 & 560 Stone Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 4) recommends Light Industrial future land use for the subject property. The petitioner proposes Light Industrial (I-1) zoning to allow for a total of 13,800 square feet of warehouse space and associated off-street parking.

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

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

1. The requested rezoning to a Light Industrial (I-1) zone is in agreement with the 2007 Comprehensive Plan, which recommends Light Industrial future land use for the subject property.
2. This recommendation is made subject to the approval and certification of ZDP 2009-11: Big Run Industrial Park, Unit 3 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of any approval by the Planning Commission.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the subject property via conditional zoning:

PROHIBITED USES:

- a. Establishments for the minor or major repair of farm equipment, contractor equipment, automobiles, trucks, mobile homes, recreational vehicles, minibikes, motorcycles, bicycles, boats or supplies for such items.
- b. Tire re-treading or recapping.
- c. Truck terminals and freight yards.
- d. Outdoor public address systems.
- e. Recycling, sorting, baling and processing of glass and nonferrous metals.
- f. The above-ground or below-ground storage for resale of any flammable or nonflammable gas or oxidizer in liquid or gaseous form as a conditional use, the storage of any empty container which contained any gas in any form as a conditional use, and the receiving of or dispensing of any gas in any form as a conditional use.
- g. Concrete mixing and concrete products.
- h. Commercial composting.
- i. Mining of metallic and non-metallic minerals.

Prohibition of these permitted and conditional uses in the I-1 zone is appropriate and necessary for the subject property in order to protect an established residential neighborhood from the most intense industrial uses otherwise allowed at this location.

- b. ZDP 2009-11: BIG RUN INDUSTRIAL PARK, UNIT 3 (4/16/09)* - located at 550-560 Stone Road.
(Barrett Partners)

The Subdivision Committee Recommended: Referral. There were questions regarding improvements to Stone Road.

1. Provided the Urban County Council rezones the property I-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscape buffer.
5. Urban Forester's approval of tree inventory map.
6. Discuss required improvements to Stone Road.

Zoning Presentation: Mr. Taylor presented the staff report, briefly orienting the Commission to the location of the subject property. He noted that the subject property, which is 1.26 gross acres in size, consists of two lots. There is one existing access point to these lots on Stone Road.

Mr. Taylor stated that zoning surrounding the subject property consists of R-1C, in the Open Gates neighborhood across Stone Road; R-1B on the Montessori School property to the southwest; and I-1 properties in the Big Run Industrial Park to the south and east. He displayed several photographs of the subject property and surrounding area on the overhead, including views of the existing single-family residence on the property, the existing embankment on the subject property near Stone Road, and an existing stand of trees.

Mr. Taylor stated that the 2007 Comprehensive Plan recommends Light Industrial use for the subject property, as well as all the properties surrounding it on the same side of Stone Road. Due to the property's proximity to residential (low density) uses across Stone Road, the staff is recommending conditional zoning restrictions for the subject property to prohibit some of the most intense I-1 uses. The Zoning Committee and the staff recommended this, and approval of this request, for the reasons listed in the staff report and on the agenda.

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Development Plan presentation: Mr. Martin presented the corollary zoning development plan, further orienting the Commission to the location of the subject property. He stated that the petitioner's plan proposes two new buildings, with a total of 13,800 square feet of buildable area; 23 parking spaces; and a detention basin.

Mr. Martin stated that this development plan was a revised submission, and noted that it had satisfied several of the original conditions for approval recommended by the Subdivision Committee. The Subdivision Committee, at their meeting, recommended only a few conditions; but they recommended referral of this plan to the full Commission due to a lengthy discussion about the need for improvements to Stone Road, as reflected in condition #6. Mr. Martin displayed several photographs of the subject property in order to demonstrate the staff's concern about the need for improvements to this portion of Stone Road.

Mr. Martin said that the staff does support the provision of road improvements along the frontage of the subject property. He displayed a rendered graphic depicting the existing sidewalk system in the area of the subject property, noting that it is "hit or miss" at best, and that the staff is also concerned about the provision of sidewalks on the subject property and in the entire Stone Road area. If the Commission should choose to approve this rezoning request, those concerns about sidewalk improvements could be further addressed at the time of a final development plan.

With regard to the conditions recommended for approval of this development plan, Mr. Martin stated that, should the Commission choose to approve the proposed conditional zoning restrictions, a condition #7 will need to be added to read: "Denote conditional zoning restrictions."

Commission Question: Mr. Penn asked if the proposed detention basin would become an issue should Stone Road be recommended for widening. Mr. Martin responded that that should be a consideration during the construction of the basin. Mr. Penn asked if the proposed location for the basin could be problematic. Mr. Martin answered that the staff believes that the location proposed for the detention basin is the most suitable, given the topographic constraints of the site. He noted that there was some level of flexibility for the design of the basin.

Petitioner's Presentation: Tony Barrett, Barrett Partners, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations on the rezoning request, including the proposed conditional zoning restrictions. The petitioner is, however, concerned about condition #6, and the possibility of having to provide improvements to Stone Road.

Mr. Barrett said that the detention basin is proposed to be located at the lowest point of the property, but the site could be adjusted to accommodate improvements to Stone Road if necessary. The petitioner's greatest concern about improvements to Stone Road is the preservation of the fencerow trees at the front of the property. If the petitioner is required to remove that treeline, the Zoning Ordinance would require that it be replaced for screening the property. The petitioner does not believe it makes sense to remove existing large trees only to replace them with new, smaller screening. The petitioner likes the screening provided by the existing treeline, and would like to preserve it if possible.

Mr. Barrett displayed an exhibit depicting the limits of the existing sidewalks in the Stone Road area. He said that there are currently several areas along that street with no sidewalks at all, and there are some unconnected sections of sidewalk as well. The petitioner contends that, due to the sporadic sidewalks in the area, they should not have to provide sidewalks along their property, as there is "essentially nowhere to go." The petitioner believes that the proposed Montessori School would be the only likely pedestrian destination along Stone Road, and walkers to that location would be unlikely to walk in front of the subject property to reach the school. There is also no worn footpath on the subject property, which indicates that there is not a great deal of pedestrian traffic there. Mr. Barrett noted that the only other possible pedestrian destinations in the area are located a substantial distance away from the subject property. He asked that the Planning Commission approve this request without the requirement of improvements to Stone Road.

Commission Question: Mr. Owens asked if the petitioner had identified the types of trees in the existing tree stand. Mr. Barrett answered that there are a variety of native fencerow species present there, including black walnut, ash, and hackberry.

Petitioner's Presentation (con't.) - Tom Matthews, petitioner, stated that he had met with representatives of the Open Gates Neighborhood Association, to discuss the proposed use of the property. The Open Gates residents were concerned about what they would see on the subject property. Mr. Matthews assured the residents that he would maintain the existing treeline in order to screen the new industrial use on the property. He then met with the Urban Forester to determine whether all the trees were viable, and was informed that they were. Several years ago, Mr. Matthews also met with the Planning staff and attended a meeting of the Building Inspection Review Board to discuss the proposed use of the property. At the Review Board meeting, the staff of the Division of Traffic Engineering was concerned about the sight distance for vehicles leaving the property, because of the treeline. With that concern in mind, Mr. Matthews purchased the adjoining property in the Big Run Industrial Park, in order to use it as an access point via Gold Rush Road.

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Mr. Matthews stated that part of his business includes installing curb, gutter, and sidewalk, and he is certainly capable of providing those improvements along Stone Road. However, he believes that the screening provides a good buffer between the subject property and the surrounding residential uses.

