

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

July 23, 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: Marie Copeland; Mike Cravens; Ed Holmes; Mike Owens; Frank Penn, Chair; Carolyn Richardson; and Lynn Roche-Phillips. Absent were Patrick Brewer and Joan Whitman.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Traci Wade; Tom Martin; Cheryl Gallt; and Stephanie Cunningham. Other staff members present were Rochelle Boland, Department of Law; Tim Queary, Urban Forester; Captain Charles Bowen, Division of Fire and Emergency Services; Paul Hockensmith, LFUCG Addressing Department; and Hillard Newman, Division of Engineering.

- II. APPROVAL OF MINUTES** – A motion was made by Mr. Owens, and seconded by Ms. Richardson, to approve the minutes of the June 25, 2009, Planning Commission meeting.

III. POSTPONEMENTS AND WITHDRAWALS

- 1. PLAN 2009-39F: RAMSEY/SULLIVAN PROPERTY, UNIT 3, SECTION 2, LOTS 33-45 (KEARNEY HALL) (AMD) (7/23/09)* - located at Meadowsweet Lane and Kittens Joy Circle. (Council District 12) (Foster – Roland, Inc.)**

Note: The Planning Commission postponed this plan at its May 14, 2009, June 11, 2009, and July 9, 2009, meetings. The purpose of this amendment is to reduce the building line from 20' to 10' on lot 37, reduce the original lotting scheme by one lot, show the release of the street light easement on lot 44 and create an access easement.

The Subdivision Committee Recommended: Postponement. There were questions regarding the conflict between the utilities, access and drainage easements.

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 street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of general notes from previous plan.
10. Addition of street tree schedule notes.
11. Addition of flood protection elevation information from previous plan.
12. Addition of permanent overflow swale note from previous plan or amend as necessary.
13. Addition of access easement dimensions.
14. Correct bearing and distance for lot 44 (eastern property line).
15. Correct Planning Commission certification note.
16. Correct purpose of amendment note (access easement).
17. The 6' street light easement on lot 44 must be released prior to certification of plan.
18. Denote: Street trees shall be planted prior to issuance of Certificate of Occupancy.
19. Remove amended building line from plan.
20. An amended development plan must be certified prior to certification of plan.
21. Addition of private access easement maintenance note per Article 5-4 of the Land Subdivision Regulations.
22. Addition of utilities provided per Article 5-4(e) of the Land Subdivision Regulations.
23. Discuss the access easement and storm and sanitary sewer easement and swale conflicts.

Petitioner Representation: John Hill, Foster-Roland, Inc., was present representing the petitioner. He stated that the petitioner would like to request a two-week postponement of this item.

Staff Comment: Mr. Sallee noted that the Commission's next meeting is scheduled for August 13th, which is three weeks from today's meeting.

Action: A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 7-0 (Brewer and Whitman absent) to postpone PLAN 2009-39F to the August 13, 2009, Planning Commission meeting.

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

2. DP 2009-45: RAMSEY/SULLIVAN (KEARNEY HALL), UNIT 3, SECTION 2, LOTS 1-44 (AMD.) (9/10/09)* - located at Kearney Ridge Lane, Meadowsweet Lane and Kittens Joy Circle. (Council District 12) **(Foster – Roland, Inc.)**

Note: The purpose of this amendment is to revise the unit layout and add building envelopes.

The Subdivision Committee Recommended: Postponement. There were questions regarding the lack of information being provided from the previous plan.

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 all proposed buildings, garages, driveways and private open spaces.
9. Addition of building heights, lot coverage and floor area ratio information.
10. Identify storm water detention locations.
11. Clarify extent of street construction proposed.
12. Addition of name and address for developer.
13. Addition of all notes and information applicable from previous plan.
14. Addition of all proposed building dimensions.
15. Complete site statistics.
16. Correct plan title.
17. Clarify area of amendment.
18. Clarify released street light easement along south property line.
19. Resolve building envelopes and building/easement conflict.

