

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

April 23, 2009

- I. **CALL TO ORDER** – The meeting was called to order at 1:35 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Marie Copeland; Mike Cravens; Neill Day (arrived at 1:50 p.m.); Ed Holmes; Mike Owens; Frank Penn; Randall Vaughn, Chair; and Joan Whitman (arrived at 1:45 p.m.). Absent were Patrick Brewer, Carolyn Richardson, and Lynn Roche-Phillips.

Planning staff present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Christopher Taylor; and Stephanie Cunningham. Other staff members present were: Rochelle Boland, Department of Law; Captains Allen Case and Charles Bowen, Division of Fire and Emergency Services; Hillard Newman, Division of Engineering; and Bob Carpenter, Division of Building Inspection.

II. **POSTPONEMENTS AND WITHDRAWALS**

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

- a. MAR 2008-23: THOMAS & CORBETT, LLC (4/23/09)* - petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 7.19 net (9.60 gross) acres, for property located at 1060-1097 Bridlewood Lane, 5200-5205 Tykes Pass, 5121 Middleton Place and 5397 Tate's Creek Road.

LAND USE PLAN AND PROPOSED USE

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

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

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

1. The existing Single Family Residential (R-1C) zoning, with conditional zoning restrictions, is in agreement with the 2007 Comprehensive Plan.
 2. The existing R-1C zone is more appropriate than an R-3 zone for the subject property, for the following reasons:
 - a. The existing pattern of residential development in the immediately surrounding neighborhoods is well below 4.0 dwelling units per gross acre.
 - b. The predominant zoning designation in this portion of the Tate's Creek Road corridor is R-1C.
 - c. R-1C zoning is much more common along the edge of the Urban Service Area than R-3, as there has been a consistent and historical precedent for lower density residential development along this boundary for decades.
 3. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in early 2007 that would support an argument for R-3 zoning for the subject property.
- b. ZDP 2008-109: THE RESERVE AT TATES CREEK (AMD.) (4/23/09)* - located at 1060-1097 Bridlewood Lane, 5200-5205 Tykes Pass, 5121 Middleton Place and 5397 Tate's Creek Road. **(EA Partners)**

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

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

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

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscape buffer.
5. Urban Forester's approval of tree inventory map.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Depict the tree canopy information on plan.
8. Denote the square footage in the site statistics information and dimension units (including number of stories).
9. Denote compliance with floor area ratio requirements (townhouse portion).
10. Resolve existing conflict with the proposed townhouses and platted easements.

Petitioner Representation: Rory Kahly, EA Partners, was present representing the petitioner. He requested an indefinite postponement of this item.

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

Commission Question: Chairman Vaughn asked if anyone present wished to discuss this request for postponement. There was no response.

Action: A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 6-0 (Brewer, Day, Richardson, Roche-Phillips, and Whitman absent) to indefinitely postpone MAR 2008-23 and ZDP 2008-109.

2. JOE MOORE ZONING MAP AMENDMENT & FAMILY CENTER UNIT 1-B, LOT 9, ZONING DEVELOPMENT PLAN

- a. MAR 2009-5: JOE MOORE (6/11/09)* - petition for a zone map amendment from a Highway Service Business (B-3) zone to a Wholesale & Warehouse Business (B-4) zone, for 1.280 net (1.342 gross) acres, for property located at 2001 Family Circle.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 2) recommends Warehouse and Wholesale (WW) future land use for the subject property. The petitioner proposes maintaining the existing building and off-street parking configuration, and changing the use of the property to that of a general contractor's shop of special trade.

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

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

1. The requested Wholesale and Warehouse Business (B-4) zone for the subject property, and the use proposed for this site, are in agreement with the 2007 Comprehensive Plan, which recommends Warehouse and Wholesale (WW) land use at this location.
 2. This recommendation is made subject to the approval and certification of ZDP 2009-25: Family Center, Unit 1-B, Lot 9, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. ZDP 2009-25: FAMILY CENTER, UNIT 1-B, LOT 9 (6/11/09)* - located at 2001 Family Circle.