Commission Questions: Ms. Copeland asked when the conversations took place between Mr. Matthews and the Urban Forester. Mr. Matthews answered that he purchased the property in 1999, and met with the Urban Forester to discuss the trees soon afterward. Ms. Copeland stated that she had spoken with Tim Queary, who is currently the Urban Forester, and he did not share that opinion about the preservation of these trees.

Mr. Day asked if it would be possible for the subject property to have access via Gold Rush Road. Mr. Matthews answered that it would be possible; and, in fact, he had purchased three adjoining small properties for the express purpose of providing access via Gold Rush Road. He said he believes that it would be more appropriate for traffic from the subject property to exit through the Big Run Industrial Park, rather than directly onto Stone Road. Mr. Day stated that he was concerned about the possibility of not requiring improvements to Stone Road, when the subject property has a Stone Road address. There are currently four properties for sale along Stone Road. Mr. Day is concerned that, should the Commission approve this rezoning request to I-1 and not require road improvements, someone may purchase those properties and apply for industrial zoning. If the Commission required each of those properties to construct sidewalks, it could complete the sidewalk system in the area. Mr. Matthews noted that the property to the south of the subject property has a large swale along its frontage, and it would be nearly impossible to construct a sidewalk there. He added that there is a pronounced grade drop on the subject property as well, and any sidewalk constructed there would essentially be an "island," raised above any other sidewalks in the area. Mr. Day stated that he believed that it would be appropriate to close the existing Stone Road entrance, and access the property via Gold Rush Road.

Ms. Copeland asked when Mr. Matthews met with the Open Gates Neighborhood Association. Mr. Matthews replied that he had met with Ron Wedding, who was the president of the neighborhood association, in 1999.

Mr. Cravens asked if Mr. Matthews would prefer to access the property via Stone Road, or Gold Rush Road. Mr. Matthews answered that, as a practical matter, he would prefer to access the property via Gold Rush Road if that would prevent him from having to remove the existing trees. Mr. Cravens asked if any of the trees had sustained damage during the recent ice storm. Mr. Matthews responded that some branches had fallen, but there was no major damage to any of those trees. Mr. Cravens asked if it would be possible to maintain the trees, and construct the sidewalk behind them. Mr. Matthews replied that he is concerned about drainage issues along the front of the property if he is required to construct sidewalks, curbs, and gutters, as there are no storm sewers in the area. He noted that it would be difficult to build the sidewalk to required standards, given the elevation change on the property. Mr. Cravens noted that the sidewalks in the area are so fragmented that they may never connect completely. Mr. Matthews stated that it may be a public safety hazard to construct a sidewalk behind the row of trees, as pedestrians would not be visible from the road. He does not believe that any sidewalk constructed on the subject property would be used by pedestrians, given those constraints.

Staff Rebuttal: Mr. Martin stated that the staff had suggested earlier that the issue of improvements to Stone Road could be resolved at the time of the final development plan. He said that the question of possible access to Gold Rush Road could be addressed at that time, and added that the Commission could require the construction of that access at this point if they so chose. Mr. Martin noted that the construction of sidewalks is not the only improvement recommended for the subject property; as curbs, gutters, and drainage issues may need to be addressed as well. Those improvements could all be appropriately addressed at the time of the final development plan, once it is known exactly how the property is proposed to be developed. The Urban Forester could also be prepared at that time to address the issue of the condition of the existing trees.

Commission Questions: Mr. Penn asked if condition #6 was adequate to address those issues at the time of the final development plan, to which Mr. Martin agreed. Mr. Penn asked if the staff felt it would be appropriate at this time to discuss the possibility of access to Gold Rush Road. Mr. Martin answered that the staff always appreciates definitive statements and conditions, and they would be happy to add that as a resolution item or condition to the approval of this plan.

Mr. Day asked if the petitioner would be required to complete the improvements to Stone Road if he chooses to access the property via Gold Rush Road. Mr. Martin answered that he believes that the Commission should still discuss the nature and extent of any improvements that may be required at that time, whether or not a sidewalk is involved.

Petitioner Rebuttal: Mr. Barrett stated that the petitioner is in agreement with deferring condition #6 to the time of the final development plan, and including a note about potential access to Gold Rush Road.

Mr. Matthews asked if, should these items be deferred until the time of the final development plan, he would then be required to construct improvements to Stone Road as well as provide access to the property via Gold Rush Road. Mr. Martin responded that the staff would want the Divisions of Engineering and Traffic Engineering to have their concerns about improvements to Stone Road discussed at the time of the final development plan. He noted that the staff does not want to preclude the addressing of those issues by removing this recommended condition at this time.

Commission Questions: Mr. Cravens asked Mr. Matthews if he believed that having the property access Gold Rush Road rather than Stone Road would devalue the property. Mr. Matthews replied that that was a decision he would have to make, particularly knowing that the trees may have to be removed at some point. He said that he purchased the adjoining property specifically for use as an access to Gold Rush Road, so he was willing to accept that that may hurt the property value.

Ms. Copeland displayed on the overhead an exhibit that she had prepared depicting the Stone Road area, from Google maps. The graphic was rendered to denote the existing setback lines for all the buildings along Stone Road. Ms. Copeland noted that the petitioner proposes to construct a building in front of the average setback line for all the buildings along the east side of Stone Road. She believes that, if the Planning Commission approves this preliminary development plan, they will have "choked down" the road area. Should Stone Road be proposed for widening, therefore, LFUCG may be required to purchase that building in order to acquire the right-of-way for the widening. Ms. Copeland said that the Planning Commission must consider this issue prior to making a decision on this request.

Ms. Copeland also noted, with regard to the treeline on the subject property, that she had recently spoken with Mr. Queary. He indicated that most of the trees are fencerow hackberry, which is good for providing a home for birds, but does not have much value otherwise. Mr. Queary also stated that the bushes in the existing treestand are of an invasive species that the government is actively trying to eradicate elsewhere.

Ms. Copeland said that, even though there are no sidewalks on some portions of Stone Road, most of the properties have a grass shoulder that is fit for pedestrian travel. The subject property, however, does not. The Montessori School will be developed 200 feet from the subject property, and Ms. Copeland believes that it behooves the Planning Commission to require sidewalks in the area in order to provide for safe access to the school. She said that it is important to consider the safety and connectivity for the entire Stone Road area, and not just focus on the maintenance of the trees.

Mr. Penn stated that he believed that the best access for the property would be to Gold Rush Road. He said that he does have concerns about LFUCG being forced to provide improvements to Stone Road at some point in the future, but he believes that those issues can be resolved at the final development plan stage.

Zoning Action: A motion was made by Ms. Copeland, seconded by Mr. Brewer, and carried 11-0 to approve MAR 2009-2, for the reasons provided by staff, subject to the conditional zoning restrictions as listed in the staff report and on the agenda.

Development Plan Action: A motion was made by Mr. Penn, and seconded by Mr. Owens to approve ZDP 2009-11, with the first five conditions as listed on the agenda, changing #6 to read: "Resolve required improvements to Stone Road;" adding condition #7, to read: "Denote conditional zoning restrictions;" and adding condition #8 to read: "Access to Gold Rush Road at the final development plan stage."

Discussion of Motion: Mr. Barrett stated that the petitioner had only proposed to construct the access to Gold Rush Road in order to eliminate the need for providing improvements to Stone Road. The petitioner's intent was not to implement both options.