Petitioner Representation: John Hill, Foster-Roland, Inc., was present representing the petitioner. He requested a three-week postponement of this item.

Action: A motion was made by Mr. Cravens, seconded by Ms. Roche-Phillips, and carried 7-0 (Brewer and Whitman absent) to postpone DP 2009-45 to the August 13, 2009, meeting.

Note: Chairman Penn declared a brief recess at 3:10 p.m. The meeting reconvened at 3:21 p.m.

3. ZOTA 2009-1: AMEND ARTICLE 9 : GROUP RESIDENTIAL PROJECTS - a Zoning Ordinance text amendment to simplify existing regulations for group residential projects regarding open space and yard setbacks, and to provide for design guidelines, pedestrian accommodation and bicycle parking.

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 Comment: Mr. Sallee stated that, as the staff reported at the Commission work session one week ago, they are continuing to work on this text amendment. At this time, the staff would like to ask that the Commission postpone ZOTA 2009-1 to their September meeting.

Action: A motion was made by Ms. Copeland, seconded by Ms. Richardson, and carried 7-0 (Brewer and Whitman absent) to postpone ZOTA 2009-1 to the September 24, 2009, Planning Commission meeting.

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

IV. **ZONING ITEMS** - The Zoning Committee met on Thursday, July 2, 2009, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Marie Copeland, Frank Penn, and Joan Whitman. The Committee reviewed applications, and made recommendations on zoning items as noted.

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

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

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

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

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

The procedure for these hearings is as follows:

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

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

1. PAUL V. & JUDY A. PATERNOSTRO ZONING MAP AMENDMENT & CHEVY CHASE SUBDIVISION, UNIT 19, LOT 7 ZONING DEVELOPMENT PLAN

- a. MAR 2009-9: PAUL V. & JUDY A. PATERNOSTRO (9/10/09)* - petition for a zone map amendment from a Two Family Residential (R-2) zone to a Townhouse Residential (R-1T) zone, for 0.21 net (0.24 gross) acre; and from a Planned Neighborhood Residential (R-3) zone to a Townhouse Residential (R-1T) zone, for 0.73 net (0.81 gross) acre, for property located at 310 Romany Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 3) recommends a combination of High Density Residential (HD) (defined as 6-20 dwelling units per gross acre) and Low Density Residential (LD) (defined as 0-4 dwelling units per gross acre) land uses for the subject property. The petitioner proposes to construct six townhouses on the subject property.

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

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

1. The Townhouse Residential (R-1T) zone requested is in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Plan recommends Low Density Residential (LD) land use for about ¼ gross acre of the subject property, defined as 0–4 dwelling units per gross acre.
 - b. The Plan recommends High Density Residential (HD) land use for the remaining ¾ acre of the subject property, defined as 6–20 dwelling units per gross acre.
 - c. Combined on the subject property, these recommendations suggest a minimum of five units and a maximum of 17 dwelling units for the subject property. The applicant proposes six dwelling units on the subject property, at a density of 5.71 units per gross acre, which is within the density range recommended by the Plan at this location.
2. This recommendation is made subject to approval and certification of ZDP 2009-48: Chevy Chase Subdivision, Unit 19, Lot 7, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

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

- b. ZDP 2009-48: CHEVY CHASE SUBDIVISION, UNIT 19, LOT 7 (9/10/09)* - located at 310 Romany Road.
(EA Partners)

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

1. Provided the Urban County Council rezones the property R-1T; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
7. Addition of construction access.
8. Addition of proposed and existing utility easements.
9. Clarify vehicular and pedestrian access (add to legend).
10. Clarify unit square footage.
11. Clarify garage access.
12. Label private open space locations.
13. Division of Fire's approval of emergency access and fire hydrant locations.

