

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

March 26, 2009

- I. **CALL TO ORDER** – The meeting was called to order at 1:33 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; Ed Holmes (arrived at 1:35 p.m.); Mike Owens; Frank Penn; Carolyn Richardson; Lynn Roche-Phillips; Randall Vaughn, Chair; and Joan Whitman. Absent was Neill Day.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 9-0 (Day and Holmes absent) to approve the minutes of the February 26, 2009, Planning Commission meeting.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, March 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: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Denice Bullock, Cheryl Gallt, Tom Martin, Cindy Deitz, Kenzie Gleason, Barbara Rackers and Frank Boateng, as well as 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, March 5, 2009, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Patrick Brewer, Ed Holmes, Frank Penn, Lynn Roche-Phillips, and Randall Vaughn. The Committee reviewed applications, and made recommendations on zoning items as noted.

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

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

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

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

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

The procedure for these hearings is as follows:

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

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

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

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

- a. MAR 2008-31: TRUSTEES OF THE FIRST UNITED METHODIST CHURCH OF LEXINGTON, KENTUCKY (3/26/09)* - 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 **as principal permitted uses**, 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.
 - i. The historic Rokeby Hall, located at 318 South Mill Street, shall be further limited to church **offices uses**, 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 (3/26/09)* - 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.

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

Zoning Presentation: Mr. Emmons began the staff's presentation by distributing to the Commission members 10 letters of opposition to this request. He stated that the petitioner is requesting rezoning from an R-2 zone and an R-4 zone to the B-2B zone. The four properties included in this request are bounded by High Street, Mill Street, and South Upper Street. The church itself has frontage on High Street, while the two residences at the rear of the church front onto South Upper Street. The historic Rokeby Hall, which is currently in use as a church office, has frontage on South Mill Street.

Mr. Emmons stated that the 2007 Comprehensive Plan recommends Downtown Master Plan uses for the subject properties. The Downtown Master Plan divides the downtown area into the downtown core, mixed-use corridors, and residential neighborhoods. The subject properties are located on one of the identified mixed-use corridors, and the DTMP has recommended them for infill and redevelopment use. Mr. Emmons read the following quote from the DTMP into the record of the meeting: "Memorable cities are known for their public realm." He noted that, although the DTMP focused on residential infill, the subject property could be considered part of the public realm in the downtown area, and is important as such.

Mr. Emmons displayed several aerial photographs of the subject property, including: 1) a view of the property from the east, depicting the front of the church and existing parking; 2) a view from the northwest, depicting the rear of the two residential structures, with the adjoining parking area; and 3) a view that highlighted the rear of the church, and the parking area there, in the area proposed for construction of the fellowship hall.

Mr. Emmons stated that it is a common misconception that this zone change request was filed for the convenience of the petitioner, but that is not actually the case. In order for the petitioner to construct a new fellowship hall as proposed, it would reduce the amount of parking to the rear of the building, and make the existing R-2 and R-4 lots smaller. It is not allowable, under the current Zoning Ordinance, to either reduce the amount of parking or make the residential lots smaller; thus, a zone change is necessary.

The staff reviewed this rezoning request, as they do with each such request, to determine if it is in agreement with the recommendations of the 2007 Comprehensive Plan. Mr. Emmons said that, since the Comprehensive Plan recommends Downtown Master Plan uses for the subject property, the staff looked to the recommendations of the DTMP to see if the requested rezoning is in agreement. The DTMP focuses more on the relationship between people and places, rather than making land use recommendations. It does not make specific recommendations directly related to institutional uses, but the 2007 Comprehensive Plan recommends keeping such uses inside the city, allowing them to expand in place if possible. The staff could not find this rezoning request to be in complete agreement with the Comprehensive Plan, but they also did not determine that it is not in agreement with the Plan. The staff believes that the Goals and Objectives of the Comprehensive Plan support this proposal, particularly with the recent focus on maintaining the existing Urban Service Area boundary and maximizing infill potential within the Urban Service Area. The staff, therefore, found that the proposed zoning is more appropriate than the existing zoning for the subject properties.

Mr. Emmons stated that the staff and the Zoning Committee are recommending approval of this request, for the reasons as listed in the staff report and on the agenda. The staff is also recommending conditional zoning restrictions for the subject properties, as listed in the staff report and on the agenda. The list of proposed conditional zoning restrictions was revised after the Zoning Committee meeting. Mr. Emmons noted that, if the subject properties are rezoned as proposed, it would allow the petitioner to expand the church in the future without appearing before the Board of Adjustment. Since the subject properties lie within an H-1 overlay zone, any proposed changes would require the approval of the Board of Architectural Review, and any further development plans would be reviewed by the Planning Commission.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, further orienting the Commission to the location of the subject property. He noted that the rear area of the property is currently used for parking for the church, with a one-way access to West High Street and two-way accesses to South Mill Street and Macks Alley. The petitioner proposes to construct a 10,000 square-foot fellowship hall at the rear of the existing church building. Since this is a preliminary development plan, it will be necessary for the petitioner to present a final development plan for the Commission's review prior to construction.

Mr. Martin stated that the staff has recommended 10 conditions for approval of this plan, most of which are standard. Condition #8 involves a landscape screening note that was included on the plan, which referred to the use of a fence for screening. The staff wishes to ensure that the fence is depicted on the plan, with the landscape buffer area. The staff has also asked that the petitioner resolve the open space requirements for the residential units, which is reflected in condition #10. In the requested B-2B zone, a minimum of 10% open space is required for residential units. The petitioner will need to indicate where that open space will be, and how that requirement will be met. Mr. Martin said that the Subdivision Committee recommended approval of this plan, with the 10 conditions as listed on the agenda.

Petitioner Presentation: Foster Ockerman, Jr., attorney, was present representing the petitioner. He noted that he is also a member of the church, and has been for many years.

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

Mr. Ockerman stated that the petitioner is in agreement with the staff's recommendations, including the proposed conditional zoning restrictions. The petitioner proposed this rezoning in order to allow the entire property to have the same zoning, so that a new fellowship hall can be constructed. Mr. Ockerman noted that, since the subject properties are zoned with an H-1 overlay, that the approval of the Board of Architectural Review will be required prior to construction of the new facility. The preliminary design has been submitted to the BOAR, and it appears that their decision will be favorable. The fellowship hall is currently located in the basement of the church building, under the portion where the classrooms are located. The existing fellowship hall is approximately 60 years old, and its size is not adequate to accommodate the entire membership of the church.

Mr. Ockerman stated that the First United Methodist Church was established in 1789. It was one of the first 100 Methodist churches in the United States, and the first one on this side of the Allegheny Mountains. Prior to 1804, the church had been located on two other sites in Lexington. In 1840, the church acquired the lot at 214 West High Street, and built there. The church is currently in its third sanctuary at that location, and has had a pattern of growth and expansion there. Mr. Ockerman noted that one of the principles emphasized in both the 2007 Comprehensive Plan and the Downtown Master Plan is the growth and development of downtown churches.

Mr. Ockerman said that the church intends to maintain all three of the existing residences on the church property. If this rezoning request is approved, the petitioner intends to file a plat to consolidate all of the existing lots into one tract. Under the main church property are approximately 18 original tracts, all of which have been purchased and consolidated over the past 169 years. The petitioner does not plan at this time to use the two Upper Street structures for any purpose other than residential use, but that could change over time as their needs change.

The Historic South Hill Neighborhood Association prepared and distributed to the Commission a packet of exhibits detailing their arguments in opposition to this request. Mr. Ockerman stated that he would like to address some of those objections. Mr. Ockerman said that the petitioner has had several meetings with representatives of the neighborhood association since they initially filed this request last fall, and they believe they have made every attempt to satisfy their concerns, including guaranteeing the preservation of Rokeby Hall. The petitioner also offered to apply conditional zoning restrictions to their entire site, not just the portion being requested for rezoning, and proposed to eliminate nearly every possible use of the property. Despite those concessions, the petitioner was not able to reach an agreement with the neighborhood association, and is willing to proceed with the staff's recommendations for conditional zoning restrictions.

Mr. Ockerman said that the neighborhood association contends that this request would, in effect, be an "upzoning" to B-2B. While it is true that a rezoning from residential uses to the more intense B-2B zone could normally be considered an upzoning, the conditional zoning restrictions would functionally keep the uses on the property the same, while mitigating some of the constraints on the property. Since there is a minimum lot size requirement for the two residential uses on South Upper Street (one of which is currently non-conforming), the petitioner would not be able to site the fellowship hall on those lots under the current zoning. The fellowship hall has been proposed for that portion of the rear of the property in order to maintain the access point onto Macks Alley, and to construct a passenger drop-off area there. Therefore, this request is more of a modification of the zoning, to allow the site to work, than an upzoning.

The Historic South Hill Neighborhood Association has indicated that they have concerns about the lack of designated, required parking for the residential uses at the rear of the property. Once the tracts are consolidated and all the buildings are on one site, the petitioner intends to designate parking spaces for those residential units. Mr. Ockerman said that, after the lots are consolidated, the petitioner would be required to submit a subdivision plat should they desire to sell off one of the residences. The Planning Commission would then have the opportunity to review that subdivision plat, and require that appropriate parking be provided for the residence.