Mr. Penn stated that he added that condition to his motion because he believes that the staff and the Commission will need to see the final development plan in order to know whether improvements to Stone Road should be required. Mr. Barrett said that his understanding of Mr. Penn's motion was that access to Gold Rush Road would be required.

Mr. Martin suggested that the Commission may want to combine the issue of potential access to Stone Road with the existing condition #6, as those two issues are tied together.

Amended Motion: An amended motion was made by Mr. Penn, and seconded by Mr. Owens, to approve ZDP 2009-11, with the first five conditions as listed; changing condition #6 to read: "Resolve required improvements to Stone Road;" adding #7, to read: "Denote conditional zoning restrictions;" and adding #8 to read: "Resolve access to Gold Rush Road at the time of the final development plan." The motion carried, 11-0.

Commission Comment: Ms. Roche-Phillips asked that tree data be provided at the time of the presentation of the final development plan, and that the Urban Forester be present to answer any possible questions.

Note: Chairman Vaughn declared a brief recess at 2:47 p.m. The meeting reconvened at 2:56 p.m.

5. CLAYTON RAY, JR. ZONING MAP AMENDMENT & PICKLESIMER SUBDIVISION, LOTS 1-4, BLOCK B, ZONING DEVELOPMENT PLAN

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

- a. MAR 2009-3: CLAYTON RAY, JR. (4/16/09)* - petition for a zone map amendment from a Single Family Residential (R-1D) zone to a Light Industrial (I-1) zone, for 0.246 net (0.428 gross) acre, for property located at 825 East Loudon Avenue.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Medium Density Residential land use for the subject property. The petitioner proposes Light Industrial (I-1) zoning to allow for reuse of the existing residence as an office for an excavating company (general contractor), and associated off-street parking.

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommends: Disapproval, for the following reasons:

1. The requested rezoning to a Light Industrial (I-1) zone cannot be found to be in agreement with the 2007 Comprehensive Plan, which recommends Medium Density Residential (MD) land use, defined as 5-10 dwelling units per net acre, for the subject property. The existing Single Family Residential (R-1D) zone and the current density for the subject property are in keeping with the residential recommendation of the Plan.
 2. The Central Sector Small Area Plan is underway and includes the subject property within its study area. The Small Area Plan evaluated land use throughout the area, and does not recommend any land use changes to this portion of the Loudon Avenue corridor. Thus, the 2007 Comprehensive Plan land use recommendation for Medium Density Residential (MD) has been re-evaluated and thus far endorsed as the most appropriate land use designation for the subject property.
 3. The existing Single Family Residential (R-1D) zone remains appropriate for the subject property because the subject property still remains one of the larger residential properties along this portion of Loudon Avenue, despite right-of-way acquisition. Eastland Drive is a well established land use boundary between residential and industrial land use in this location. It is appropriate for this boundary to remain at its current location, rather than along the southern property line of the subject property.
 4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in early 2007 that would support an argument for I-1 zoning for the subject property. The improvements to Loudon Avenue have been planned for many years and were completed to meet the needs of all existing uses in this vicinity.
- b. ZDP 2009-10: PICKLESIMER SUBDIVISION, LOTS 1-4, BLOCK B (4/16/09)* - located at 825 Loudon Avenue.
(Midwest Engineers)

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

1. Provided the Urban County Council rezones the property I-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscape buffer information.
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. Addition of existing tree information.
8. Addition of topographic information.
9. Addition of existing easements, addresses and property lines.
10. Delete note #10.
11. Clarify square footage for porch (future enclosure).
12. Addition of off-street parking to comply with Ordinance and handicap accessibility.
13. Correct plan title.
14. Discuss access points and parking locations proposed.
15. Resolve need for stormwater detention.
16. Discuss Eastland Drive improvements.

Zoning Presentation: Mr. Sallee presented the staff report, briefly orienting the Commission to the location of the subject property using a rendered zoning map (USA 26). He noted that the petitioner has requested a rezoning from a Single Family Residential (R-1D) zone to a Light Industrial (I-1) zone, for just over a quarter of an acre of property. The properties immediately to the south and west of the subject property are also zoned R-1D; and the properties to the north, east, and southeast are already zoned I-1. The petitioner owns an adjacent property immediately to the east of the subject property, which is zoned I-1. Mr. Sallee stated that, in this area, Eastland Drive and Loudon Avenue form the boundary between residential and industrial zoning.

Mr. Sallee displayed several photographs of the subject property and the surrounding area, including: a view of the property from the corner of Loudon Avenue and Eastland Drive; a view of the property from the west, looking east at the front of the property; a closer view of the existing structure on the subject property; a view of the subject property from the north, including homes in the High Point subdivision across Loudon Avenue; and a view of the subject property from the north, including

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industrial uses to the east along the frontage of the property toward Eastland Drive. Mr. Sallee noted that those photographs were two years old, and did not depict the recently completed road improvements to Loudon Avenue.

Mr. Sallee stated that the 2007 Comprehensive Plan recommends Medium Density Residential land use for the subject property, as well as for the residences immediately south and west of this property. The church located across the street from the subject property is identified as an existing Semi-Public land use. An electric utility substation located a short distance to the north of the property is identified as such by the Comprehensive Plan. Light Industrial and Wholesale & Warehouse uses are located on either side of Eastland Drive.

Mr. Sallee stated that the staff cannot find that this rezoning request is in agreement with the Comprehensive Plan's recommendation for the subject property. Since this request is not in agreement with the Plan, the staff has analyzed whether there have been any unanticipated changes in the area, as well as the appropriateness of the proposed I-1 zoning. The staff believes that the existing R-1D zoning is appropriate at this location. In addition, the subject property is located within the area currently being considered as part of the Central Sector Small Area Plan. That Plan is currently in draft form, but the staff is not aware of any recommended land use changes in the area of the subject property. The 2007 Comprehensive Plan recommendation for Medium Density Residential land use is being reviewed, but is being affirmed through the small area plan process.

Mr. Sallee stated that the staff acknowledges that the subject property is located along a land use boundary between industrial and residential uses; however, the property is at the northern end of a row of numerous residences along the east side of Loudon Avenue. Those properties have been zoned for residential use for many years; they all about Light Industrial zoning and uses; and they are all recommended by the Comprehensive Plan and the Central Sector Small Area Plan to remain in residential use. Until recently, the residence on the subject property was buffered somewhat from the nearby industrial uses by a row of trees, but those trees have been removed. Mr. Sallee stated that the Loudon Avenue improvements did reduce the frontage of the subject property, but that did not diminish the appropriateness of R-1D zoning at this location. The road improvements did not constitute an unanticipated change since the adoption of the 2007 Comprehensive Plan. That construction project was underway at that time, and had been planned for many years before that.

Mr. Sallee stated that the Zoning Committee recommended referral of this rezoning request to the full Commission. The staff recommended disapproval of this request, for the four reasons listed in the staff report and on the agenda.

Commission Question: Ms. Roche-Phillips asked if there are any policy statements in the 2007 Comprehensive Plan that speak to the expansion of existing industrial uses. Mr. Sallee answered that he was unsure of whether those policy statements in the Plan are specific with regard to the relationship of industrial uses to residential uses. He said that there are Goals and policy statements that call for expanded economic development and business opportunities, some of which are directed toward industrial uses. He added that he would research the Comprehensive Plan on the issue and report to Ms. Roche-Phillips prior to the end of the hearing.