(Vision Engineering)

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

1. Provided the Urban County Council rezones the property B-4; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscape buffer.
5. Urban Forester's approval of tree inventory map.
6. Depict property boundaries as solid lines.
7. Addition of building dimensions.
8. Addition of typical parking space and drive aisle dimensions.
9. Addition of adjacent property owner's information.
10. Addition of the cul-de-sac detail.
11. Remove previous property line between parcels 1 and 6.
12. Clarify office and warehouse floor area in site statistics.
13. Addition of topographic information.

Staff Comments: Ms. Wade stated that the staff had received written notification (distributed at this meeting to the Commission members) from the property owners that they would like to rescind their permission for this property to be rezoned. She noted that the application could not be heard by the Planning Commission without the owners' permission. Therefore, Ms. Wade requested an indefinite postponement of this rezoning request and the associated development plan. The petitioner has informed the staff that he believes that the situation may be corrected at some point, and should that occur, this application could be brought before the Commission at that time.

Commission Question: Chairman Vaughn asked if anyone present wished to discuss this request for postponement. There was no response.

Action: A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 6-0 (Brewer, Day, Richardson, Roche-Phillips, and Whitman absent) to indefinitely postpone MAR 2009-5 and ZDP 2009-25.

- 3. ZOTA 2009-1: AMEND ARTICLE 9 : GROUP RESIDENTIAL PROJECTS** - petition for a Zoning Ordinance text amendment to Article 9 to simplify existing regulations regarding open space and yard setbacks, and to provide for pedestrian accommodations and bicycle parking.

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

INITIATED BY: Urban County Planning Commission

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

The Zoning Committee Recommended: **Postponement**.

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

1. The proposed text amendment to Article 9 of the Zoning Ordinance, which regulates Group Residential Projects, will allow for more appropriately scaled and designed Group Residential Projects by reducing the required Project perimeter yards, allowing indoor recreational facilities to meet open space requirements, requiring adequate pedestrian connections, limiting over-building of surface parking and requiring bicycle parking spaces.
2. These changes will allow for slightly more dense development of our urban land without compromising open space and recreation amenities that benefit the residents of such Projects.
3. The proposed amendments to Article 9 will simplify Group Residential Project regulations for those designing townhouse and apartment development plans, as well as for the Planning Commission and the LFUCG staff who administer the Zoning Ordinance.

Staff Comments: Ms. Wade stated that the staff believes that they will be prepared to make a full presentation on this text amendment to the Commission at their May 28th meeting, and she requested a one-month postponement of this item. She noted that the staff intended to re-notify all the registered neighborhood associations of the new proposed changes to this text.

Commission Question: Chairman Vaughn asked if anyone present wished to discuss this request for postponement. There was no response.

Action: A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 6-0 (Brewer, Day, Richardson, Roche-Phillips, and Whitman absent) to postpone ZOTA 2009-1 to the May 28, 2009, Planning Commission meeting.

- III. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 2, 2009, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Mike Cravens, Mike Owens, Marie Copeland and Carolyn Richardson. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Denise Bullock, Chris Taylor, Tom Martin, Traci Wade, Barbara Rackers, Jimmy Emmons, Cindy Deitz and Frank Boateng, as well as Rochelle Boland, Department of Law; and Capt. Charles Bowen and Capt. Allen Case, Division of Fire & Emergency Services. 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.

Note: Ms. Whitman arrived at this time.

- A. **DP 2009-13: BROOKHAVEN PLAZA, LOTS 1, 2 & 4 (AMD.) (5/14/09)*** - located at 2467 Nicholasville Road.
(Council District 10) **(Eagle Engineering)**

Note: The Planning Commission postponed this plan at its March 12, 2009, and April 9, 2009, meetings. The purpose of this amendment is to add a restaurant, and rearrange and relocate parking on lots 1, 2 and 4.

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding the relationship of off-street parking between the subject site and the adjoining property.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Solid Waste's approval of refuse collection.
7. Addressing Office's approval of street names and addresses.
8. Addition of soil floodplain information from previous plan.
9. Addition of reciprocal parking and access to general notes for lots 3A-4.

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10. Addition of floor area information for building 4.
11. Clarify interior landscape areas.
12. Clarify P-1 and B-1 building use and parking requirements.
13. Resolve adjoining property access, solid waste provision and off-street parking.