Mr. Ockerman stated that there are other routes the petitioner could have taken in order to construct a new fellowship hall. They could have filed conditional use and variance applications with the Board of Adjustment, or pursued a text amendment to change the minimum lot size for the residential units. The law does not require an applicant to seek the most complicated method of solving site problems, however, and the petitioner believes that the proposed zone change would provide the simplest method.

Mr. Ockerman said that the church supports the Historic South Hill Neighborhood Association, and allows them to use the church facilities for meetings. The neighborhood's strongest argument against this request is that their neighborhood is historic, and the close proximity of B-2B zoning could be detrimental to it. Mr. Ockerman noted that there are, and have been, other more intense uses in the South Hill area. He added that there is a valid argument that the north end of the neighborhood, where the church is located, has historically been used for religious purposes. The lot that the church acquired in 1840 had been purchased by a German Lutheran congregation in 1799. They erected a church and school on the property, and First United Methodist obtained those buildings when they purchased the property. Since 1799, therefore, there has been a church on the site of the subject properties.

Mr. Ockerman stated, with regard to the neighborhood association's argument that the requested rezoning is not in conformance with the Comprehensive Plan, that the staff had determined that the requested zoning is more appropriate for the subject property than the existing zoning. He requested approval of this zone change.

Citizen Opposition: J. Peter Cassidy, III, president of the Historic South Hill Neighborhood Association, stated that he had emailed and hand-delivered to Mr. Sallee a letter of opposition, along with an exhibit packet. He noted that the neighborhood association enjoys having the church as part of their neighborhood, and appreciates the use of the church for their monthly meetings.

Mr. Cassidy stated that the neighborhood association's main objection to this request is that the residential properties which are being requested for B-2B zoning were downzoned by the Planning Commission from R-4 to R-2 approximately 10 years ago, by a 9-1 vote, at the request of the neighborhood association. At the time, the staff reviewed the South Broadway Corridor Plan and the North University Small Area Plan to assist in determining the appropriateness of that rezoning request. Mr. Cassidy said that the Planning Commission asks area residents to participate in those plans, and they were used as a justification for the downzoning. There have been no changes to those Small Area Plans, so the R-2 zoning requested at that time should be allowed to remain for the subject property.

The neighborhood association's other major objection to this request is that the current B-2B zoning in the area runs nearly parallel to West High Street. Rezoning the church property to B-2B would eliminate the buffer area that exists between the intense, downtown uses, and the Historic South Hill neighborhood.

Mr. Cassidy stated that the neighborhood association is not opposed to the church's proposal to construct a fellowship hall; they would support the church in a variance or conditional use request before the Board of Adjustment. However, the area residents do not want the "intrusion" of B-2B zoning into their neighborhood. They believe that the variance process exists for just such a situation, and the petitioner should be able to request a variance to the minimum lot size for the residential lots in order to construct the fellowship hall as proposed.

Mr. Cassidy read into the record of the meeting the following excerpt from the staff report:

"It is difficult to say that the requested zone change is in complete agreement with the Comprehensive Plan."

Mr. Cassidy stated that the properties requested for rezoning to B-2B have been historically residential and the residents of the Historic South Hill neighborhood do not believe that they should be rezoned at this time. The neighbors believe that those properties should be allowed to remain zoned R-2, and the church should be allowed to file an application to the Board of Adjustment for a variance in order to construct their fellowship hall as proposed. Mr. Cassidy noted that the leaders of the Northside and Western Suburb neighborhood associations, the Historic Preservation Commission, and the Blue Grass Trust had also submitted letters in opposition to this request.

Dan Rowland, 122 North Martin Luther King Blvd., stated that he had previously lived at 432 South Mill Street for 35 years. Mr. Rowland said that he had been a member of the Historic South Hill Neighborhood Association for years, and had held every office in that organization. He directed the Commission's attention to a letter from Mike Meuser, a resident of the Aylesford neighborhood and a contributor to many existing Small Area Plans and planning task forces. Many of the objectors to this rezoning request have been involved in planning initiatives in Lexington for decades, and they do not believe that this proposal would be in the best interest of the South Hill Neighborhood, or the city itself.

Mr. Rowland stated that long-term residents of historic neighborhoods are concerned about this request because it brings to mind the construction of the Rupp Arena parking lot, which was a contentious situation at the time. In 1976, the Historic South Hill Neighborhood Association hired Preservation Urban Design to complete a neighborhood study, in order to better equip the residents to protect their neighborhood from redevelopment. One of the findings of that study was that historic neighborhoods are most vulnerable at their edges. Of all the boundaries of the South Hill neighborhood, the High Street boundary is the most crucial, so the HSHNA has "policed" the development of it very closely over the years. All of the planning studies done in the area indicate that the South Hill neighborhood is fragile, and its protection is crucial. High Street serves as a boundary between the intense downtown uses, and the residential area of South Hill, and it is critical that B-2B zoning not be allowed on the south side of that boundary street.

Mr. Rowland stated that the South Hill neighborhood is as much a part of the public realm as the First United Methodist Church, and it deserves protection from intense development. He said that B-2B zoning is a "nuclear option" for a residential neighborhood, and he does not believe it is appropriate for the subject property.

Bill Johnston, 645 West Short Street, stated that he is currently the president of the Historic Western Suburb Neighborhood Association. He said that he and the neighborhood association oppose this rezoning request, because the First United

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

Methodist Church buildings make up a large portion of one of Lexington's premier tourist attractions. The buildings were all constructed in the early 19th century, and are the cornerstones of the most unique part of the downtown area.

Mr. Johnston stated that it is important, in planning for the downtown area, for the commercial core area to respect the historic residential neighborhoods surrounding it. The Planning Commission recognized that need when they downzoned the residential structures on the subject property from R-4 to R-2. Mr. Johnston read the following excerpt from the minutes of that meeting into the record: "To help preserve the South Hill neighborhood area," adding that it seems that preservation of that area is no longer important, since the staff is recommending approval of this rezoning request.

Mr. Johnston said that the proposed conditional zoning restrictions are "preposterous," and could prove to be difficult to enforce in the future. He read into the record the following excerpts from the staff report:

"The church's request is not in conformance with the Comprehensive Plan."

"It will simplify the church's planning and building processes, as it will eliminate the need for the church to seek approval of a conditional use permit in the future."

Mr. Johnston said that, using that logic, the Planning Commission could simply rezone all properties to B-2B, and it would simplify the planning process for all property owners. The conditional use process is designed to prevent property owners from using their properties in a manner that is not compatible with the surrounding neighborhood. If the petitioner's property is rezoned to B-2B, they will have no such restrictions. If the existing buildings are removed from that property, the owners would have license to build anything allowable under the B-2B zoning, which could be devastating to the South Hill neighborhood. Mr. Johnston asked that the Planning Commission disapprove this rezoning request.

Timothy Kuryla, 321 Madison Place, stated that he had lived for 25 years at 329 South Mill Street. He currently serves as the secretary of the Woodward Heights Neighborhood Association, which has joined the South Hill neighborhood in opposition to this rezoning request.

Julie Good, 25 Hampton Court, stated that she is the Executive Director of the Blue Grass Trust. The Blue Grass Trust strongly opposes this rezoning request.

Ms. Good stated that it is critical that there be consistency in the interpretation and application of standards by which development projects are evaluated. She believes that the staff report is not consistent with the staff's past approach to rezoning requests in the area, and with the Commission's prior decisions relating to these specific properties. The Blue Grass Trust requests that the Planning Commission disapprove this request, for the sake of consistency, precedence, and affirming the goals of the H-1 overlay.

Foster Pettit, 316 West Second Street, stated that he is the president of the Blue Grass Trust. He said that he is fond of the First United Methodist Church, and he appreciates its historic presence and citizenship in Lexington.

Mr. Pettit noted that the First Presbyterian Church is actually 56 years older than the First United Methodist Church. It started as Maxwell Street Presbyterian Church over 100 years ago, just west of Limestone Street. When the church needed to expand, they constructed a building at their current location. The original church building is now the Joe Bologna's restaurant. Mr. Pettit stated that this story illustrates that the Planning Commission's decision today will be for the long term. The petitioner may decide to move their church to another location; but, should this request be approved, the B-2B zoning would remain. A future owner of the property may wish to remove the conditional zoning restrictions on the property, and could come before the Planning Commission to do so. Mr. Pettit said that it is incumbent upon the Planning Commission to make decisions now that will protect the South Hill neighborhood in the future, since it is a "jewel of our city." The First United Methodist Church has the ability to expand without this rezoning to B-2B.

Staff Rebuttal: Mr. Emmons stated, with regard to the Small Area Plans previously mentioned, that those plans are all over 10 years old, and the Comprehensive Plan has a sunset provision for plans over that age. That does not suggest that those plans are invalid; but the needs and goals of the community change over time, and those older plans may not best reflect those needs.

Mr. Emmons said, with regard to the possibility of the petitioner obtaining a variance to allow construction of the proposed fellowship hall, that there are no variances to the minimum required parking or minimum lot sizes.

With regard to the comments about the need for protection of the historic neighborhood, Mr. Emmons stated that the staff has not abandoned their commitment to the preservation of historic areas. The staff believes that the proposed conditional zoning restrictions, combined with the H-1 overlay, will provide appropriate protection for the South Hill neighborhood while allowing development of the church property.