Zoning Presentation: Mr. Sallee presented the staff report, noting that the subject property, which is just under one net acre in size, is proposed to be rezoned from R-2 and R-3 to an R-1T zone. The subject property is located immediately north of a large area that is zoned B-1, for a number of businesses and professional offices along Romany Road. The subject property is located immediately south of residential zoning in the Chevy Chase neighborhood. To the north and west of the subject property in the Chevy Chase neighborhood, an ND-1 overlay zone was recently approved by the Planning Commission. That overlay also includes the subject property, which is not proposed to be changed with this rezoning request. The zone map amendment before the Planning Commission today is to rezone the southern half of the subject property from R-3 to R-1T, and the northern half from R-2 to R-1T.

Mr. Sallee referred to the 2007 Comprehensive Plan land use map, and displayed a copy on the overhead projector for the Commission, and noted that there is a mixture of uses recommended in the Duke Road / Romany Road area. That mixture of uses includes Retail Trade and Low, Medium, and High Density Residential uses. Mr. Sallee also displayed aerial photographs of the subject property on the overhead. He noted that three structures are currently located on the subject property: a prominent apartment building, a duplex, and a smaller apartment building. The 2007 Comprehensive Plan recommends Low Density Residential use for the portion of the subject property which currently contains the duplex, and High Density Residential use for the portion of the property with the two existing apartment buildings. There are currently 24 dwelling units on the subject property, which the applicant proposes to remove and replace with six new units. Mr. Sallee stated that the density would be 5.71 dwelling units per net acre. The Comprehensive Plan recommendation is for between five and 17 units at this location, so the zone change request is in agreement with the density recommendation of the Comprehensive Plan.

Mr. Sallee stated that the staff is recommending approval of this rezoning request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin displayed a rendered copy of the corollary development plan, noting the location of the proposed six townhomes around a central courtyard. The petitioner is proposing to provide one access to Romany Road, and an associated parking area. The proposed perimeter yard varies in width from six feet to ten feet. The townhouses are proposed to be two stories in height, with attached garages, and various floor plan configurations.

Mr. Martin noted that the staff has asked the petitioner for clarification with regard to the square footage of the townhouse units; the private open space area; the garage entrances; and the orientation of the units. He said that the Subdivision Committee recommended approval of this plan, with a combination of 13 standard and clean-up conditions. The Committee also recommended that the Division of Fire and Emergency Services have a sign-off on this plan, due to some concerns about the ability of emergency vehicles to access the townhouse units via the common courtyard area. The petitioner has been working with the Division of Fire and Emergency Services to address those concerns.

Commission Questions: Ms. Copeland asked Mr. Martin to clarify the location of the existing sewer line on the subject property. Mr. Martin used the rendered development plan to note the approximate location of that line. The petitioner was aware of the existence of the sewer line, but no easement has been recorded for it, so it will need to be relocated at the time of the construction. A sewer easement must also be dedicated at that location. Ms. Copeland asked how the sewer line could be relocated through the existing adjacent townhouses. Mr. Martin answered that he would have to defer that question to the staff of the Division of Engineering. Ms. Copeland asked if Mr. Martin could note the location of the storm sewer inlet in the area of the subject property. Mr. Martin responded that, at this point, the development plan does not in-

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

clude the location of storm sewers, but the Division of Engineering may also be able to answer that question. Ms. Copeland noted that several of the structures near the subject property have been prone to flooding in the past.

Ms. Roche-Phillips asked how the petitioner proposes to manage stormwater retention on the subject property. Mr. Martin responded that the petitioner has not yet proposed a means for stormwater management. He noted, however, that the Division of Engineering raised the issue during the review of this development plan, and the petitioner will have to demonstrate that that requirement has been met at the final development plan stage.

Ms. Roche-Phillips asked how many units are currently located on the subject property, and how many are proposed. Mr. Martin answered that there are currently 24 units on the property; the petitioner proposes to remove those structures and construct six new units.

Petitioner Representation: Dick Murphy, attorney, was present representing the petitioner. He stated that the proposed rezoning of the subject property is in agreement with the recommendations of the Comprehensive Plan.