Staff Presentation: Mr. Martin began the staff's presentation by noting that this amended plan had been postponed by the Commission at its April 9th meeting. He briefly oriented the Commission to the location of the subject property on Nicholasville Road, south of Pasadena Drive and across Nicholasville Road from the existing Rally's restaurant.

Note: Mr. Day arrived at this time.

Mr. Martin presented a rendered version of the development plan, and a rendered version of the latest approved development plan for these four lots. He stated that the site covered by this plan has proposed a total of just over 28,000 square feet of buildable area. The area proposed for amendment is a 6,000 square-foot building addition, with associated parking. Approximately 2,400 square feet of the building is currently occupied by a Papa John's pizza restaurant. The applicant proposes to renovate a portion of the building to accommodate a sit-down hamburger restaurant, and to revise a portion of the parking. Mr. Martin displayed the currently approved development plan, and noted that the only physical change proposed on the amended plan is to a small portion of the off-street parking area on Lots 1 & 2.

Mr. Martin stated that the subject property is divided into four lots. Lot 4 is a flag-shaped lot, with a small portion that extends past lots 1, 2, and 3. Lots 1 and 2 are the subject of the amendment before the Planning Commission today.

Mr. Martin said that this development plan was reviewed by the Subdivision Committee, which recommended referral to the full Commission, due to questions about the relationship of off-street parking between the subject and adjoining properties. That concern is reflected in condition #13, as listed on the agenda. On the plan that was originally submitted, the applicant proposed a change to the parking area that did not coincide with field conditions that exist today. Subsequently, the applicant submitted this amended plan, which no longer includes Lot 4 as part of the amendment. Mr. Martin stated that the staff is recommending approval of this plan, with the 12 conditions as listed on the agenda, and including a new condition #13, to read: "Relocate the proposed parallel parking space on lot 2 to the proposed landscape island area." He identified this proposed space on the rendered plan, and the preferred location on the site. He noted that the title of the plan refers to Lots 1, 2, and 4, but Lot 4 is no longer a part of this amendment.

Commission Questions: Ms. Copeland complemented the staff's renderings of the two development plans, and asked if Lots 1 and 2 have the same owner. Mr. Martin answered that those two lots are owned by the same person, and the lots have always functioned in conjunction with one another. Ms. Copeland asked where the dumpster is proposed to be located on the amended development plan. Mr. Martin identified the proposed location on the rendered plan. Ms. Copeland asked if that location is satisfactory to the Division of Solid Waste staff. Mr. Martin replied that the dumpster location is adequate, but could possibly be improved. The Division of Solid Waste staff intends to more fully review that situation through their sign-off on this plan. Ms. Copeland asked why the applicant "turned around" the proposed parallel parking area. Mr. Martin answered that the applicant would need to answer that question, but he believed that that change may have something to do with the removal of Lot 4 as part of the amendment to the plan. Ms. Copeland asked if the vehicular landscape area as depicted on the rendering extends into Lot 4. Mr. Martin agreed that it may extend somewhat into Lot 4. Ms. Copeland asked if the owner of Lot 4 had approved that situation. Mr. Martin responded that that landscape area could not be altered on Lot 4 without the owner's approval. He added that that situation currently exists on the site, and noted that condition #11 would require clarification of the interior landscaping as depicted on this plan. Ms. Copeland asked if the owner of Lots 1 and 2 may be trying to use that landscape area as a buffer. Mr. Martin answered that there is no required landscape buffer between these properties, since they have the same zoning; but the landscape area included on the plan is the typical Vehicular Use Area screening that is required by Article 18 of the Ordinance.

Mr. Cravens asked why the angled parking depicted on the originally submitted plan had been reversed on this submission. Mr. Martin replied that the applicant would need to answer that question, as he was unsure of their motivation for that change.

Petitioner Representation: Jason Banks, Eagle Engineering, stated that he was present representing the petitioner. He said, with regard to the questions from Ms. Copeland and Mr. Cravens, that the angled parking that was depicted on the original plan had been changed at the request of the owners of the proposed sit-down restaurant, in order to provide for a better traffic flow through the site.

Mr. Banks stated that the petitioner is in agreement with the staff's recommendations, including the first 12 conditions for approval and the new condition #13 proposed.