The staff does not believe that their recommendation of approval of this request is inconsistent with their past decisions. When the Planning Commission adopted the 2007 Comprehensive Plan and the Downtown Master Plan, and decided not to expand the Urban Service Area boundary, it signaled a move away from traditional land use planning in the downtown area. Mr. Emmons stated that, when they considered this rezoning request, the staff reviewed the core principles of the Downtown Master Plan and the 2007 Comprehensive Plan, rather than just "a land use color on the map." The staff has committed to finding infill opportunities, increasing the density of the urban core, and making the downtown area a more vibrant place, and they believe that this request supports those principles.

Mr. Emmons said that, in considering a rezoning request, the staff also evaluates whether the proposed zoning is appropriate for the subject property. Although this request could not be found to be strictly in conformance with the Plan's recommendations, its appropriateness brings it more into compliance with the Plan. The staff did not indicate, in their report, that this request is in disagreement with the 2007 Comprehensive Plan; rather, they noted that it was not in complete agreement with the Plan, since it is "silent" with regard to infill and redevelopment opportunities for institutional uses in the downtown area. Mr. Emmons said that the staff, therefore, found this request to be appropriate.

Commission Questions: Mr. Holmes asked if the Downtown Master Plan is policy-driven, or oriented toward land uses. Mr. Emmons answered that the DTMP organizes land uses into functional categories, such as the downtown core, mixed-use corridors, and residential neighborhoods. The DTMP also recommends the review of the land use element of the 2001 Comprehensive Plan, so the staff used both of those plans in forming their recommendation for this request.

Mr. Owens asked Mr. Emmons to clarify where the zone lines are located on the subject property. Mr. Emmons displayed a graphic of the property on the overhead projector, and indicated for Mr. Owens where the B-2B, R-2, and R-4 zoned areas are located on the property. Mr. Owens asked if the church building itself is divided across two zone lines, to which Mr. Emmons responded that it is. Mr. Owens asked if there would be any other means, such as via the Board of Adjustment, for the church to construct the proposed addition without rezoning the property to B-2B. Mr. Emmons replied that churches are allowable conditional uses in the R-2 and R-4 zones, but the residential lots along South Upper Street would have to be decreased in size in order for the church to expand. There is no variance allowed to the minimum lot size of a property, or to the minimum parking requirement. Therefore, the staff could not come up with a solution whereby the petitioner could appeal to the Board of Adjustment in order to expand the fellowship hall according to the current plans. Mr. Sallee added that the two residential lots along South Upper Street cannot be made smaller by any means, and that is the area into which the church is proposing to expand. Ms. Wade clarified that, in order for the church to construct the addition as proposed, they would have to cross the property boundary line, which Building Inspection would not allow them to do. A structure cannot cross a property line, and the property line in that area cannot be moved, because the residential lots cannot be decreased in size.

Mr. Owens asked if the property at the corner of West High Street and South Mill Street is currently zoned B-2B. Mr. Emmons answered that it is currently zoned B-2B, and it is not a part of this rezoning request, although it is included on the development plan. Mr. Owens asked if other development could take place on that portion of the property, to which Mr. Emmons replied that it could. Mr. Owens asked if the proposed conditional zoning restrictions would apply only to the portion of the property before the Planning Commission today, to which Mr. Emmons responded that that was correct.

Ms. Copeland asked if the fellowship hall could be built on the portion of the property at the corner of West High Street and South Mill Street. Mr. Emmons answered that the staff was not aware of any restrictions that would prevent the petitioner from constructing a fellowship hall on that portion of the property.

Mr. Brewer stated that he had been heavily swayed by the comments from the various neighborhood association representatives, and he believes that it is critical that the Planning Commission try to preserve the boundary area for the South Hill neighborhood. The church is also an important part of downtown, however, and should be allowed to grow as needed. Mr. Brewer asked if there was any other means by which the church could construct the proposed addition, that would be more palatable to the area residents. Mr. Emmons responded that the property could be rezoned to either B-2 or B-2A, but the B-2B zone is the most restrictive of the downtown zones.

Ms. Roche-Phillips stated that there has been a decentralization of churches, as many existing congregations have moved out of the downtown area in a quest for more space for expansion. She asked if the residential structures on South Upper Street could be consolidated into the larger property, and considered as a church use. Mr. Emmons answered that, without the zone change to B-2B, the R-2 property would only allow one duplex on the lot. Under the current regulations, there is no way to allow the church and the residential structure on one R-2 property. Ms. Roche-Phillips stated that she would hate to see the historic residential structures removed in order to allow the church to expand. Mr. Emmons replied that the staff is supportive of both the historic neighborhood and the church expansion, which is why they are recommending approval of this rezoning request to B-2B. Ms. Roche-Phillips said that she did not believe that the construction of the proposed fellowship hall would be detrimental to the South Hill neighborhood, and she was frustrated that the existing regulatory tools cannot accommodate this request. She asked if there was any way that this request could be postponed, in order to allow the staff to come up with some other means by which the church could construct the proposed addition. Mr. Emmons stated that, in reviewing this request, the

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

staff determined that the proposed rezoning to B-2B is the best means, under the existing Zoning Ordinance, to accomplish that goal.

Legal Comment: Ms. Boland noted that the existing H-1 overlay will remain in place, and the petitioner will not be able to remove the historic structures without the approval of the Board of Architectural Review. Mr. Emmons said that the staff is relying on the H-1 overlay and the conditional zoning restrictions to provide adequate protection for the South Hill neighborhood.

Mr. Vaughn asked if the staff had discussed the issue of prohibiting drive-throughs. Mr. Emmons answered that there had not been any discussion about drive-throughs among the staff. Mr. Vaughn asked why recycling drop-off points had not been recommended to be prohibited as well. He said that Macks Alley could be a potential access point for such a use. Mr. Emmons answered that the staff would have no objection to prohibiting those uses, if the Commission so chose.

Mr. Holmes asked if it would be possible to prohibit all uses for the subject property, other than a fellowship hall. Mr. Emmons responded that the staff typically avoids conditional zoning that would result in a single allowable use for a property, since conditions can change. In 50 years, the petitioner might wish to use the subject property for something other than a fellowship hall, and would not be able to do so. Mr. Holmes noted that, should that be the case, the Planning Commission would have the opportunity to review the proposed use and determine if it was appropriate. Mr. Emmons stated that there are some properties in the county that have been so severely restricted via conditional zoning that they are very difficult to develop, and the staff would like to avoid that kind of situation if possible.

Petitioner Rebuttal: Mr. Ockerman stated that the petitioner would have no objection to prohibiting drive-throughs and/or recycling drop-off facilities via conditional zoning, if the Commission so desires.

Mr. Ockerman said, with regard to Mr. Holmes's question about restricting the property to just one use via conditional zoning, that that could potentially make it difficult for the church to develop uses, such as a gymnasium or workout facility, for use by its members. The First United Methodist Church has had many opportunities to leave the downtown area, and has been encouraged by their bishops to do so, but the church leaders are committed to remaining downtown. They have, instead, developed a practice of growing through satellite campuses located in other parts of the county. The church leadership would not be contemplating the construction of a new fellowship hall if they were considering a move to another part of Lexington.

Mr. Ockerman stated that none of the objectors who spoke today have a problem with the proposed fellowship hall use, but rather with the possible expansion of the B-2B zone. The petitioner contends that the adoption of conditional zoning restrictions should provide a means of modifying a "wide-open" zone, in order to provide some comfort to the area residents. Mr. Ockerman noted that the proposed location of the new fellowship hall is important, because it is directly at the rear of the sanctuary. The church's plan is to establish a new entry onto Macks Alley, and construct a corridor straight back from the sanctuary to the fellowship hall. The proposed location would also provide the least disturbance to the existing parking. Should the fellowship hall be constructed at the corner of West High Street and South Mill Street, as mentioned earlier in this meeting, a corridor would be required to extend directly through an existing chapel.

Mr. Ockerman reiterated that the petitioner intends to maintain all of the residential structures on the subject property, and to a better standard than the previous absentee landlords did.

With regard to the comments about the fragility of the South Hill neighborhood, Mr. Ockerman said that that argument is not as valid as it used to be, when it was a warehouse district in danger of bad redevelopment. The construction of many new townhomes and condominiums has eliminated that possibility, and the neighborhood is now revitalized and thriving.

Mr. Ockerman stated that this requested rezoning to B-2B is the petitioner's most efficient means of enlarging the fellowship hall to meet their needs. Should this request be disapproved, the petitioner will be required to pursue changes to the Zoning Ordinance via text amendments, as well as appeals to the Board of Adjustment and Board of Architectural Review. The proposed conditional zoning restrictions should solve all of the concerns raised by the objectors, except the concept that the B-2B zone may be expanded, which is not sufficient grounds for the Planning Commission to disapprove this request.

Mr. Owens stated that the staff report reads: "The rezoning could allow for more intense use of valuable land in the downtown area." He said that he believes that that possibility of increased intensity of use is the main concern with this request. Mr. Owens referenced the development plan for the subject property, which depicts the corners of South Mill Street / West High Street and West High Street / South Upper Street as slated for future expansion. He asked Mr. Ockerman to explain those future plans for expansion. Mr. Ockerman explained that the petitioner does not have definite plans for expansion at this time, but wanted to depict those areas on the development plan because they have been discussed as possibilities for future expansion. The corner of South Upper Street and West High Street contains a 1954 children's wing; at one time, the church was contemplating the construction of additional classroom space in that location, but has since abandoned that idea, since it would affect the viewscape at that important intersection. The church discussed the possibility of building a new sanctuary at the corner of South Mill Street and West High Street some years ago, but the adoption of the multi-site church concept alleviated the need for a new sanctuary. The church's emphasis is now on the construction of the new fellowship hall. Mr.