Development Plan Presentation: Mr. Martin presented the corollary preliminary zoning development plan, further orienting the Commission to the location of the subject property. He said that the subject property contains an existing 800 square-foot residence, with a covered porch. The petitioner is proposing parking to the rear of the residence. When this plan was originally submitted, the petitioner proposed to use an existing access point onto Loudon Avenue. There was a great deal of discussion about that access point at the Subdivision Committee meeting, and the staff recommended that the petitioner relocate that access to Eastland Drive. A traffic signal easement is included along the frontage of the property, and the traffic signal is currently in operation.

Mr. Martin stated that the Subdivision Committee recommended approval of this plan, subject to the 16 conditions as listed on the agenda. With the submission of the revised plan, condition #14 has been addressed, and can now be deleted. Condition #15 refers to the staff's concerns about the possible need for stormwater detention on the property, due to the increased amount of impervious surface proposed for parking. Mr. Martin said that condition #10 refers to an existing note on the plan which governs stormwater detention, and is an adequate note for that purpose. That note must, however, be deemed adequate and appropriate by the Division of Engineering, so the staff does not want it included on the plan at this time. The need for possible Eastland Drive improvements, which is included by condition #16, was a point of considerable discussion among the staff and Subdivision Committee. The staff believes that it may be necessary to upgrade Eastland Drive along the frontage of the property, but that issue could be resolved at the time of the final development plan. Mr. Martin said, therefore, that condition #16 should be changed to read: "Resolve Eastland Drive improvements."

Petitioner Presentation: Richard Murphy, attorney, was present representing the petitioner. He said that the petitioner owns an excavation contracting business, which has been in operation since 1974. The petitioner needs space to expand his business, and bought property in the Davis Bottoms area a few years ago for that purpose. That property, however, was part of the property recently rezoned for residential use as part of the Southend Park improvement plan. Mr. Murphy stated that the petitioner purchased the subject property with the intent of using it as an office and storage area for sensitive laser excavation equipment that must be stored in a temperature-controlled environment.

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Mr. Murphy submitted a pack of information. The first item was a subdivision plan that revealed that the subject property was platted in 1960 as Lot 1 of the Picklesimer Subdivision. All of the other properties in the area platted as the Picklesimer Subdivision are zoned I-1, with the exception of the subject property. The petitioner currently owns the properties at 1000, 1002, and 1004 Eastland Drive, which are I-1 and back up to the subject property. The petitioner's business is located on the parcels at 1002 and 1004 Eastland Drive, and 1000 Eastland Drive is currently vacant.

Mr. Murphy stated that the petitioner disagrees with the staff's contention that Eastland Drive constitutes the dividing line between industrial and residential uses in the area. The subject property is the only point along Loudon Avenue at which Eastland Drive forms such a boundary; it is an anomaly, rather than the rule.

Following the Subdivision Committee meeting, the petitioner revised the development plan to satisfy the Committee's concerns about the location of the access point for the subject property. Mr. Murphy said that the access point was relocated to Eastland Drive, per the Committee's recommendations. He noted that that arrangement is beneficial, in that it will result in the industrial traffic from the subject property exiting into the industrial area along Eastland Drive. The Division of Traffic Engineering staff was also concerned about the location of the driveway in the newly-constructed right-hand turn lane onto Eastland Drive. The plan revision satisfies that concern, as well. Mr. Murphy noted that the removal of the driveway will also provide a larger buffer area between the proposed industrial use on the subject property, and the adjoining residential property. Mr. Neal in Traffic Engineering had also recommended that the petitioner provide some improvements to Loudon Avenue and Eastland Drive along the two frontages of the subject property, which the petitioner has agreed to do. The petitioner is in agreement with the staff's recommendation to change condition #16 to read: "Resolve Eastland Drive improvements."

Mr. Murphy noted that the owner of the adjoining property has signed a petition indicating that he has no objection to this rezoning request. A copy of that petition was circulated to the Commission members with Mr. Murphy's exhibit packet at the beginning of the hearing on this request.

Mr. Murphy said, with regard to Ms. Roche-Phillips' question about policy statements in the Comprehensive Plan, that there are Goals and Objectives that recommend allowing local business to expand in a manner that is compatible with surrounding uses. The petitioner believes that this request would further those Goals and Objectives.

Mr. Murphy said that the uses immediately surrounding the subject property include a printing plant, radiator shop, the KU substation, and several other shops of special trade. The petitioner contends that, historically, topographically, and according to the surrounding uses, the existing zoning on the subject property is inappropriate, and the requested I-1 zoning is appropriate.

With regard to the Central Sector Small Area Plan, Mr. Murphy said that he had spoken with Jim Duncan, Long Range Planning Manager, about that Plan. He noted that that Plan is in draft form, and has not been reviewed by the Planning Commission. If the Commission should choose to approve this request, they can have that change reflected in the Small Area Plan. Under Kentucky law, the Commission must act upon any rezoning request with the regulations that were in force the day the request was filed. Therefore, the Commission cannot deny this request based upon the recommendations of the Central Sector Small Area Plan. Mr. Murphy noted that some residents in the Loudon Avenue area do not consider their neighborhood to be part of the Central Sector.

Mr. Murphy said that the petitioner understands that the widening of Loudon Avenue was anticipated by the 2007 Comprehensive Plan, but he believes that the subject property has been the most adversely impacted of all the properties on Loudon Avenue by that widening project. Loudon Avenue is now considered a minor arterial, and it carries a large amount of industrial, residential, and commercial traffic each day. Mr. Murphy displayed several photographs of Loudon Avenue taken two years ago, prior to the widening project, and of the same area approximately six months ago, after the completion of the widening project. Loudon Avenue was transformed from a two-lane road, without curbing, to a four-lane road with curb, gutter, sidewalk, and a bike lane along the frontage of the subject property. The petitioner contends that that constitutes a major change to the subject property. The subject property also lost some frontage due to the location of the new traffic signal controller box.

Mr. Murphy said that the subject property is also negatively impacted by the location of the traffic signal adjacent to it. Light spillover from the traffic lights and the "don't walk" sign could be disruptive to the residence on the property; queuing in the right turn lane could block access to the property, as well as producing additional vibration and noise. These adverse conditions could make it difficult to continue to use the subject property as a residence. The petitioner believes, therefore, that the proposed industrial use of the property would be more appropriate than the existing residential use.

Mr. Murphy stated that the petitioner is aware that some of the neighbors are concerned about the possible location of a more intense industrial use on the property, should the petitioner decide to sell it. The petitioner is therefore proposing a list of uses to be prohibited via conditional zoning, which should help to mitigate some of those concerns. Mr. Murphy said that the petitioner is proposing to use the subject property for an appropriate industrial use, and he requested approval of their request.

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Citizen Opposition: Larry Hamilton, president of the Meadows-Loudon Neighborhood Association and a resident of Loudon Avenue, circulated to the Commission members 11 letters in opposition to this request. He said, with regard to Mr. Murphy's comment, that the residents in the Loudon Avenue Area do consider their neighborhood to be part of the Central Sector, and they have actively participated in the development of that Plan.

Mr. Hamilton stated that the subject property is part of the Loudon Avenue corridor, not the Eastland Drive area, and he is concerned that it may be used for the storage of excavation equipment. The other residents along the eastern side of Loudon Avenue in that area are concerned that, should the subject property be rezoned to I-1, all of the other properties along that row may follow, which would result in the loss of several homes. Mr. Hamilton noted that the subject property is still productive as a residence, and should continue to be used as such.