Audience Comments: Sam Carneal, attorney, stated that he was present representing the owners of Lot 4 (Autosound) of the (L.T. Berry) subdivision. He said that those owners do not have an opinion to express on the amended development plan, but he would like to note for the record that they would have some concerns if the applicant ever proposes an amendment that would affect Lot 4 of the (Brookhaven) subdivision. There is a 30-year-old, recorded easement that has never been reflected on any of the development plans approved for that property, and the owners of Lot 4 (Autosound) of the (L.T. Berry) subdivision are concerned that any proposed change to their portion of the property may affect that easement.

Commission Question: Mr. Penn asked if any of the proposed changes to Lots 1 and 2 would affect Lot 4. Mr. Carneal answered that his clients' main area of concern is the garage bay door area of the Autosound building, which may impact the platted access easement. He said that, as long as this plan solely reflects the previously approved development plan for Lot 4, and Lot 4 is not proposed for amendment, his clients do not intend to express an opinion.

Steve Wilson, attorney with Stidham and Associates, stated that he was present representing the owners of Lot 4 of the (Brookhaven) subdivision. He noted that the access easement in question was never properly indexed in the grantor index, which might explain why it was never recorded on a plat. Only the owner of the Autosound lot would have been able to find the easement through a title search of that property, as it is recorded in the grantee index.

Commission Question: Ms. Copeland asked if the Division of Traffic Engineering staff reviewed the proposed egress for the site. Mr. Martin answered that those staff members had received a copy of the proposed amendment to the plan, and had reviewed it. The Division of Traffic Engineering will be required to sign off on the plan.

Motion: A motion was made by Mr. Penn and seconded by Mr. Cravens to approve DP 2009-13, with the first 12 conditions as listed on the agenda, and including a new condition #13 to read: "Relocate the proposed parallel parking space on lot 2 to the proposed landscape island area."

Legal Comment: Ms. Boland noted that it would be appropriate for Mr. Penn's motion to include changing the title of the plan to delete Lot 4. Mr. Penn amended his motion to delete Lot 4 from the title of the plan, to which Mr. Cravens concurred.

Action: Mr. Penn's motion was carried, 8-0 (Brewer, Richardson, and Roche-Phillips absent).

IV. ZONING ITEMS - The Zoning Committee met on Thursday, April 2, 2009, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members 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)

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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.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS

1. **ZOTA 2009-4: AMEND ARTICLE 6 TO EXPAND THE PLANNING COMMISSION'S AUTHORITY TO REVIEW VARIANCES AND CONDITIONAL USE PERMITS AT THE TIME OF RE-ZONING** - petition for a Zoning Ordinance text amendment to Article 6 to extend the Planning Commission's ability to review variances and conditional use permits at zone change public hearings.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Note: ~~Text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 6—AMENDMENTS

~~6-4(c)~~ **CONDITIONAL USES AND VARIANCES ALLOWED AT THE TIME OF ZONING** - The Planning Commission may hear and act upon requested conditional uses and variances associated with a zone change ~~within the defined Infill and Redevelopment Area~~. If the Planning Commission should choose to hear a conditional use or variance request, the Planning Commission shall have all of the powers and responsibilities of the Board of Adjustment, as defined in Articles 7-6(a) and 7-6(b) of the Zoning Ordinance. All conditional use and variance applications shall be acted upon by the Planning Commission within ninety (90) days from the date of the application, unless postponed further by the applicant.

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

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

1. The rationale for allowing the Commission to review more of these types of applications is that it can be a substantial time-saver to applicants on a tight timeline for a particular project. By combining the steps in the approval of a development project if variances or conditional uses are requested in conjunction with a zone change, up to 60 days or more can be saved near the end of the timeline otherwise required for all local development approvals.
2. KRS 100.203(5) states that the Zoning Ordinance "may empower the planning commission to hear and finally decide applications for variances and conditional use permits when a proposed development requires a map amendment and one (1) or more variances or conditional use permits" if proper notification is given to property owners in the area. Such a mailed notification is already the standard practice in Lexington-Fayette County.

Staff Presentation: Mr. Sallee presented the staff report, noting that this proposed text amendment had been initiated by the Planning Commission in February. The proposed text would eliminate one phrase that currently exists in Article 6-4(c), and would give the Planning Commission the ability to review dimensional variance and conditional use requests at the time of considering a zone change on a piece of property. The Commission currently has the ability to review such requests in the defined Infill and Redevelopment Area, which comprises approximately 10 square miles of the 83 square-mile Urban Service Area, which is centered upon the downtown area. The proposed text change would allow the Planning Commission to consider these types of applications on any zoning map amendment request.