Owens stated that he is still concerned about the possible "commercialization" of the subject property, should it be rezoned to B-2B. Mr. Ockerman said that commercialization of the property would not be possible under the proposed conditional zoning restrictions, and the petitioner would be required to file a new rezoning request in order to change those restrictions. Mr. Owens asked if the petitioner would be opposed to prohibiting the first three allowable uses in the B-2B zone, including civic centers, convention centers, and banks. Mr. Ockerman answered that the petitioner would have no objection to prohibiting civic centers or convention facilities, with the caveat that the United Methodist Church of Kentucky periodically holds its annual convention in Lexington, and uses the petitioner's facilities as an ancillary location to the Civic Center. The petitioner would have no problem with prohibiting banks, with the understanding that the United Methodist Church has a credit union in Kentucky, and the petitioner may at some point wish to open a branch within their facility which is considered to be a church use. The United Methodist Church also operates hospitals and various other kinds of facilities, and may someday have a desire to pursue some of those outreach uses on the subject property.

Mr. Cravens asked if the proposed fellowship hall would satisfy the church's need for expansion for the foreseeable future. Mr. Ockerman answered that it would. The sanctuary was renovated a few years ago; the Sunday School wing was constructed in 1984; and the relocation of some offices recently freed up additional Sunday School space. At this time, the church's last plan for expansion is to replace the antiquated basement fellowship hall with a more modern facility.

Ms. Copeland asked how many active members the church currently has. Mr. Ockerman responded that there are currently approximately 700 members attending in all services, with a total membership of 1,800. Ms. Copeland asked how many families currently attend the church, to which Mr. Ockerman replied approximately 800-1000 families. Ms. Copeland asked what uses are proposed for the new fellowship hall. Mr. Ockerman answered that there will be additional basement space under the new fellowship hall, for future expansion. The fellowship hall itself is proposed to be a large meeting and dining facility, with a stage for plays, tables and chairs for meals, and a new kitchen. The kitchen will be used to serve meals for church members each Wednesday evening, as well as to provide food for the homeless as part of the Room at the Inn program. During the Methodist conference conventions, the church may provide a meal for attendees as well. Ms. Copeland asked if the petitioner is able to provide 800 parking spaces, if there are 800 families in attendance. Mr. Ockerman responded that the petitioner has a parking arrangement with PNC Bank to use their garage facility for Sunday church services, as well as an overflow parking lot at High Street and South Broadway and approximately 200 spaces on the subject property. He noted that families generally travel to church together, so that could reduce the number of cars. Parking downtown is always a challenge, but the petitioner does not believe there is a problem with overflow, except perhaps during UK basketball games. Ms. Copeland asked if parking overflows into the South Hill neighborhood. Mr. Ockerman replied that he does not believe that there is any parking overflow onto nearby streets. Ms. Copeland stated that she believes that the additional 10,000 square feet proposed for the new fellowship hall will negatively impact the parking situation for the church. Mr. Ockerman responded that the petitioner purchased the parking lot at South Broadway and High Street, which has 110 parking spaces, knowing that some spaces would be lost through the construction of the new fellowship hall. He noted that those drivers will already be attending regular services at the church, so the addition of the fellowship hall should not add impact to the parking in the area.

Citizen Rebuttal: Mr. Cassidy stated that the South Hill residents are concerned about a lack of parking for the church, but they hope that the South Broadway / High Street parking area will help to mitigate any overflow.

Mr. Cassidy said that there were other issues of concern to the neighbors on the table at the outset of the rezoning process, including the possible use of the parking lot at South Broadway and High Street. He noted that, if the law does not provide a means for the petitioner to obtain a variance in order to construct the fellowship hall, rather than rezoning the property, then those laws should be changed. It would be preferable to effect a change to the law rather than allow the encroachment of B-2B zoning into an historic residential neighborhood.

Mr. Cassidy stated that he believes that the petitioner could simply consolidate the lots, rather than rezone them, in order to construct the new fellowship hall. He said that the church property is made up of many properties, all of which were consolidated at some point in the past. If all of the lots are to be consolidated, then current lot size should not be an issue, and the construction could go forward. Mr. Cassidy added that he does not believe that the entire property needs to be rezoned to B-2B in order to allow the petitioner to construct a new fellowship hall. He noted that it may be preferable for the entire church property, not just the portion before Planning Commission today, to be rezoned, but to some zoning designation other than B-2B that is more in conformance with the Downtown Master Plan.

Mr. Rowland said that it is important to maintain the downtown use boundary where it currently is, and not allow more intense uses into the surrounding residential areas. He noted that all of the existing B-2B-zoned lots currently face High Street, and it could set a dangerous precedent to allow a property that faces South Upper Street to be rezoned to B-2B.

Commission Discussion: Mr. Brewer stated that he was struggling to make a decision on this request. He agrees with the neighborhood associations that the expansion of B-2B zoning is not appropriate, but he does not want to prevent the church from growing. Mr. Brewer said that, if the tools are not currently available to allow the church to expand without rezoning the property to B-2B, he would like to postpone this request and explore other possible options.

Mr. Vaughn stated that time had run out on this application, and the Planning Commission must take action today.

Ms. Richardson asked, with regard to Mr. Cassidy's comments about finding another, more appropriate zone for the property, if there was any other zone that could accommodate the church's proposal for expansion. Mr. Emmons answered that the staff had discussed the issue thoroughly, and could not find another zoning designation that would accommodate the church's plans for a new fellowship hall as well as the constraints of the site.

Mr. Penn asked if granting a B-2B zone on South Mill Street and South Upper Street would set a precedent. Mr. Emmons replied that the staff does not believe that granting this request would set a precedent. He noted that Rokeby Hall and Macks Alley act as a natural boundary and buffer between the B-2B zoning and the residential areas to the south. The H-1 zoning designation and proposed conditional zoning restrictions will also provide protection for the nearby residential areas. All of those elements would need to be present if another petitioner wished to try to argue that this request set a precedent. Mr. Penn asked if it would be appropriate to consolidate the subject properties at the time of rezoning. Mr. Emmons responded that he would need to discuss that situation with other members of staff, and report back to the Commission. Mr. Penn stated that he believed that consolidation of the lots might give some comfort to the neighborhood association, and he would like for the Commission to consider that option.

Ms. Roche-Phillips asked Mr. Emmons to research whether the 2007 Comprehensive Plan addresses expansion of uses in historic districts as well.

Note: Chairman Vaughn declared a brief recess at 3:22 p.m. The meeting reconvened at 3:32 p.m.

Mr. Emmons stated that the staff had discussed Mr. Penn's question about consolidation of the subject lots at the time of rezoning. He displayed on the overhead projector a graphic rendering of the subject property, depicting the existing zoning and the separate lots. The lot which is zoned R-2 and contains the two attached residential structures is the key non-conforming piece that makes the rezoning to B-2B necessary in order for the church to expand as proposed. Under the existing regulations, that R-2 lot cannot be consolidated to the rest of the church property, because that would increase its non-conformity. Unlike the R-3 and R-4 zones, which allow group residential projects and multiple buildings on one lot, the R-2 zone does not have such a provision. The lot also cannot be made smaller in order to allow for the expansion of the fellowship hall, because of the minimum lot size of the R-2 zone. Mr. Emmons added that the petitioner could not seek a variance to the minimum lot size, because KRS 100 does not allow the Planning Commission or the Board of Adjustment to grant a variance that could increase density on a property. He noted that, should the Commission so choose, they could add a note to the final development plan that it is the intent of the petitioner to consolidate the properties if the rezoning is granted by the Urban County Council.

With regard to Ms. Roche-Phillips' question, Mr. Emmons stated that Goal 5, Objective A, reads:

"To use our Long Range Preservation Plan as a resource to assist in balancing development and protecting and enhancing Fayette County's historic and cultural resources."

Mr. Emmons said that this provided guidance to the staff as they made their recommendation on this request. He noted that the text of the Comprehensive Plan also refers to historic and architecturally significant buildings as an important part of the urban character of Lexington. He read the following excerpt into the record:

"A well-planned community incorporates both the new and the historic; a balance that attracts businesses, residents, and tourists who seek a unique physical and cultural environment."

Ms. Roche-Phillips asked what the Comprehensive Plan was referring to with regard to the Long Range Preservation Plan. Mr. Emmons answered that he was not familiar with that document. Mr. Vaughn added that he had served on the Board of Architectural Review as well as the Planning Commission, and he was not familiar with such a document.

Mr. Cassidy asked if it would be possible to rezone the two R-2 properties at South Upper Street and Macks Alley to R-4, in order to eliminate the problems with minimum lot size. Mr. Emmons responded that rezoning those properties to R-4 may provide some flexibility, but it may not be enough to accommodate the petitioner's proposed expansion of the church. There would also still be the issue of non-conforming parking, and loss of parking spaces on the lot.

Petitioner Comment: Mr. Ockerman stated that the petitioner would be in agreement with adding a note to the final development plan regarding the intent to consolidate the lots.