Mr. Murphy said, with regard to the concerns about emergency vehicle access to the subject property, that the petitioner has been consulting with the Division of Fire and Emergency Services. Access to the subject property is currently provided by a 10-foot driveway, with no possibility for vehicle turnaround in the rear of the property. The petitioner is proposing to construct a 24-foot-wide access point, with possible parking restrictions, in order to provide turnaround access for emergency vehicles. The petitioner's goal is to create the safest possible situation for the residents.

With regard to the sewer line currently located on the property, Mr. Murphy stated that the petitioner is aware that that line will need to be relocated by the time of the final development plan. He said, with regard to Ms. Copeland's question about flooding on the subject property, that the current owner had been consulted about past flooding incidents and had indicated that the nine-foot basement of the existing apartment building had never been flooded during the time he's owned the property. The petitioner has been considering various options for stormwater management, if it is necessary, including an underground detention system. Mr. Murphy noted that the Planning Commission would have the opportunity to review all of those issues on the final development plan.

Mr. Murphy stated that the petitioner is in agreement with the staff's recommendations, and he requested approval of this request.

Commission Questions: Mr. Holmes asked if parking would be provided in addition to the attached garages. Mr. Murphy responded that each unit is proposed to have a two-car garage, in addition to some guest parking spaces.

Mr. Owens asked if the petitioner intends to create a turnaround for emergency vehicles. Mr. Murphy answered that the petitioner intends to revise the current configuration of the development plan, in order to provide for turnaround access to the rear of the subject property.

Mr. Cravens asked if all of the townhouses are proposed to be attached. Mr. Murphy responded that all six units are proposed to be attached.

Ms. Roche-Phillips asked what the differences are between the R-2 and R-1T zones with regard to density. Mr. Sallee answered that neither zone has a restriction as to the number of units per acre. However, these two zones have very different lot size requirements: in the R-2 zone, the minimum lot size is 7,500 square feet, while the minimum lot size in the R-1T zone is only 1,500 square feet. The R-2 zone requires 30-foot front yards, while the front yard requirement in the R-1T zone is only 10 feet. The side yard requirements for the two zones are slightly different, but not to the same extent as the front yard requirements. Mr. Sallee stated that the R-1T zone, in most instances, requires at least three or more attached units, where the R-2 zone has a two-unit limit. Ms. Roche-Phillips asked if the existing buildings on the subject property are in conformance with the R-2 zoning. Mr. Sallee answered that the duplex is a conforming use, since it is located in the R-2 zone; and the two apartment buildings are located in the R-3 portion of the property, so they can be considered a conforming use as well. Mr. Sallee was not sure that these buildings were non-conforming structures.

Mr. Penn asked if the Commission should add a condition to the development plan with regard to the labeling of the open space. Mr. Sallee answered that the areas have been clearly identified, and they just need to be labeled. Condition #12 will require that labeling.

Citizen Comment: There were no citizens present to comment on this request.

Zoning Motion: A motion was made by Mr. Holmes, and seconded by Ms. Richardson, to approve MAR 2009-9, for the reasons provided by staff.

Discussion of Motion: Mr. Owens stated that he is aware that this proposed rezoning is in agreement with the Comprehensive Plan recommendations for the property, and he is not opposed to it. However, he is concerned that many of the recent developments before the Planning Commission have been on the "low side" of the allowable density. Mr. Owens believes that future developments should attempt to increase density, rather than decrease it, in order to provide more housing.

Ms. Copeland stated that she would vote in favor of this request, but she is concerned about the loss of 24 affordable housing units in a walkable neighborhood. She said that she understands that older buildings may need to be upgraded or replaced, but it is important to **replace** the number of units in the area, rather than reduce the number of housing units.

Zoning Action: Mr. Holmes's motion carried, 7-0 (Brewer and Whitman absent).

Development Plan Action: A motion was made by Mr. Holmes, seconded by Ms. Richardson, and carried 7-0 (Brewer and Whitman absent) to approve ZDP 2009-48, subject to the 13 conditions as listed on the agenda.