Mr. Sallee stated that this provision is based on the law which governs all planning commissions in the state of Kentucky. It is included in a section of KRS 100 which was added just over 10 years ago, and it has been adopted by some planning commissions across the state. The Planning Commission here, however, was initially reluctant to allow this procedure in Fayette County. In the early part of this decade, when the Planning Commission adopted the first set of text amendments to adopt infill and redevelopment provisions in the Zoning Ordinance, this section was added to the Ordinance to allow the Commission to consider these types of applications in the defined Infill and Redevelopment Area.

Mr. Sallee said that the Zoning Ordinance text amendment request that is before the Planning Commission today is based on a recommendation by a group called Management Partners, which looked at the operations of the Division of Planning and all other areas of the Urban County Government. One of the Management Partners' recommendations was to expand the Planning Commission's authority to review these types of applications throughout the entire Urban Service Area.

On approximately 20 occasions in the past five years, the Planning Commission has reviewed these types of applications in the Infill and Redevelopment area. In all but one circumstance, the application involved a dimensional variance request; only one time, in 2005, has an applicant requested that the Commission also consider a conditional use application along with a zone change. Mr. Sallee said that that accounts for approximately 30% of the total number of zone changes that have been filed in the Infill and Redevelopment Area since this provision of the Ordinance was put into place. The staff believes that 30% may be a good estimate as to the total number of applications that can be expected to request conditional uses or variances if this text change is approved as recommended.

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Mr. Sallee stated that the rationale for making this change is that it can significantly reduce the amount of time that an applicant would need to spend in having their development package reviewed and approved. Currently, an applicant cannot seek relief from the Board of Adjustment until after a rezoning is finalized. That amount of time could be saved through the proposed amendment to the Ordinance without any sacrifice to the notification process for area property owners or the registered neighborhood associations. That notification is already part of the requirements for considering conditional uses and dimensional variances in the Infill and Re-development Area.

The staff, on the day prior to this hearing, had forwarded a supplemental staff report to the Commission members via fax and email. There had been some discussion about this request at the Commission's Zoning Committee meeting three weeks ago, and the supplemental staff report was drafted at the request of the Committee to document those concerns. One of the Committee's concerns had been notification of property owners, so the staff prepared an exhibit detailing the various types of notice that would be required for one of these requests. Mr. Sallee referred to that staff exhibit, noting that one of the examples provided was a copy of a legal advertisement, to demonstrate the wording used for a conditional use or variance request filed in conjunction with a zone change. An applicant who seeks to file such a request will also receive a sample notification letter, which they would need to prepare for mailing to all of the surrounding property owners. That letter would include a section pertaining to the conditional use or variance request, and the applicant would be required to be specific as to the nature of the request. The last two pages of the staff exhibit packet comprised a copy of an actual letter sent to property owners, so the Commission could have an opportunity to review the language utilized for this purpose. Mr. Sallee noted that the nearest neighborhood association would also be notified of any such request, and would receive copies of the application and the justification letter for the conditional use and/or variance.

Mr. Sallee stated that, at the Zoning Committee meeting three weeks ago, the staff recommended approval of this proposed text amendment, as did the Zoning Committee, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Mr. Vaughn asked if the variance information would be listed in bold type in the notification letter. Mr. Sallee answered that that information distributed earlier is written in bold type, and he noted that the staff could modify the example letter to note that as a requirement.

Mr. Holmes asked if the Commission would have the ability to deny a variance or conditional use filed with a zone change, and still approve the rezoning. Mr. Sallee responded that the Commission would have that ability. He said that the staff has, on several occasions, recommended disapproval of one or more variances, while recommending approval of the rezoning request with which it was filed. The staff will continue to provide independent recommendations on the variances and conditional uses, as has been done for zone changes and development plans.