The Meadows-Loudon Neighborhood Association spearheaded the Loudon Avenue improvement project, which took 10 years to complete. Mr. Hamilton stated that the area residents want the Loudon Avenue corridor to be comprised of owner-occupied homes, and they are working to improve the area in order to meet that goal. The residents are trying to uplift the image of inner-city Lexington, and they believe that they are achieving some success; but allowing an industrial use on the corner of Loudon Avenue and Eastland Drive may impair that progress. Mr. Hamilton noted that there were many public input meetings held during the planning process for the road improvements, and the petitioner had opportunities to express any dissatisfaction with the plans. None of the Loudon Avenue residents were particularly enthused about the addition of the traffic signal at Eastland Drive, but compromise between all parties was a necessary part of the road improvement project. Mr. Hamilton does not agree with the petitioner's contention that the subject property was the most severely impacted by the widening project, as the residence at the corner of Oak Hill Drive lost all but approximately five feet of its frontage. He noted that, prior to the road improvements, approximately 14,000 cars traveled on this portion of Loudon Avenue each day.

With regard to the petition in support submitted by Mr. Murphy, Mr. Hamilton said that there are at least two signers who do not live in the area. He added that many of those homes are rentals, and he would like some clarification as to whether the petition was signed by the property owner, or by renters.

Mr. Hamilton stated that he believes that rezoning the subject property to I-1 could be devastating to the rest of the neighborhood, adding that the entire north end of Lexington cannot be allowed to become industrialized. He asked that the Planning Commission consider the concerns of the Loudon Avenue residents, and recommend disapproval of this request.

Calvin Ananias III, 801 Meadow Lane, stated that he is opposed to this rezoning request because the Loudon Avenue residents have worked hard to improve the street's image as a residential area. He believes that rezoning the subject property to I-1 will hamper those efforts to improve the area, and that the subject property should remain zoned for residential use.

Staff Rebuttal: Mr. Sallee stated, with regard to Mr. Murphy's assertion that the zoning of the subject property is the anomaly in the area, that the subject property has been zoned for residential use for over 40 years. Should it be rezoned, it would be the only residence fronting Loudon Avenue with Light Industrial zoning, which would be the anomaly in the area.

Mr. Sallee noted that the staff's recommendation of disapproval is not based on the Central Sector Small Area Plan, although the staff did refer to that Plan in their findings. Should the Commission wish to recommend disapproval of this request, the staff's finding #2 could be deleted, and that recommendation would still be sound.

With regard to the improvements to Loudon Avenue being a justification for a change in the land use, Mr. Sallee said that those improvements have been anticipated by the neighborhoods in the area for years. These improvements enhance residential use, and are of benefit to the residents in the area.

With regard to Ms. Roche-Phillips' earlier question about policy statements in the Plan, Mr. Sallee stated that the staff had identified several examples. He displayed the following policy statements from the text of the 2007 Comprehensive Plan on the overhead for the Commission:

"Implementing infill and redevelopment strategies that expand residential and commercial opportunities; are appropriate in character and design; and complement and reinforce the fabric of the neighborhood."

"Enabling the creation, growth, and retention of jobs that promote a strong, progressive, and diversified urban and rural economy."

"Preserving, protecting, and maintaining existing residential neighborhoods in a manner that ensures stability and the highest quality of life for all residents."

"Providing infrastructure improvements to fully serve existing developments to accommodate current growth, to plan for long-term future urban needs, and to enhance the high quality of life in Lexington."

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He also displayed several Goals and Objectives from the 2007 Plan:

"Goal 11, Objective C: Encourage retention and expansion of existing local industries and businesses."

"Goal 11, Objective H: Permit only economic development activities that are consistent with and complementary to the protection of the built and the natural environment and human resources."

"Goal 11, Objective I: Provide essential employment areas that are compatible with residential neighborhoods and Lexington-Fayette County as a whole."

"Goal 11, Objective L: Allow greater flexibility within commercial, office, warehouse, and industrial areas within the Urban Service Area and Rural Activity Centers where these uses will not conflict with residential and agricultural uses."

"Goal 15, Objective C: Develop, adopt, and periodically review small area plans as tools to address neighborhood and community enhancement issues; develop small area plans in a systematic manner, ensuring that they are thoughtful and inclusive, with broad neighborhood participation."

Mr. Sallee stated that the staff had identified all of these portions of the Plan as applicable to this particular request.

Commission Questions: Mr. Holmes asked if an office use would be permitted in the existing R-1D zone. Mr. Sallee answered that it would not. The only equivalent use would be akin to a home occupation, which would be limited to approximately 25% of the dwelling, or a maximum of 300 square feet.

Mr. Cravens asked if there are existing Medium Density Residential uses in the area, since the subject property is recommended for Medium Density Residential use. Mr. Sallee responded that the density of the subject property, because it is a large residential lot, is four units per acre. The overall density of the entire subdivision is probably closer to 5½ units per acre, because most of the properties in the immediate area are smaller than the subject property. Mr. Cravens said that he did not believe it would be possible to fit more than five units an acre in the neighborhood. Mr. Sallee stated that, if there is one unit per lot, as the zoning requires, almost all of the lots would be over five units per acre because the lots are so small. He stated that he understood Mr. Cravens' point that it would be difficult to increase the density in the area, since the lots are small.

Petitioner Rebuttal: Mr. Murphy stated that he understands the residents' love for their neighborhood, and believes it is admirable. The petitioner's business has been located in that area for many years, and he is concerned for the area as well.

With regard to the neighbors' concerns about the relocation of the excavation business, Mr. Murphy stated that it is already located directly behind the subject property.

Mr. Murphy stated that, if 14,000 cars travel along Loudon Avenue each day, approximately 4,000 of those would be stopping at the traffic signal in front of the subject property. That would be the equivalent of 194 cars an hour stopped in front of the house, which could impact the use of the property as a residence.

Mr. Murphy stated that Goal 11 of the Comprehensive Plan reads:

"To provide diverse business and employment opportunities to Lexington-Fayette County."

"Objective C: Encourage retention and expansion of existing local industries and businesses."

"Objective I: Provide essential employment areas that are compatible with residential neighborhoods in Lexington-Fayette County as a whole."

"Objective J: Encourage revitalization and re-use of underused employment centers."

"Objective M: Encourage economic development that will provide residents with economic opportunities that sustain adequate income and generate sufficient public income for equitable and adequate services and facilities."

Mr. Murphy said that the main point of all of those Goals and Objectives is to encourage the retention and expansion of local businesses such as the petitioner's.

Mr. Murphy stated that the subject property is already adjacent to I-1 zoning, and the petitioner has proposed conditional zoning restrictions to appropriately limit the uses on the property so as not to adversely impact the surrounding residences. He added that the petitioner would be willing to propose an additional condition to prohibit outdoor storage of excavation equipment on the property, in order to satisfy the residents' concerns. The petitioner believes that the proposed industrial

zoning is more appropriate for the property than the existing residential zoning, based on the history of the property and its existence as the only residential parcel in the Picklesimer Subdivision.

Citizen Rebuttal: Mr. Hamilton stated that there are hundreds of intersections in Fayette County with a high traffic volume and adjacent residential properties. He said that those properties function well for residential use, so that cannot be used as a justification for rezoning the subject property to I-1.

Mr. Hamilton said that he agrees that the community should support business interests, but not to the detriment of surrounding residents. He noted that he appreciates the petitioner's proposed conditional zoning restrictions, but he does not believe that those restrictions will prevent the eventual rezoning of the entire area to I-1 if the subject property is rezoned. Mr. Hamilton said that he and his neighbors are opposed to this request, and asked that the Planning Commission "draw the line" and not allow industrial zoning in the existing residential area along Loudon Avenue.