Commission Comments: Mr. Penn stated that he would be more comfortable with approving this plan, with the addition of that note.

Mr. Holmes stated that the Commission should narrow down the uses proposed to be prohibited via conditional zoning.

Mr. Emmons displayed the text of Article 8-19 of the Zoning Ordinance, highlighting the proposed prohibited uses that the Commission had discussed. Mr. Owens asked if principal use #13, hotels and motels, could be prohibited. Mr. Emmons answered that the staff would be agreeable, but he could not answer for the petitioner.

Mr. Ockerman stated that the petitioner would have no objection to prohibiting principal uses #1, 2, or 13, and conditional uses #6 and 8. He noted for the record that the principal use of the property is for church purposes, and the petitioner would like to have the ability to use the church for temporary housing for church-related convention purposes, if necessary.

Zoning Action: A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 8-2 (Brewer and Copeland opposed; Day absent) to approve MAR 2008-31, for the reasons provided by staff, including the following prohibited uses:

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 as principal permitted uses, 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.
- i. The historic Rokeby Hall, located at 318 South Mill Street, shall be further limited to church uses, professional offices or residential use.
- j. Civic Center and convention facilities.
- k. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions; savings and loan companies, holding and investment companies.
- l. Hotels or motels.
- m. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
- n. Recycling drop-off centers for aluminum; steel; plastic; glass; newspapers; cardboard and other paper products; oil and other household waste.

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.

Development Plan Action: A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 10-0 to approve ZDP 2008-147, subject to the 10 conditions as listed on the agenda; adding a new condition #11 with regard to consolidation of the property as Mr. Emmons suggested earlier; and adding condition #12 to read: "Addition of conditional zoning restrictions."

2. **CLUB FACILITIES, LLC, ZONING MAP AMENDMENT & LANSDOWNE CLUB PROPERTY (SIGNATURE CLUB) ZONING DEVELOPMENT PLAN**

- a. MAR 2009-4: CLUB FACILITIES, LLC (5/14/09)* - petition for a zone map amendment from a Single Family Residential (R-1B) zone to a Neighborhood Business (B-1) zone, for 0.31 net (0.46 gross) acre; and from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 2.60 net (3.30 gross) acres, for property located at 3244-3300 (a portion of) Lansdowne Drive.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 3) recommends Semi-Public land use for the subject property. The petitioner proposes to rezone a sizeable portion of the property to allow a restaurant as part of the existing club to be open to the general public.

The Zoning Committee Recommended: Disapproval of rezoning 3244 & 3248 Lansdowne Drive, and Approval of rezoning the portions of 3256 & 3300 Lansdowne Drive so requested, for the reasons provided by staff.

The Staff Recommended: Disapproval of rezoning 3244 & 3248 Lansdowne Drive, for the following reasons:

1. The proposal for a restricted B-1 zone for these two lots is unnecessary. The nearly 500 members of the Lansdowne Club will require off-street parking, which these lots can provide in an R-1C zone (under the approved conditional use permit).
2. There is sufficient parking in the "lower" parking lot at 3256 Lansdowne Drive to serve an expanded restaurant operation at the club, even if rezoned to B-1.
3. Retaining an R-1C zone on these two properties is not in conflict with the 2007 Comprehensive Plan, and will also help stabilize the Raven Road portion of the neighborhood, which has the highest existing and proposed residential density in this general vicinity.

The Staff Recommends: Approval of rezoning the portions of 3256 & 3300 Lansdowne Drive so requested, for the following reason:

1. The restricted Neighborhood Business (B-1) zone requested is in substantial agreement with the 2007 Comprehensive Plan, and is appropriate for a portion of the Lansdowne Club's property to permit an expanded restaurant use, for the following reasons:
 - a. This private club and its restaurant meet the Plan's definition for a Semi-Public land use. Therefore, a greatly restricted rezoning of the subject property that permits these uses, and which doesn't adversely impact nearby residential uses, will agree with the Plan's recommendations for this site.
 - b. The restaurant at the Lansdowne Club has operated in a controlled fashion as part of this Semi-Public use for nearly 50 years, and the existing structure has been more recently modified to accommodate an expanded restaurant and private club at this location.
 - c. A restricted B-1 zone would allow the club's restaurant to serve far more residents within this well-established residential community.
 - d. The fact that this facility is not now proposed for any physical expansion meets the Goals and Objectives of the Plan to encourage local business expansion, but not at the detriment of nearby neighborhoods.
2. This recommendation is made subject to approval and certification of ZDP 2009-15: Lansdowne Club Property, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. **Under the provisions of Article 6-7 of the Zoning Ordinance, the use of the subject property shall be limited only to the following, via conditional zoning:**
 - a. B-1 uses shall be limited to the existing building, which shall not be expanded in floor area.
 - b. The restaurant use shall be confined to the existing dining and food preparation areas.
 - c. Banquet facilities.
 - d. Offices for civic, social, fraternal, political, religious or charitable organizations.
 - e. Studios for work or teaching of fine arts, such as photography, music, dance, drama or painting.
 - f. Community centers.
 - g. Private clubs.
 - h. Churches, Sunday Schools and places of worship.
 - i. Schools for academic instruction.
 - j. Signs shall be limited as follows:
 1. No more than two (2) free-standing or wall mounted signs, non-illuminated or indirectly illuminated, no greater than thirty two (32) square feet each.
 2. No more than two (2) canopy signs, limited to lettering no more than ten (10) square feet each.

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

These use restrictions have been offered by the applicant, and are appropriate and necessary to protect the established residential neighborhood from the most intrusive and intense land uses otherwise possible in a B-1 zone.

- b. ZDP 2009-15: LANSDOWNE CLUB PROPERTY (SIGNATURE CLUB) (5/14/09)* - located at 3256 Lansdowne Drive.
(Sherman/Carter/Barnhart)

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

1. Provided the Urban County Council rezones the property B-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. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Correct plan title.
9. Verify floodplain information and reference current FEMA Map panel.
10. Clarify easement locations.
11. Addition of 25' floodplain setback.
12. Addition of intersection details across from club entrance (at Zandale Drive).
13. Correct location of sanitary sewer easements.
14. Addition of compliance with street cross-sections.
15. Resolve minimum parking requirements.

Request for Withdrawal: Mr. Sallee began the public hearing by noting that the petitioner had submitted a letter asking that 3244 and 3248 Lansdowne Drive be withdrawn from this rezoning request. The Commission may wish to consider this request at the outset.

Petitioner Representation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the petitioner would like to withdraw the properties at 3244 and 3248 Lansdowne Drive from this rezoning request at this time.

Action: A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 10-0 (Day absent) to withdraw 3244 and 3248 Lansdowne Drive from this rezoning request.

Zoning Presentation: Mr. Sallee presented the staff report, briefly orienting the Commission to the location of the subject properties and noting that this is now an amended zone change request. The petitioner is seeking rezoning from the R-1B and R-1C zones to the B-1 zone, for 2.17 net acres (2.68 gross). The subject property is located near the intersection of Raven Road and Lansdowne Drive, which is a collector street, and north of the Bates Creek Road / New Circle Road interchange. As amended, this request includes almost the entirety of 3256 Lansdowne Drive, which is the primary location of the Signature Club; and a very small portion of 3300 Lansdowne Drive, which is a rear lot where most of the club's recreational facilities are located. Most of the properties to the north, east, and south of this location are zoned R-1C, with some R-1B property immediately to the west of this location. The adjoining neighborhood is almost entirely zoned for Single Family Residential use, with the exception of a few of the properties along Raven Road, which are zoned R-2 some of which are used for duplexes. The Lansdowne Shopping Center is located immediately to the south and east of the subject property.

Mr. Sallee displayed several photographs of the property, including: an aerial view of the property from the east; a closer aerial view from the south; an aerial view from the west; and an aerial view from the north. He said that the petitioner is requesting B-1 zoning in order to expand the allowable use of the Signature Club, primarily to allow the restaurant facility to be used by the general public as well as club members. This private club is currently approved as a conditional use in the R-1C zone.

The 2007 Comprehensive Plan recommends Semi-Public land use for the entirety of the subject property. Mr. Sallee noted that the staff had distributed to the Commission members the text from the Comprehensive Plan which describes Semi-Public land uses. They are large, distinctive facilities, which are usually service-oriented, and they can include private recreation uses such as the Lansdowne Club. Existing Semi-Public uses are identified on the Plan as such, which is an indication of the Comprehensive Plan's desire for the continuation of their use to serve the community.

Mr. Sallee stated that the staff viewed this zone change under the Comprehensive Plan's Goals & Objectives, which call for local business opportunities to be allowed to expand, but only when that expansion does not negatively impact the nearby residential area. In the staff's review of this request, they find it significant that no physical improvements are proposed for the club property. That lack of expansion can limit the impact of the proposed business rezoning on the adjoining neighborhood. The staff initially believed that there was too much property being requested for B-1 zoning, and they recommended disapproval of

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

the two lots that were withdrawn earlier in this hearing. The lower parking lot, if rezoned to B-1 can satisfy the club's ordinary parking needs for the restaurant use, leaving the upper parking lot to serve club members. Mr. Sallee said that the staff is recommending approval of the portion of this request that remains, as did the Zoning Committee, for the reasons as listed in the staff report and on the agenda. However, Mr. Sallee did recommend changing the words "Lansdowne Club" in the first finding to "Signature Club." The staff is recommending conditional zoning restrictions, as listed in the staff report and on the agenda, which were proposed by the petitioner.