Mr. Penn asked if an applicant would have the ability to appeal the Planning Commission's decision, should they choose to deny a variance or conditional use request. Mr. Sallee answered that a provision of state law allows an applicant to appeal any Planning Commission decision to the Circuit Court within 30 days of the Commission's action. Similarly to the procedure for Board of Adjustment cases, an applicant would be required to wait for one year before they could reapply, following the denial of a conditional use or variance request. If an applicant did not challenge the Commission's denial of such a request to the Circuit Court within 30 days, they would be required to wait for one year in order to reapply for the same request.

Chairman Vaughn asked if any was present wishing to discuss this text amendment proposal. There was no response from those in the audience.

Action: A motion was made by Mr. Holmes, seconded by Ms. Whitman, and carried 8-0 (Brewer, Richardson, Roche-Phillips absent) to approve ZOTA 2009-4, for the reasons as listed in the staff report and on the agenda.

V. COMMISSION ITEMS

A. PFR 2009-3: FAYETTE COUNTY PUBLIC SCHOOLS - RUSSELL CAVE ELEMENTARY SCHOOL – Requests a Public Facilities Review for the proposed renovations to Russell Cave Elementary School, located at 3375 Russell Cave Road. (Council District 12)

Ms. Rackers presented the staff report, briefly orienting the Commission to the location of the subject property on Russell Cave Road just beyond Iron Works Pike. The existing building on the property is slightly less than 37,000 square feet in size. The subject property is zoned A-R, and is surrounded by A-R zoning and agricultural uses. Fayette County Public Schools proposes to renovate 35,000 square feet of the existing school; demolish approximately 1,700 square feet of the existing building; and add approximately 4,900 square feet to the building. Ms. Rackers displayed a rendered graphic of the property, noting the portions of the building slated for demolition and construction.

Ms. Rackers stated that the 2007 Comprehensive Plan recommends Core Agricultural and Rural Land (CARL) use for the subject property, which recognizes its location in the Rural Service Area. It "is the primary category for rural land association with agriculture," and is "characterized by its predominance of use for agriculture." The Rural Land Management Plan states that, "the policy emphasis for land in this category should be for preservation and enhancement of the land for agricultural purposes in order to en-

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sure the continued viability of the local agricultural economy." The subject property is recommended for CARL use, rather than Public Education land use, because the property should be returned to agricultural use if FCPS is no longer using it for a school.

Ms. Rackers said that KRS 100 requires that the staff review this application to determine its compliance with the Comprehensive Plan. The staff found no Goals or Objectives in the Plan that were in opposition to the three Public Facilities Reviews to be reviewed, and noted that the Community Facilities chapter of the Pplan supports these requests. There are four Goals and 12 Objectives that in support of the renovation of Russell Cave Elementary School, which are listed in the staff report. Discussion has been ongoing for several years about the possibility of this renovation, and it is mentioned in the 2007 Comprehensive Plan due to the condition of the school, which was described as "poor to fair." FCPS is prepared to begin construction on the school, but they are required to complete a Public Facilities Review prior to obtaining any building or demolition permits.

With regard to the proposed scope of the project, Ms. Rackers stated that FCPS proposes to renovate the kitchen area, including the replacement of equipment; replace the mechanical systems; upgrade the electrical and fire protection systems; upgrade the septic system; and perform various site improvements and paving. The work is proposed to be done in four principal phases, from June of 2009 through November of 2010. The school is proposed to remain occupied throughout the process.

Ms. Rackers noted that the text of the Comprehensive Plan states that a chief concern of the FCPS Planning Committee is to provide "safe, comfortable and aesthetically pleasing state-of-the-art facilities for students." One of their goals is to develop Fayette County's schools into a world-class school system by 2020. Part of the plans for the school system included the construction of three new elementary schools, which were completed last year. In addition to the new construction, FCPS proposed to renovate two elementary schools and two middle schools, three of which are before the Planning Commission today for Public Facility Reviews. The fourth, Cassidy Elementary School, was approved by the Planning Commission on March 26, 2009.