Commission Questions: Ms. Copeland said that, although the petitioner has proposed a conditional zoning restriction to prohibit parking of equipment on the subject property, he could use the property at 1000 Eastland Drive for that parking, which would also adversely impact the residents of Loudon Avenue. She noted that the Loudon Avenue area can be a "gateway for affordable housing," but the Planning Commission has to be willing to protect the area in order for that to occur. This rezoning request to I-1 would not even be considered if the residential property in question were located in an upscale neighborhood like Hartland, so it should not be considered at this location either. Ms. Copeland noted that the residential areas inside New Circle Road are fully equipped with the infrastructure that the government has been constructing over the past 50 years, and they should not now be considered for rezoning for industrial use.

Mr. Cravens stated that he believed that it was important to allow businesses to expand within the city, rather than requiring them to move into outlying areas, because that relocation would require further transportation of goods and greater fuel expenditures. He said that the petitioner had revised the development plan according to the recommendations of the Subdivision Committee. He does not believe that the Loudon Avenue area is truly a Medium Density residential neighborhood, and he would support this rezoning request to I-1.

Mr. Owens said that he would like to thank LFUCG for the improvements to Loudon Avenue, as the entire area is now changing for the better. He understands the need for expansion for the petitioner, but he agrees with the language in the Comprehensive Plan that the Commission has a responsibility to "protect, reinforce, and maintain" residential areas. Mr. Owens said that he appreciates the staff's recommendation of disapproval, and he would support that recommendation.

Ms. Roche-Phillips said that she is conflicted with regard to this rezoning request. She is not convinced that the extent of the changes to the area were anticipated by the 2007 Comprehensive Plan, although everyone was aware that Loudon Avenue would be improved. Loudon Avenue had previously been a typical, two-lane neighborhood street, and now it is a major arterial in the area, which does constitute a major change.

Ms. Roche-Phillips stated that, although she believes those changes were not anticipated by the Comprehensive Plan, she remembers the discussions during the Plan process about conflict between competing land uses. At that time, the Commission made it clear that, in the case of competing land uses, they would support existing residential neighborhoods. She said that she is torn as to which way to proceed with this rezoning request.

Mr. Brewer said that he is conflicted about this request as well. He stated that he could be vote either way at this point; but it is important to note that, since the existing zoning is residential, the petitioner must be able to provide compelling evidence of the appropriateness of the proposed industrial zoning. He believes that going from residential to industrial is "too big of a leap." Unless the petitioner would be willing to consider a zone such as P-1 for the subject property, Mr. Brewer is prepared to support the staff's recommendation of disapproval.

Zoning Action: A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 9-2 (Cravens and Roche-Phillips opposed), to disapprove MAR 2009-3, for the reasons provided in findings #1, 3, and 4 as listed on the agenda, and deleting finding #2.

Development Plan Action: A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 11-0 to indefinitely postpone ZDP 2009-10.

VI. COMMISSION ITEMS

- A. **PFR 2009-1: LFUCG DEPARTMENT OF PUBLIC WORKS (DIVISION OF ENGINEERING)** – Requests a Public Facility Review of a proposed salt barn and future construction of a fire station on property located at 5680 Athens-Boonesboro Road. (Council District 12)

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

Staff Presentation: Ms. Rackers stated that the Division of Engineering had requested a Public Facility Review for a salt barn facility, which is proposed to be constructed in the summer of 2009. There is also a new fire station proposed for the rear portion of the property at some point in the future.

Ms. Rackers stated that the subject property is approximately eight acres in size, and does not have frontage along Athens-Boonesboro Road. The property does, however, have an access easement, owned by LFUCG, from Athens-Boonesboro Road. Ms. Rackers displayed the site plan for the facility, which includes a 12,000 square-foot building for the salt barn, with a 1,500 square-foot lean-to. Also proposed are a 1,800 square-foot office, and a truck-washing facility. The truck-washing facility is planned to be self-contained, where water will be collected in a tank and disposed of off-site.

With regard to the recommendations of the 2007 Comprehensive Plan, Ms. Rackers said that it recommends Core Agricultural and Rural Land Use for the subject property, which is generally defined as prime equine or agricultural land. There had been no citizen comments in support of or in opposition to this review until the morning of this hearing, when one of the property owners along the rear boundary called the office to indicate his opposition to the proposal.

Ms. Rackers stated that the staff reviewed the 2007 Comprehensive Plan to determine whether the proposed salt barn complies with the Goals and Objectives, as required by KRS 100. There is one Objective that could be construed to be in opposition to this proposal. Goal 9, Objective H, states, "Protect the agricultural and scenic characteristics of the surrounding land." There are, however, 16 Goals and Objectives that are clearly in support of this proposal, all of which are listed in the staff report. Goal 6, Objective I, states, "Buffer rural land and activities, including greenspace, from the impact of new urban development by requiring the provision of a landscape and security buffer along and inside the Urban Service Area and Rural Activity Center boundaries to minimize the adverse short and long-term developments on existing and potential farms and other greenspace." Ms. Rackers stated that that statement neither supports nor opposes the proposed salt barn, but it does relate to it, as the proposed salt barn facility does not lie within the Blue Sky Rural Activity Center, but it is located directly across Athens-Boonesboro Road from it. The salt barn facility would be similar to other uses currently located in that Rural Activity Center. The existing salt barn in Fayette County is currently located off of Old Frankfort Pike, in an area zoned for and used for industrial purposes.

Ms. Rackers said that the staff considered recommending screening for the proposed facility, but the proposed new fire station at the rear of the property would act as a buffer, so no screening should be necessary.

One of the major themes of the 2007 Comprehensive Plan is the need to provide adequate public facilities and to ensure their equitable distribution. This principle applies not only to facilities such as fire stations, schools, etc., but also to safe and accessible roadways. The 2030 Transportation Plan, an element of the 2007 Comprehensive Plan, has five adopted Goals; four of those are particularly applicable in this case:

"Provide a safe and secure transportation system."

"Provide accessibility and mobility for all people and goods."

"Invest in transportation infrastructure to enhance the vitality of the community."

"Protect and enhance the environment."

Ms. Rackers stated that part of the planning process for the local MPO is to "provide for consideration of projects that will, among other things, increase the safety of the transportation system and increase accessibility and mobility for people and freight." The existing salt barn is on the western end of Fayette County, so construction of an additional salt barn on the eastern end of the county would help to further the Goals of the 2030 Transportation Plan, as well as furthering those planning strategies.

Goal 18, Objective A of the Comprehensive Plan is to "ensure that public facilities are adequately and equitably distributed." The nearest fire station to the salt barn property is located on South Cleveland Road, which is a narrow, rural road. The Community Facilities section of the Plan states that: "Besides faster response to emergencies, a sufficient supply of fire stations, equipment and personnel may lead to reduced insurance costs for households and businesses. Service area standards for engine companies are 1.5 road miles from the station and 2.5 miles for ladder companies." The existing fire station on Cleveland Road is at least three miles away from this property, so construction of a fire station at this location would help to implement that element of the Plan.

Ms. Rackers said that the staff has recommended approval of this Public Facility Review, because the text of the Comprehensive Plan, as well as the Goals and Objectives, clearly support the construction of these facilities.