Commission Questions: Mr. Owens asked Mr. Sallee to note on the aerial photograph the portion of 3300 Lansdowne Drive that is proposed for rezoning. Mr. Sallee used the overhead projector, indicating the portion of 3300 Lansdowne Drive that is proposed for rezoning to B-1. He said that it is a very small portion of that property in the existing parking lot, and amounts to an area of only one or two parking spaces.

Mr. Vaughn asked if physical expansion or changes should be proposed in the future, would the Planning Commission have the opportunity to review a new development plan. Mr. Sallee responded that any expansion in the future would require not only an amended development plan, but a review to see if a zone change also is necessary to amend these conditional zoning restrictions.

Development Plan Presentation: Mr. Martin presented the corollary final development plan, further orienting the Commission to the location of the subject property. He noted that the plan had been revised since the Subdivision Committee meeting, and the petitioner had removed the parking that had been proposed in front of the existing circular driveway. The petitioner has also adjusted the club's membership number down, in order to meet the required parking. The proposed restaurant use would require 179 parking spaces, which is the number proposed by this plan.

Mr. Martin stated that there are no physical changes proposed to the facility, other than the slight change in parking. Since this is a final development plan, there are 15 conditions for approval, due to the greater number of required sign-offs. As the petitioner is proposing no physical changes, however, there should be no problems with obtaining those sign-offs and certifying the plan within the required time frame. Mr. Martin noted that the staff initially had some difficulty reading the plan because of line weights, easement locations, etc; so many of the conditions were recommended to clean up those issues. The Subdivision Committee recommended approval of this plan, subject to the 15 conditions as listed on the agenda.

Commission Questions: Mr. Holmes asked, with regard to condition #15, if the club membership determines the required number of parking spaces. Mr. Martin answered that the club is required to provide one parking space for every four members. The petitioner is providing the minimum number of parking spaces, so the staff wanted to include this condition to ensure that the minimum number is met. Mr. Holmes asked if the club would be able to grow their membership. Mr. Martin responded that the club cannot expand their membership without providing additional parking.

Petitioner Presentation: Bruce Simpson, attorney, was present representing the petitioner. He stated that the petitioner is in agreement with the staff's recommendations, including the proposed conditional zoning restrictions and development plan conditions.

Mr. Simpson said that the Lansdowne Neighborhood Association has been actively involved in this rezoning request from the beginning, and will endorse this request today. He noted that there will be some objections to this request, as well.

Mr. Simpson stated that the petitioner does not propose to make any physical changes to the club facility. Their intent is simply to open the existing restaurant for public use, and provide public parking spaces. The Signature Club has existed, first as the Lansdowne Club, since the mid-1950s. It was the first structure constructed in the neighborhood, and it predates all the houses. The original owners operated the Lansdowne Club until the 1990s, when they sold it to a former member of the club. That owner attempted to operate the club, but could not afford to provide the necessary upgrades to the facility and was forced to sell the property. The petitioner purchased the property in 2005, leveled all the structures there, and proceeded with reconstruction of the entire facility with an initial budget of three million dollars. After completion, the total cost of the facility amounted to nine million dollars. Mr. Simpson displayed several photographs of the club facility prior to reconstruction in 2005, and several current photos of the club's buildings and recreational areas.

Mr. Simpson stated that the reconstructed Signature Club opened in May of 2006. Since that time, the club has struggled to keep its restaurant operation afloat, with the restaurant losing up to \$35,000 a month in 2007-2008. The petitioner has hired several consultants to help improve the restaurant's business, but they have been hampered by the limited number of customers available, since it is open only to club members. In November of 2008, the petitioner called a meeting with the Lansdowne Neighborhood Association representatives to discuss the possibility of opening the restaurant to the public. Mr. Simpson said that, when the facility operated as the Lansdowne Club, the restaurant and banquet facilities were always open to the public, although they were not advertised as such. The petitioners are now seeking to legitimize the long-term practice of allowing the public to utilize the club's restaurant facilities.

With regard to the neighborhood opposition, Mr. Simpson said that their major concerns were: precedent; overflow parking; and traffic during events at the club. He noted that swim meets are held at the club several times a year, and those events usually

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

result in a large amount of overflow parking. None of these issues are new, and they have been a concern since the club was originally built. The petitioner contends that these events take place approximately six times a year, for a five-hour period each time, so the parking problems exist for only a fraction of the time that the club is actually open. Mr. Simpson stated that the petitioner has attempted to address the parking problems, initially with valet parking signage, which was discovered to be a violation of the sign ordinance. The petitioner then instituted off-site parking with a shuttle bus service, although there have been some problems with coordination between the swim meet organizers and banquet staff, which resulted in a greater number of cars than expected. The petitioner has worked with the neighborhood association to draft a set of restrictive covenants that will address this situation, so overflow parking should no longer be a concern.

Mr. Simpson stated that rezoning the subject property to B-1 cannot constitute a precedent, since the same use has been in existence on the property for over 50 years. He noted that, in addition to the restrictive covenants with the neighborhood association, the petitioner has proposed conditional zoning restrictions to help protect the adjoining residents from the restaurant use at the club facility. Should the Commission choose to approve this request, none of the club's other facilities will be opened to the public. Mr. Simpson stated that the petitioner contends that opening the restaurant for public use will not have a significant adverse impact on the remainder of the Lansdowne neighborhood, and he requested approval.

Neighborhood Representation: Sam Carneal, attorney, was present representing the Lansdowne Neighborhood Association. He stated that he would like to declare the neighborhood association's support for this application, while noting that the neighborhood association "does not support just any B-1 zoning." They have agreed to support this request based on the private covenants agreed to by the petitioner, and the importance of the Signature Club in the history of the Lansdowne neighborhood.

Mr. Carneal stated that the neighborhood association and the petitioner had drafted and signed, in advance of this meeting, a set of restrictive covenants that address the residents' concerns about the proposed B-1 zoning. Parking for the club facility has always been an issue, and the covenants should create a procedure that guarantees the provision of either a shuttle bus or valet parking during high-traffic events. The neighborhood association also worked with the petitioner to limit the allowable uses on the property under B-1 zoning, via conditional zoning restrictions. Mr. Carneal said that the neighbors were also concerned about protection of the wooded area adjacent to the petitioner's property, and helped to draft a covenant to ensure that it is never developed. In addition, the neighborhood association sought reassurance that, should the use of the property change, the neighborhood would not be negatively impacted by the B-1 zoning. The neighborhood association residents believe that they have reached a good agreement with the petitioner, and have attained a level of comfort with the proposed B-1 zoning.

Mr. Carneal noted that the Lansdowne Neighborhood Association is voluntary. It is no longer a deed-restricted community, and membership in the association is not mandatory. There are approximately 900 households in Lansdowne, and approximately 300 of those are members of the association. As part of the process of the discussions about this rezoning request, the neighborhood association had all of the street captains and lieutenants hand-deliver notice of the meeting with the petitioner, during which this request was discussed. The meeting was open to all Lansdowne residents, and both members and non-members of the neighborhood association were in attendance. The board circulated a survey, with a draft of the proposed covenants, to all 900 Lansdowne residents in an attempt to determine how they should vote on this matter. The response to that survey was overwhelmingly in support of this rezoning request. The neighborhood association received 190 responses to the survey, and 160 indicated their support. Mr. Carneal stated that the neighborhood association representatives believe that they have done their best to ascertain the Lansdowne residents' opinion of this request.

Judy Worth, 775 Sherwood Drive, stated that she was present representing the Lansdowne Neighborhood Association, as its current president. She said that, when the neighborhood association was initially approached by the petitioner about the possibility of the requested zone change, they had four major issues with the proposal. The neighbors were primarily concerned about the type of restaurant proposed, and who would operate it; possible signage for the restaurant; the potential for precedent; and overflow parking and traffic. Through a period of negotiations with the petitioner, the neighborhood association was able to reach an agreement on a set of covenants. They shared those covenants with every resident of the Lansdowne neighborhood, not just members of the neighborhood association, in an attempt to gauge the residents' opinions of the proposed zone change.

Ms. Worth said that an all-neighborhood meeting was held on March 16th, with the petitioner, Mr. Simpson, and Mr. Carneal in attendance, and approximately 95 residents. Following that meeting, the neighborhood association representatives drafted a letter and a survey, and circulated those items, along with the revised text of the proposed covenants, via hand-delivery to every resident of the neighborhood. The information was also added to the neighborhood association website. The survey provided 192 responses, with 161 in support, 25 in opposition, and six who did not vote. The board of directors met on the evening prior to this meeting, reviewed the survey responses, and voted to support this rezoning request, conditioned by the signed covenants. Those covenants address the residents' concerns about parking and the type of restaurant proposed, while the issue of signage will be controlled by the development plan. With regard to precedent, the staff's recommendation that 3244 and 3248 be removed from the request helped to address some of the residents' concerns. The Lansdowne residents do not want to see business development on Raven Road, given its proximity to the Lansdowne Shoppes, and wanted to ensure that that

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

would not be possible because of this application for rezoning. The conditional zoning restrictions will limit the allowable uses on the property, and the restrictive covenants will further help to protect the residents from B-1 zoning.