2. DENNIS ANDERSON INV 1700, LLC, ZONING MAP AMENDMENT & SHARKEY PROPERTY, UNIT 4, SECTION 2, ZONING DEVELOPMENT PLAN

- a. MAR 2009-8: DENNIS ANDERSON INV 1700, LLC (9/10/09)* - petition for a zone map amendment from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone, for 6.93 net (7.15 gross) acres, for property located at 1700 Leestown Road (a portion of).

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 5) recommends Warehouse and Wholesale future land use for the subject property. The petitioner proposes a Planned Neighborhood Residential (R-3) zone in order to construct a multi-family apartment development with 120 dwelling units, for a residential density of 17.32 units per net acre.

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

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

1. The requested Planned Neighborhood Residential (R-3) zone is appropriate and the existing Light Industrial (I-1) zone is no longer appropriate at this location, for the following reasons:
 - a. Since 2002, Townley Center has more fully developed and its residential character is not compatible with heavy truck traffic that would share the same local street with light industrial uses.
 - b. The subject property has no connection to any adjoining I-1 zoned property, and is oriented more to the Townley Center development. In addition, a heavy vegetative screen already exists along much of the property boundary where it is adjacent to light industrial uses.
 - c. The existing I-1 zone will allow uses that are more intense than those anticipated by the Warehouse and Wholesale future land use recommended by the Comprehensive Plan.
 - d. The proposed apartment complex will contribute to the vitality of the neighborhood by providing additional households to support the nearby Townley mixed-use center.
 - e. The proposed development is consistent with the density of the adjoining residential uses, and will keep the overall Townley development at a density of less than 17 units per acre, which was a benchmark in the Urban County Council's approval of the original zone change request in 2002.
2. The proposed rezoning and development is supportive of several of the 2007 Comprehensive Plan's Goals and Objectives; namely, mixed-use development (Goal 8), integration of a variety of housing types (Goal 14), new development that enhances existing neighborhoods (Goal 16), and encouraging alternative transportation (Goal 19) with its proposed walking trails.
3. This recommendation is made subject to approval and certification of ZDP 2009-47: Sharkey Property, Unit 4, Section 2 prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following landscape buffer is to be provided at this location, via conditional zoning:
 - a. A 25-foot landscape buffer shall be maintained surrounding the Planned Neighborhood Residential (R-3) zone on the southwestern and southeastern property boundaries. That buffer shall include evergreen trees planted every 15 feet on center.

This restriction is appropriate and necessary due to the Town Branch Wastewater Treatment facility on adjacent land to the south of the subject property, in order to minimize any adverse effects of noise and odor emissions on the planned residential development.

- b. ZDP 2009-47: SHARKEY PROPERTY, UNIT 4, SECTION 2 (9/10/09)* - located at 1700 Leestown Road (a portion of).
(Barrett Partners)

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

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

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 landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory information.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of name and address of developer.
8. Addition of construction access.
9. Addition of required landscape buffer areas.
10. Resolve R-3 conditional zoning landscape buffer requirement.
11. Resolve termination of Louie Place, including the possible need for a waiver.

Zoning Presentation: Ms. Wade presented the staff report, briefly orienting the Commission to the location of the subject property. She noted that the property is located in the southern corner of the larger Sharkey property, which is currently known as Townley Center. The subject property is currently zoned I-1. To the south, the property is bounded by Light Industrial zoning, including the LFUCG sanitary sewer treatment facility and several other industrial uses along Lisle Industrial Road. Within the Sharkey property, the subject property is bordered by High Density Residential uses, as well as townhouses and single-family residences to the north and west; and Professional Office and small business uses to the north and northeast, including a small I-1 zoned parcel which has been developed as a maintenance facility for Anderson Properties. The property is also located near office uses across New Circle Road, as well as single- and multi-family residences in the Meadowthorpe neighborhood. The Meadowthorpe Manor Shopping Center is located to the east of the subject property.

Ms. Wade stated that the petitioner proposes to develop the subject property, which is currently vacant, with 120 apartment dwelling units. That would bring the total number of residential units on the Sharkey property to 440 units, for a density of 17.32 units per acre on the subject property, and 14.47 units per acre for the total Sharkey property development.