Commission Questions: Mr. Penn asked how stormwater is proposed to be retained on the salt barn site. Ms. Rackers answered that an oversized detention pond is proposed, to account for the salt barn facility and the future fire station. Mr. Penn asked if a septic system is proposed for the office building, to which Mr. Grunwald (Division of Engineering) responded that the salt barn office is proposed to have one bathroom. The septic field is located in the existing park, and the office building septic system is pro-

posed to tie into it. The Division of Engineering is working with the Health Department to meet the necessary requirements for the septic field.

Mr. Penn asked which way the water runs off the property. Mr. Grunwald answered that there is a valley which runs along the property. The detention basin will be located in that valley, with a drainage swale all along the property line to channel the water into the detention basin. That water will then be released into the natural drainage course, which flows through the adjacent park. Mr. Penn asked if LFUCG is required to conform to the same environmental guidelines as a private developer would be in this situation. Mr. Grunwald responded that that was correct. Mr. Penn said that he is concerned that LFUCG is not being required to adhere to the same stringent environmental guidelines as a private developer would be, so he has to ask these questions to be sure. Mr. Grunwald said that the detention basin has been sized to accommodate a 100-year storm for not only the salt barn site, but the proposed fire station as well.

Mr. Penn asked if a private developer would be required to construct a sanitary sewer pump connection to the Blue Sky sewer treatment facility in this situation, rather than using a septic field as is proposed. Ms. Roche-Phillips noted that the EPA Consent Decree prohibited any further sewer connections to the Blue Sky treatment facility. Mr. Grunwald answered that he was not sure if a private developer would be allowed to tap onto a septic field owned by LFUCG, such as the existing system in the adjacent park. He said that such an agreement could possibly be reached, but it would require Council approval and the situation would be rare. Since LFUCG owns both sites, the Division of Engineering has been in discussions with the Division of Parks and Recreation, and has sized the detention basin to mitigate any concerns that their staff may have about stormwater or salt runoff. The Division of Parks staff also indicated that they would not be opposed to adding a restroom facility onto their septic system for the salt barn site.

Mr. Penn asked where the Crutcher property is located in relation to the proposed salt barn site. Mr. Grunwald indicated that that property is located behind the proposed site. Mr. Penn asked if the Crutcher property is at a higher or lower elevation than the salt barn site. Mr. Grunwald responded that the Crutcher property would drain toward the west, while the salt barn site drains toward the east.

Mr. Grunwald stated that there has been a renewed interest in getting the new salt barn constructed due to the unusually harsh winter weather the community recently experienced. He said that the salt barn will benefit the Kentucky Transportation Cabinet District 7 office, which is located near the salt barn site, as well.

Commission Questions: Ms. Copeland asked where the "unintentional" salt runoff, from salt trucks exiting the property, would flow. Mr. Grunwald answered that the salt barn facility has been designed so that filled trucks will pass through a pad area surrounded by a "bio-filter," which will be a vegetated, 2% slope. From the bio-filter, runoff will travel to the detention basin. At some point in the future, the swale area and detention basin may need to be cleaned out and replanted due to salt runoff, but that maintenance is expected at this type of facility. Ms. Copeland asked where the runoff would go once the trucks have exited onto the road. Mr. Grunwald responded that the access road to Athens-Boonesboro Road has a crest at one point, so all the runoff from that road will be diverted back to the salt barn site, where it will be handled by the detention basin.

Mr. Owens asked if the salt barn septic facility will accommodate the proposed fire station as well. Mr. Grunwald answered that it is unknown at this time when LFUCG will have the necessary funds to construct the fire station, and that issue will need to be investigated at that time. He noted that, should another septic field be required, that would be part of the construction of the fire station.

Citizen Opposition: John Tucker, Athens-Walnut Hill Road, stated that he is concerned about the proposed access road to the salt barn property, as it will lie near his property. He has also received information that that road may extend through his property at some point. Mr. Tucker said that he believes that this request should not be acted upon until the public has had a chance to provide input. He also has concerns about the conditions of the EPA Consent Decree; the possible runoff from salt trucks; and the proposed connection to the park's septic field. Mr. Tucker stated that the new presidential administration has made a commitment to transparency in government. He believes that bringing this request before the Planning Commission without providing a public comment period violates those principles of transparency, since the public has not been made aware of the proposed salt barn facility.

Mr. Tucker stated that part of the salt barn property is a wetlands area, and the detention basin should not be constructed there as proposed. He noted that, should the area be determined to be wetlands, all the necessary EPA permits would be required in order to construct the basin. Mr. Tucker requested that the Planning Commission postpone this request in order to allow the public time to review the plans and offer comments.

Director's Comment: Mr. King stated, for clarification, that this Public Facility Review had been referred to the Planning Commission by the Urban County Council, who made the decision on the need for this facility. He said that, under state law, the Planning Commission is given a 60-day comment period whereby the Commission is to comment, if they choose, as to how this proposal relates to the Comprehensive Plan. It is not a development plan, nor a development application. The Planning Commission's review is commentary only, and should only include information as to how the proposal relates to the Comprehensive Plan. Mr. King

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stated that Mr. Tucker's questions are fair, he has the right to raise them, and the Commission and staff should answer them today to the extent that they can. However, some of the questions raised today about the salt barn facility are not within the purview of the Planning Commission.

Commission Questions: Mr. Vaughn asked if Planning Commission action would be necessary on this request. Mr. King answered that Planning Commission action is optional. Anytime the staff is notified of a Public Facility Review, they review the case and bring it to the Commission for them to comment, or not, as they see fit.

Mr. Penn asked if the Planning Commission's discussion of the salt barn would be considered as comments on the proposed salt barn facility. Mr. King responded that it is considered as comment, and a record is being taken.

Mr. Day asked Mr. Penn how rural residents handle sewage, to which Mr. Penn replied that homes in rural areas use septic tanks. Mr. Day said that he used to have a septic tank at his home in the city, and it posed no problems as long as it was properly maintained. He said that he did not want anyone to think that the Planning Commission was opposed to the construction of the salt barn based on the septic tank issue. The Health Department will oversee the system in place at the salt barn site, and will make sure that it functions properly. Mr. Day stated that he wants to ensure, for the community's safety, that salt trucks have a facility out of which to operate, and does not want the Planning Commission to hold up the construction process.

Mr. Penn stated that he was not concerned about the use of the property for a salt barn. Rather, he wanted to ensure that the LFUCG engineers were asked the same questions that the Commission would have for a private developer who proposed construction on an eight-acre parcel across from the Blue Sky Rural Activity Center.

Mr. Cravens said that he believes that the salt barn facility needs its own septic tank, rather than tying into the septic system for the park. He said that the Health Department would not allow a private developer to tie into the septic system for an existing park.

Director's Comment: Mr. King stated that the existing septic tank in the park is a large facility designed to accommodate the assemblies for baseball games and other large groups in the park. He saw the facility when it was under construction during the Rural Land Management Plan process, and it was designed as a very large, high-capacity, state-of-the-art facility.

Mr. Cravens asked if that septic tank had been constructed to accommodate the salt barn facility as well. Mr. King answered that the Health Department will review that system to see if it has sufficient capacity. Knowing that it was designed for public assembly, it would seem that one additional bathroom for the salt barn facility could be easily accommodated. Mr. Cravens said that he was not actually concerned about the capacity of the system, but a private developer would be required to construct their own septic tank rather than tying into the park's system. Mr. King stated that the city owns the park, and will own the salt barn facility and the fire station.