Ms. Rackers stated that complete renovation of the schools is necessary due to their poor condition, and the staff has recommended approval of this request for a Public Facilities Review, based on the following summary findings:

SUMMARY FINDINGS: There are no Goals or Objectives or text of the Comprehensive Plan that are in opposition to renovation and expansion of Russell Cave Elementary. The Land Use Element of the Plan recommends that the property be used for Core Agricultural and Rural Land purposes, recognizing its use in the A-R zone; and if the FCPS were not exempt from the requirements of the Zoning Ordinance, approval from the Board of Adjustment would be required to expand the school, implying that the Zoning Ordinance recognizes the validity and value of providing schools for academic instruction in the Rural Service Area, as well as in the urbanized portions of the county. The text of the Comprehensive Plan (Community Facilities chapter) supports the project, as do several Goals and Objectives. Therefore, even though the Land Use Element does not recommend the property for Public Education, as is generally the case for existing schools, this request can be found to be in compliance with the Comprehensive Plan.

Ms. Rackers noted that the only condition for approval of this request is that FCPS obtain any necessary permits prior to any demolition or construction on the school property.

Commission Questions: Mr. Penn asked if there would be a need for improved fencing on the property after the expansion of the school, given its close proximity to adjoining horse farms. Maureen Peters, Pearson and Peters Architecture, answered that, due to the school's reliance on a septic system, its footprint will not actually be increased. One portion of the building is proposed to be relocated due to inaccessibility issues, and that amount of floor area will be replaced in a different area. The rest of the site, including the parking and the exterior of the building, will remain unchanged. Mr. Penn asked if the loading dock will be relocated or changed, to which Ms. Peters replied that it will not. She noted that the main purpose of the renovation of Russell Cave Elementary is to upgrade the electrical and mechanical systems, but the site is so constrained that the school cannot actually be expanded.

B. PFR 2009-4: FAYETTE COUNTY PUBLIC SCHOOLS – BRYAN STATION MIDDLE SCHOOL - Requests a Public Facilities Review for the proposed renovations to Bryan Station Middle School, located at 1865 Wickland Drive. (Council District 6)

Ms. Rackers oriented the Commission to the location of the subject property, just off of Eastin Road and west of Bryan Station Road. She said that the subject property is zoned R-1B, and is surrounded by residential zoning and use. Bryan Station Middle School shares its property, which is approximately 40 acres in size, with Bryan Station High School. The existing building is approximately 97,000 square feet in size, and FCPS proposes to add approximately 18,000 square feet of new construction to it. Some parking is proposed to be relocated, due to building construction; and other parking will be converted from traditional parking to handicap spaces, but no change is proposed to the number of parking spaces. FCPS is proposing to completely renovate the interior spaces of the school, and some demolition will be required. They also propose to add classrooms, a band room, a locker room, and administrative space. The proposed site work will consist of new bleachers, utility upgrades, relocation of parking, and additional paving and sanitary sewer work. The work is proposed to be performed in four phases, beginning in June of 2009 and ending in November of 2010.

Ms. Rackers stated that the 2007 Comprehensive Plan recommends the subject property for Public Education land use, which recognizes its use as a public school site and the desire for it to remain so. The discussion about the proposed renovation of

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Bryan Station Middle School has been ongoing for some time, and it was discussed in the 2007 Comprehensive Plan as well. Ms. Rackers said that there are five Goals and 15 Objectives in the text of the Comprehensive Plan that support this request, and nothing in opposition. For those reasons, and because the proposal is in agreement with the Land Use Element of the Plan, the staff is recommending approval of this Public Facilities Review subject to the condition that FCPS obtain any necessary permits prior to any demolition or construction on the site.

Commission Question: Mr. Vaughn stated that the Planning Commission had reviewed a development plan in the general vicinity of Bryan Station Middle School some years ago, and many residents in the area were concerned about the potential for increased stormwater runoff. He asked if FCPS is proposing to add impervious surface to the school site. Ms. Rackers answered that some impervious area is proposed to be added as new roofing, but it is not a large addition of impervious surface. Tony Thomas, architect for Bryan Station Middle School, stated that some of the existing roof area will be removed and replaced, so all of the impervious area will not be new to the site. The engineers for the project have indicated that there may be a 2% increase in post-runoff, which is proposed to be managed by installing a larger line along the Sierra Drive side of the property and a water quality unit, which will catch more water, slow down the rate, and hold any sediment prior to discharging it into the stormwater system. Mr. Thomas said that the engineers were aware that the Sierra Drive area has drainage issues, but they noted that the runoff from the school property is a separate issue, and it should be adequately managed via the water quality unit.