Ms. Worth stated that the covenants will not, however, completely solve the residents' parking concerns. The neighborhood association has made an agreement with the petitioner that they will do a better job of scheduling events, in order to prevent large amounts of cars from parking at the club at any one time. The petitioner has also agreed to offer valet parking for events, as well as providing one contact person for neighborhood residents who have complaints about parking. Ms. Worth noted that the neighborhood residents see the Signature Club as an asset, and do not want to see it deteriorate. Its success, however, may create an impact on the adjoining homes by causing overflow parking. The neighborhood association representatives do not believe that the covenants can address the parking problems, particularly on Raven Road, so they intend to address those concerns with the LFUCG Division of Traffic Engineering. If consensus can be attained with all the residents on Raven Road, they may request limited parking there.

Petitioner Response: Mr. Simpson stated that the petitioner is pleased with the neighborhood association's endorsement of the proposed rezoning to B-1, and with the 84% approval of the survey respondents. He noted that the petitioner is willing to take whatever measures are necessary to alleviate the parking problems on Raven Road. The residents of that street sought limited parking at one point, but a tie vote on the question forced them to abandon the issue. Mr. Simpson said that he believes that the petitioner and the neighborhood have done an excellent job of balancing the needs of the Signature Club and the concerns of the residents, and he requested approval.

Citizen Opposition: Mr. Sallee stated that the staff had received a letter of opposition from Gail and Jack Musgrave, residents Brookhill Circle. He circulated that letter to the Commission members, and entered it into the record of the hearing.

Will Burchfield, 808 Raven Road, stated that his property adjoins the subject property, near the pool area. He believes that the Planning Commission should disapprove this request, due to the Signature Club's overflow parking problems. The petitioner is not equipped to handle the number of cars that sometimes result from events at the facility. Mr. Burchfield estimates that all of the club's facilities combined could hold approximately 1,150 people, and there simply is not adequate parking for all the vehicles. The petitioner did, at one point, offer shuttle service, but it was discontinued after a year. The valet service is still offered, but there are no close off-site facilities available for overflow parking.

Mr. Burchfield said that Raven Road is a narrow, winding street, and the presence of cars parked along the street presents a danger to its residents. Drivers are not able to see to exit their driveways, and emergency vehicles cannot navigate the narrow street between all the parked cars. Mr. Burchfield stated that he does not necessarily oppose the restaurant being opened to the public, but he does not believe that the petitioner has made adequate provisions for the additional parking that will be generated once the restaurant's business increases.

Jean Keating, 820 Raven Road, stated that she can see and hear the activity at the Signature Club from her home. She said that she is not only concerned about overflow parking at the club, but about its increased commercial presence in the neighborhood. The neighbors do not care whether the people who use the club's facilities are members of the club or outside customers, but they are concerned about the amount of light and noise generated by the activities there.

Ms. Keating stated that she does not agree that large events at the club are limited to six times a year. Several years ago, the residents of Raven Road attempted to have limited parking signs installed, with the help of Councilmember Linda Gorton. The Division of Traffic Engineering informed the residents that they would need to provide at least 10 signatures in favor of restricted parking, and they did so. While they were going through the process, however, the Engineering staff changed, and the required traffic study was never performed. Therefore, parking still remains an issue on Raven Road.

Ms. Keating added that she is concerned that, should the subject property be rezoned to B-1, the noise and light ordinances will no longer apply. She is also concerned that the neighborhood's covenants with the petitioner will not be enforced.

Petitioner Rebuttal: Mr. Simpson stated that the petitioner's shuttle service had been discontinued, because attendance at the club had dropped and it no longer supports the expense. With regard to Mr. Burchfield's comments, he noted that the club's membership is significantly smaller than the 1,100 people that he proposed could be in attendance at any one time.

Mr. Simpson stated that the residents of Raven Road are free to re-vote on the parking issue, and re-start the process to restrict parking. He said that the petitioner cannot force patrons of the club to use the shuttle service or valet parking, although they do encourage members not to park on the street. The petitioner contends that they have done everything within their control to satisfy the neighbors' concerns, and would request the Planning Commission's approval of this application for rezoning.

Staff Rebuttal: Mr. Sallee stated, with regard to Ms. Keating's comments, that the noise ordinance will apply to the Signature Club, whether or not the property is rezoned as requested.

Commission Questions: Ms. Copeland asked if there is a light pollution ordinance in place. Mr. Sallee answered that there is not, but there is a general prohibition throughout the Zoning Ordinance of commercial lighting aimed toward residentially zoned

properties. Ms. Copeland asked if it would be possible for the Planning Commission to facilitate the Raven Road residents' attempts to obtain restricted parking. Mr. Saltee responded that the Planning Commission has no leverage on that issue. Ms. Copeland stated that she is concerned that, due to the complicated nature of that process, the residents will not be able to succeed in getting restricted parking without help from the Planning Commission.

Mr. Owens asked what the seating capacity of the restaurant and bar area is. Mr. Saltee stated that the restaurant's off-street parking is based on the building's square footage, and the plan preparer mentioned at the Subdivision Committee meeting that the higher of the two ratios was square footage versus seating. Therefore, the seating capacity was unknown to the staff. Mr. Simpson answered that the seating capacity is 147.

Mr. Penn stated that he would like to encourage the Raven Road residents to work with their councilmember to resolve the parking problems.

Zoning Action: A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 10-0 (Day absent) to approve MAR 2009-4, subject to the proposed conditional zoning restrictions, and changing the words "Lansdowne Club" to "Signature Club" in the first finding for approval, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 10-0 (Day absent) to approve ZDP 2009-15, subject to the 15 conditions as listed on the agenda, adding a new condition #16, to read: "Addition of conditional zoning restrictions."

Commission Comment: Ms. Roche-Phillips noted that she would like to commend the petitioner and the Lansdowne Neighborhood Association for working together so well to reach an agreement on this zone change request.

Mr. Carneal stated, with regard to Ms. Keating's comments, that the neighborhood's restrictive covenants address lighting and noise mitigation.

Note: Mr. Brewer and Mr. Holmes left the meeting at this time.

C. PUBLIC HEARING ON ZONING ORDINANCE TEXT AMENDMENT REQUEST

1. **ZOTA 2009-3: AMENDMENT TO ARTICLE 17 TO ALTER ALLOWABLE SIGNAGE IN AND NEAR DOWNTOWN** - petition for a Zoning Ordinance text amendment to expand the allowable signage in the downtown business zones, in some mixed use zones, and to relocate all sign regulations to Article 17.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: (Copies of the latest draft for this text are available upon request)

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

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

1. These text changes are in complete agreement with the first two themes of the adopted 2007 Comprehensive Plan:
 - Promoting the myriad components that strengthen the viability of downtown, including professional and commercial uses, cultural and recreational activities, and new and existing housing.
 - 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.
2. These changes have been reviewed and encouraged by representatives of the Downtown Development Authority, the Downtown Lexington Corporation, and downtown developers. The adoption of these changes is justified for that reason.
3. These changes are a timely update to the sign ordinance, and will result in the first comprehensive update to the allowable downtown signage in nearly a decade, and to that permitted in commercial areas within the Infill & Redevelopment Area since its inception.

Staff Presentation: Ms. Wade presented the staff report, noting that Article 17 was last amended approximately 10 years ago. At that time, the changes to the Ordinance were reflective of a mayoral task force that made some recommendations for downtown revitalization. Over the past few months, the staff has been working with the Downtown Development Authority, the Downtown Lexington Corporation, several downtown developers, and Mayor Newberry's administration to draft some general changes to the sign ordinance for downtown. The proposed changes are designed to encourage retail and entertainment activity downtown; increase vehicular and pedestrian visibility for signage; help create a more interesting and vibrant downtown; allow businesses to be more easily recognized by patrons; encourage creativity and artistic expression; and relax the signage restrictions. A secondary purpose of the proposed changes is to move all of the signage regulations into Article 17, as several changes have occurred in other sections of the Zoning Ordinance within the past decade or so. Consolidating all of the signage regulations into Article 17 will make it easier for the Division of Building Inspection to oversee the administration of the Ordinance.

Ms. Wade stated that one of the major purposes of the proposed changes to Article 17 is to allow projecting signs in the downtown area. Projecting signs were removed from the downtown area approximately 40 years ago, mostly as a result of urban renewal projects. The result was a "cleaner" downtown, but also a loss of visibility for some businesses, as well as a loss of the vibrancy that is typical of most downtown areas. The proposed changes to Article 17 would allow projecting signs of up to 50 square feet in size, mounted to the building at a height between 10 and 30 feet. Projecting signs may not block or interfere with windows, doors, wall signs, or other architectural features, and flashing or blinking signs will still be prohibited.

Another proposed change to Article 17 would be to allow menu boxes in the downtown area, which the Planning Commission discussed at their work session in relation to the World Equestrian Games. Menu boxes are designed to allow restaurants to display their menus to pedestrians. The Zoning Ordinance would currently allow a menu box through an interpretation by the Division of Building Inspection, but the proposed change would allow that specific sign type, with four square feet in which to display a menu.

Ms. Wade stated that the proposed changes would also allow above-canopy signs. She displayed several photographs of examples of above-canopy signs. There have been several Board of Adjustment cases over the past five years that requested that type of sign, as it is becoming more popular. The staff believed that that sign type is now appropriate for the downtown area, as well as other locations in the community.