Mr. Grunwald noted that the Division of Engineering has been in discussions with the Health Department about the septic system, and they are prepared to add onto the existing septic field or, if necessary, construct a new field. He said that, if those issues cannot be resolved, the bathroom will not be added to the salt barn facility.

Mr. Vaughn asked how many personnel would be present at the fire station. Captain Bowen answered that there would probably be three or four personnel on site for each shift at the fire station.

Ms. Roche-Phillips said that, given the existing karst topography in the area, it is important to manage septic systems carefully, and minimize their construction whenever possible. She stated that the Division of Engineering should be willing to consider some more sustainable way to remove waste from that site.

Mr. Grunwald stated, with regard to Mr. Tucker's comments, that there are no plans to extend the access road past the boundary of the subject property, as it is to access the salt barn facility only. He noted that he would provide Mr. Tucker with a set of plans for the facility. The salt barn facility will be self-contained, and any runoff from the site will drain to the bio-swale and detention basin. Mr. Grunwald added that there are no wetlands on the site; it has a consistent slope, and drains freely.

Mr. Tucker stated that the access road for the salt barn will also provide access for the development of the Crutcher property, about which area residents have been concerned for years.

VII. STAFF ITEMS

- A. ZONING ORDINANCE TEXT AMENDMENT INITIATION** – Mr. Sallee stated that the staff is currently asking the Commission to consider initiation of the proposed changes to the Sign Ordinance that were presented at the Commission's January 22, 2009, work session. These changes would affect mostly the downtown business zones, and would revise and expand the allowable signage in and near the downtown area. If the Commission chooses to initiate this text amendment, it could be heard as early as the March 26, 2009, Planning Commission public hearing.

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

Action: A motion was made by Mr. Holmes, seconded by Mr. Cravens, and carried 11-0 to initiate a text amendment to Article 17 of the Zoning Ordinance, as previously presented.

B. DP 2009-01: LANSDOWNE SHOPPING CENTER (AMD.) – located at 3319-3369 Tates Creek Road.
(Council District 4) (Foster-Roland, Inc.)

Note: The stated purpose of this amendment is to add 1,284 square feet of buildable area.

This development plan was approved by the Planning Commission on January 15, 2009, but subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Addressing Office's approval of street names and addresses.
9. Correct plan status and plan title.
10. Add dimensions to buildings and parking spaces.
11. Correct Planning Commission certification.
12. Correct notes # 5 & 6.
13. Correct and clarify building square footage.
14. Clarify parking statistics.
15. Correct tree canopy calculations.
16. Denote existing easements.
17. Identify the addition's proposed floor elevation information.
18. Provide a sidewalk a minimum of 9.5' in width directly in front of the proposed addition, and increase sidewalk width in front of existing canopy.

In attempting to have this plan meet all the Commission's conditions of approval (specifically conditions #13 and #14 above), additional building and flower center square footage has been discovered by the petitioner's engineer. As such, Commission approval of this additional floor area is required. Instead of 1,284 additional square feet, a total of some 7,763 square feet of floor area (2,003 square feet of which is located in an outdoor plant sales area) is now proposed as part of this plan amendment.

The Staff Recommends: **Approval**, subject to the previous requirements, adding an additional requirement:

19. Removal of garden center floor area depicted on public right-of-way of Tates Creek Road.

Staff Presentation: Mr. Sallee stated that this development plan was reviewed by the Commission at their January 15th meeting. He briefly oriented the Commission to the location of the property, and noted that the purpose of this plan was to construct a small addition to one of the restaurants in the Lansdowne Shopping Center. Mr. Sallee displayed on the overhead projector a graphic of the shopping center that was used at the January 15th meeting.

Mr. Sallee stated that this plan was approved by the Commission, with 18 conditions. In doing the documentation necessary to meet conditions #13 and #14, the applicant's engineer discovered that the center is approximately 7,500 square feet larger in size than it was known to be. The staff researched the development plans back to the 1990s, and found that the current size of the shopping center has never been approved by the Commission. Since the staff is not authorized to approve something larger than the plan approved by the Planning Commission, they believed that it would be appropriate to bring this plan back before the Commission so that the square footage issue can be resolved, which will allow the small addition to the restaurant to go forward and the plan to be certified.

Mr. Sallee said that the staff is currently recommending one additional condition, which is reflected in #19, as listed on the agenda.

Commission Question: Mr. Vaughn asked how many amendments have been made to this plan. Mr. Sallee responded that this plan was probably at least the 12th amendment to this plan. He noted that this may have happened because the early development plans for the shopping center were not nearly as detailed as the current plans are. Over the last few plan amendments, the level of detail has increased, and the square footage of all the buildings is now very clear.

Petitioner Representation: John Hill, Foster-Roland, stated that the petitioner is in agreement with the staff's recommendations.

Action: A motion was made by Mr. Day, seconded by Ms. Richardson, and carried 11-0 to approve DP 2009-01, with the 18 conditions as listed on the agenda, and adding #19 as recommended by staff.

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

- F. **ZONING ORDINANCE TEXT AMENDMENT INITIATION – ARTICLE 6-4(C) FOR CONDITIONAL USES & VARIANCES AT THE TIME OF REZONING** – The staff will request Commission initiation of a text amendment to Article 6-4(c) of the Zoning Ordinance to allow the Planning Commission the ability to consider approval of Conditional Use permits and dimensional variances at the time of a proposed rezoning. If initiated, this request could be considered in the spring.

Staff Presentation: Mr. Sallee stated that the staff is currently requesting Commission initiation of a Zoning Ordinance text amendment, as described above. He said that the Commission currently has this ability, but only in the defined Infill & Redevelopment Area. This amendment would allow the Commission to consider those types of applications at any map amendment request public hearing. Mr. Sallee noted that all of the neighborhood associations will be notified of this proposal, should the Commission choose to initiate it.

Action: A motion was made by Mr. Penn, seconded by Mr. Holmes, and carried 11-0 to initiate a text amendment to Article 6-4(c) of the Zoning Ordinance.

- G. **SUBDIVISION REGULATION TEXT AMENDMENT INITIATION – ARTICLE 1-5 AND 4-7(D)(9)(C) FOR WAIVERS REGARDING INFILL & REDEVELOPMENT, SIDEWALKS AND TO UPDATE THE SUBDIVISION PLAN PROCEDURE LISTING** – The staff will request Commission initiation of an amendment to these articles of the Land Subdivision Regulations to allow the Planning Commission to 1) consider Infill & Redevelopment goals in the consideration of formal Waiver requests, 2) allow bonding of sidewalks on private streets, and 3) to update the “Simplified Description of Procedure for Processing Major Subdivision Plans” contained at the conclusion of Article 4. If initiated today, this request could be considered by the Commission sometime in the spring.

Staff Presentation: Mr. Sallee stated that the staff is currently requesting Commission initiation of an amendment to the Land Subdivision Regulations, as described above.

Action: A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 11-0 to initiate a text amendment to Article 1-5 and 4-7(d)(9)(c) of the Land Subdivision Regulations.

- H. **BIRTH ANNOUNCEMENT** – Mr. King stated that the Planning family grew by one member on the morning of this meeting, with the arrival of Jimmy Emmons's baby daughter. Mr. Vaughn added that the Commission would like to extend their congratulations to Mr. Emmons and his wife.

- 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 MARCH, 2009**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	March 5, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	March 5, 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	March 12, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	March 19, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	March 25, 2009
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	March 26, 2009

X. **ADJOURNMENT**

TLW/TMJWE/BJR/BS/src

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