C. PFR 2009-5: FAYETTE COUNTY PUBLIC SCHOOLS – LEESTOWN MIDDLE SCHOOL - Requests a Public Facilities Review for the proposed renovations to Leestown Middle School, located at 2010 Leestown Road. (Council District 2)

Ms. Rackers oriented the Commission to the location of the subject property, on Leestown Road between the Veterans Administration Hospital and the on-ramp to New Circle Road. The subject property is zoned A-U, and is surrounded by I-1 zoning and commercial use to the north; A-U and P-1 zoned land, which is currently vacant, to the south and east; and the VA Hospital, which is zoned A-U, to the west. The existing building is just over 92,000 square feet in size, and FCPS proposes to add 14,614 square feet to the building.

Ms. Rackers stated that the existing Leestown Middle School building was built in 1958, and there have been several additions over the years. FCPS is proposing to completely renovate the building, including replacing the mechanical systems; upgrading the electrical and fire protection systems, and perform other interior and site improvements, including the addition of a kitchen, media center, classrooms, and a new building entry. The construction is proposed to be performed in four phases, from June of 2009 through November of 2010.

Ms. Rackers said that the 2007 Comprehensive Plan recommends Public Education land use for the subject property, and the same Goals and Objectives as those applicable to the Bryan Station Middle School Public Facility Review are applicable to this request as well, which are listed in the staff report. The staff is recommending approval of this request, because it is in compliance with the Land Use Element of the Comprehensive Plan, and the Plan's Goals, Objectives, and text are in support of this request. This approval is subject to the condition that FCPS obtain any necessary permits prior to demolition or construction on the site.

Commission Question: Ms. Copeland asked if any economic stimulus funds were being used for the proposed improvements to these schools. Chris Howard, Carman and Associates, answered that, to his knowledge, no stimulus funds are available for these projects.

Action: A motion was made by Mr. Day, seconded by Ms. Whitman, and carried 8-0 (Brewer, Richardson, and Roche-Phillips absent) to support the staff's recommendation of approval for PFR 2009-3, PFR 2009-4, and PFR 2009-5, for the reasons provided by staff.

VI. STAFF ITEMS – Mr. King stated he would like to remind the Commission that the public hearings will be held on April 30th for the East End and Central Sector Small Area Plans. If time permits, the Commission may review some work session items following those hearings.

Mr. King noted that the staff's activity reports for the month were included on the agenda for the Commission's review, and the Commission members should feel free to ask questions about those activities.

Mr. Vaughn stated that the Red Mile work group meeting on April 21st was well-attended and productive. He noted that that group is made up of business owners, residents, and property owners in the vicinity of the Red Mile. The meeting on the 21st was also attended by Councilmember Henson, as well as several Planning Commission members.

Mr. King stated that that work group meeting was the first in a series of meetings planned for the next three months, in order to identify some concerns, goals, visions, and special problem areas for the Red Mile property. The staff, along with the consultant for the project, made a presentation to the Commission at a recent work session about the Red Mile's intent to develop their property while maintaining the racetrack operation on the site. The staff and the work group are attempting to assist the Red Mile in utilizing this rare opportunity for redevelopment in a very urban setting. The work group was established to "do things differently" from the normal development process, whereby an applicant first approaches the government with formal applications to change the text of the Zoning Ordinance,

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change the zoning of the property, or submit development plans. The owners of the Red Mile agreed to engage the owners of the surrounding properties first and try to identify concerns prior to making a formal proposal for development. Mr. King stated that the idea was well-received, and he believes that the process is off to a great start.

Mr. Vaughn noted that the staff has been working on a Developers' Handbook, a draft copy of which had been placed at each Commission member's space prior to today's meeting. He invited the Commission members to review that document, and provide feedback to the staff.

- VII. **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.

VIII. **MEETING DATES FOR MAY, 2009**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	May 7, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	May 7, 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 14, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 21, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	May 27, 2009
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 28, 2009

- IX. **ADJOURNMENT** – There being no further business, a motion for adjournment was made by Ms. Whitman and seconded by Mr. Penn at 2:37 p.m. The motion carried 8-0 (Brewer, Richardson, and Roche-Phillips absent.)

Randall Vaughn, Chair

Frank Penn, Secretary

TLW/TM/BJR/BS/src