Also proposed for change in the downtown business zones is the size of canopy signs. These will be allowed to cover up to 20% of the canopy face. Canopy signs are currently limited in size to a maximum of 15% of the canopy face.

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

Ms. Wade said that the last change proposed is to allow painted wall signs, which have been prohibited downtown for approximately 40 years. Wall signs would be allowed to be painted on the building, although the common practice is to paint the sign onto some other surface and attach it to the building. Those signs will be required by Article 17 to be repainted or resurfaced on a regular basis.

With regard to signage outside of the downtown zones, Ms. Wade stated that a change is proposed to allow projecting signs in the B-1 zone, up to 50 square feet in size, in lieu of a freestanding sign. The staff added some criteria so that projecting signs will only be allowed in appropriate B-1 areas, such as: where buildings are located within 10 feet of the property line, and within the Infill & Redevelopment area. In some such instances, there may not be enough room in front of the building to allow for a freestanding sign, so a projecting sign could be more effective. The staff has also proposed to allow menu boxes and above-canopy signs in the B-1 zone. Above-canopy signs would be required to be counted as a portion of the size of any wall sign on the property.

Ms. Wade stated that other changes proposed with this text amendment are to allow pole-mounted banners in some of the zones that may be located next to a mixed-use zone, such as the R-3 or R-4 zone, as a conditional use when accessory to a mixed-use project. Pole-mounted banners would also be allowed in the B-3, B-4, I-1, and I-2 zones, when displayed in parking lots accessory to a mixed-use project.

The staff is also proposing a change to the Ordinance in order to calculate the area of a three-dimensional sign, such as the one located at the bowling alley on Southland Drive. This calculation will allow for much easier regulation of the signs, and will apply to freestanding and / or projecting signs. Ms. Wade stated that the staff has also proposed to add definitions to the Ordinance for landmark sign; district identification sign; menu box; above-canopy sign; and monument sign, which are low-lying free-standing signs and are often seen in the P-1 zone, where sign height is limited to 10 feet.

Ms. Wade said that one of the other changes that came out of the staff's work with the various downtown groups was a change to the definition of how works of fine art can limit signage. The staff determined that art on a sign should be allowed, and should not count against an applicant in terms of sign size limitations.

One of the major proposed changes to the sign ordinance involves the definition of a landmark or district identification sign. These signs would be permitted in all zones, and would allow signage above and beyond what is typically permitted by the Ordinance. Landmark and district identification signs would be reviewed by a sign committee, which would be a group of five individuals appointed by the mayor, including: the Commissioner of Public Works and Development, an architect, and a building inspector. Ms. Wade said that the proposed Ordinance includes the following criteria for landmark and district identification signs: the sign must exhibit distinctive stylistic features and unusual materials; be an example of artistic design and skilled craftsmanship; and be a significant part of the architectural or cultural history of the community. Ms. Wade said that an excellent example of an area that would be appropriate for such a landmark sign would be the proposed Distillery District area.

Another proposed change will correct a reference to Article 28 that is currently in Article 8-21 for adaptive reuse projects. The staff wanted to ensure that that reference points to Article 17.

Ms. Wade stated that there has been concern recently about the Courthouse Area Design Review Board, and their duties in reviewing signs. There has been some confusion between the CADRB and the Division of Building Inspection, so the Board and their staff member agreed unanimously to give up the ability to review signs. A change has therefore been proposed to the Ordinance to allow an applicant to go straight to Building Inspection for sign approval within the Courthouse Area Overlay zone.

Ms. Wade noted that there was a small error in the staff's draft of the text, and it should be clear that the entire sub-section 17-7(h)(4) for canopy and awning signs is new and should appear as follows in the text changes proposed:

(4) Canopy or awning signs shall be permitted in lieu of allowable wall signs, not exceeding twenty percent (20%) of the face of the canopy or awning. Under canopy or under awning signs shall be permitted and limited to identification signs. Above canopy signs shall be permitted and limited to the percentage allowable for wall signs.
(re-number remaining sections)

Ms. Wade stated that she had contacted three sign professionals, and sent them a draft of the proposed text. She received one response, from a company whose main type of signs is inflatable and balloon advertising. The owner of the company would like to have text added to the Ordinance to specifically allow inflatable signs. The Ordinance does not explicitly state that inflatable signs are not allowed, but it has some restrictions that Building Inspection interprets as not allowing them. The owner of that company did not have an opinion about the proposed text, but did draft a letter to Councilmember James requesting that inflatable signs be permitted. The other two sign professionals that Ms. Wade contacted did not provide written comments on the text, but one did inquire about electronic message boards, particularly for restaurants, in place of the typical reader boards.

Ms. Wade stated that the staff and the Zoning Committee recommended approval of the proposed changes to the Zoning Ordinance, for the reasons as listed in the staff report and on the agenda.

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

Commission Questions: Ms. Copeland asked if it would be possible to place menu signs on bollards. Ms. Wade answered that it could be permitted as a temporary sign, or a menu could be placed on an A-frame or sandwich board sign.

Mr. Vaughn asked if a business located in an H-1 overlay zone would need the approval of the Board of Architectural Review, or the new proposed sign committee, or both. Ms. Wade answered that she believed that the applicant would need to go to both bodies, but the committee would not be able to overrule the BOAR.

Action: A motion was made by Ms. Copeland, seconded by Ms. Whitman, and carried 8-0 (Brewer, Day, and Holmes absent) to approve ZOTA 2009-3, for the reasons provided by the staff, and adding the change as Ms. Wade explained earlier.

Note: Ms. Roche-Phillips left the meeting at this time.

VI. COMMISSION ITEMS

- A. **PFR 2009-2: FAYETTE COUNTY PUBLIC SCHOOLS CASSIDY ELEMENTARY SCHOOL RENOVATION** – Requests a Public Facilities Review for the proposed renovations to Cassidy Elementary School, located at 1125 Bates Creek Road. (Council District 5)

The Staff Recommended: **Approval**, based on the following summary findings: There are no Goals or Objectives or text of the Comprehensive Plan that are in opposition to expansion of Cassidy Elementary or the addition of parking for the school. The Land Use Element of the Plan recommends that the property be used for Public Education purposes, recognizing its historic use as a public elementary and a public middle school and indicating a desire for it to remain as such. The text of the Comprehensive Plan, including both the Land Use Element and the Community Facilities chapter, support the project, as do several Goals and Objectives.

Staff Report: Ms. Rackers presented the staff report, briefly orienting the Commission to the location of the subject property. She noted that there was no representative for Fayette County Public Schools present at the hearing today.

Ms. Rackers stated that the subject property is zoned R-1C, and it helps to form the western edge of the Chevy Chase neighborhood. The Cassidy Elementary School portion of the site is approximately 3.7 acres in size, and the whole site is 11.3 acres in size. Fayette County Public Schools proposes to add just over 19,000 square feet to the existing building, which is just less than 55,000 square feet in size, for a total of approximately 74,000 square feet. Access to the property is currently located on Bates Creek Road and Cassidy Avenue, and FCPS proposes to add a new access on Hart Road. Ms. Rackers stated that FCPS also proposes to add two parking areas, including 16 parking spaces for use by the adjacent Morton Middle School.

Ms. Rackers stated that the 2007 Comprehensive Plan recommends Public Education land use for the subject property, which is in recognition of the current and historic use of the property for an elementary and middle school. Public Education is a land use category which includes all public school facilities, including central offices and accessory facilities. Cassidy and Morton Schools have been located on the subject property at least since the early 20th century. FCPS has been planning to renovate Cassidy Elementary School for several years, and the renovation was discussed in the 2007 Comprehensive Plan. Everything is in place to begin the construction for the renovation, but FCPS cannot obtain a permit for any construction until the Planning Commission has heard the Public Facility Review.

Ms. Rackers said that FCPS is proposing to totally renovate the school, while maintaining the existing architecture. They propose to construct a two-story addition, with classroom and office space, as well as a one-story stage area. FCPS also proposes to enclose the building's existing mechanical area as part of the renovation. Other outdoor improvements proposed include: seating at the front and rear of the school, a new preschool playground and an underground detention area at the front of the building. The FCPS Planning Committee has assessed the building condition of Cassidy Elementary as "poor to fair." One of the goals of that committee is to provide "safe, comfortable, and aesthetically pleasing state-of-the-art facilities" for their students. Based on that goal, and the assessment of the building condition, it appears that total renovation is warranted. The staff found no information in the Comprehensive Plan that it is in opposition to this request, and there are no neighbors in opposition. Ms. Rackers stated that there are four Goals and 16 Objectives that in support of this request and requested the Commission's favorable consideration, for the reasons as listed in the staff report and on the agenda.

Action: A motion was made by Ms. Richardson, seconded by Mr. Penn, and carried 7-0 (Brewer, Day, Holmes, and Roche-Phillips absent) to accept PFR 2009-2, for the reasons provided by staff.

VII. STAFF ITEMS – No such items were presented.

- 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.

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

IX. MEETING DATES FOR APRIL, 2009

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	April 2, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	April 2, 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 9, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 16, 2009
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 23, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	April 29, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 30, 2009

X. ADJOURNMENT – There being no further business, Chairman Vaughn declared the meeting adjourned at 5:38 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

TLW/TM/JWE/BJR/BS/src

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