Ms. Wade stated that the Sharkey property has been the subject of three previous zone changes over the past decade. The subject property has been zoned I-1 throughout the development of the Sharkey property, but the petitioner is now seeking to expand the residential uses in the development to include this property. Ms. Wade said that the first zone change for the Sharkey property was in 2002; at that time, the Urban County Council instituted a conditional zoning buffer along the R-3 boundary. In 2006, that zone-to-zone buffer was removed along the rear portion of the property, although the conditional zoning restrictions requiring additional buffering remain in place along the New Circle Road and southwest property boundaries.

With regard to the 2007 Comprehensive Plan recommendation for the subject property, Ms. Wade stated that the Plan currently recommends Warehouse & Wholesale land use. The existing I-1 zoning can be considered to be in agreement with that recommendation, and the proposed R-3 zoning is not agreement with the Plan.

Ms. Wade said that the Planning Commission must consider, therefore, whether there have been any changes of a social, physical or economic nature, or whether the existing zoning is inappropriate and the proposed zoning is more appropriate. She said that the petitioner contends that the requested R-3 zoning is more appropriate at this location than the existing I-1 zoning, due to the residential and commercial nature of the traffic patterns in the Townley Center development, and that the petitioner does not believe that the addition of industrial traffic to the area would be compatible with the current uses. Ms. Wade stated that the petitioner also contends that there is no separate access to the I-1 portion of the Sharkey property, which could provide a means for industrial traffic to avoid the residential and commercial areas, and believes that the proposed R-3 zone would allow for development of the subject property that would be compatible with the existing residential uses on the property, while supporting the commercial uses. The addition of 120 residential units would still maintain the total number of dwelling units on the Sharkey property within the number agreed to by the Council at the time of their approval of the original rezoning in 2002.

Ms. Wade said that the staff is in agreement with the petitioner's contention that the proposed R-3 zone is more appropriate at this location than the existing I-1 zoning. Rezoning the subject property to R-3 would also support several of the concepts mentioned in the Goals of the Comprehensive Plan, including: promoting mixed-use development, which is included in Goal 8; integration of a variety of housing types, in Goal 14; and new development that enhances existing neighborhoods, in Goal 16; and encouraging alternative transportation. Ms. Wade noted that the conditional zoning restriction to require zone-to-zone screening that was placed by the Council in 2002 is still important, particularly along the southwestern boundary, which is shared with the LFUCG sanitary sewer treatment facility.

Ms. Wade reported that, since the Zoning Committee meeting three weeks ago, the staff has met with the petitioner to discuss the recommended conditional zoning restriction for a landscape buffer of 25 feet. The staff was able to reach an agreement with the petitioner that the screening originally recommended along the southeast property line may not be necessary, since

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

there is an existing 20-foot Tree Protection Area that is platted in that location, as well as a utility easement and a wide vegetative buffer. The staff, therefore, has proposed the following change to the proposed conditional zoning restriction:

4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following landscape buffer is to be provided at this location, via conditional zoning:

- b. A 25-foot landscape buffer shall be maintained ~~along surrounding~~ the Planned Neighborhood Residential (R-3) zone on the southwestern ~~and southeastern~~ property boundaries, ~~which That buffer~~ shall include evergreen trees planted every 15 feet on center.

This restriction is appropriate and necessary due to the Town Branch Wastewater Treatment facility on adjacent land to the south of the subject property, in order to minimize any adverse effects of noise and odor emissions on the planned residential development.

Ms. Wade stated that the proposed revision to the conditional zoning restriction would require a 25-foot landscape buffer along the southwestern property line, which would include new evergreens planted every 15 feet. The staff believes that that recommendation is consistent with the original conditional zoning restriction that the Council imposed in 2002. Ms. Wade said that the staff is recommending approval of this rezoning request, for the reasons as listed in the staff report and on the agenda.

Commission Questions: Mr. Owens asked if access to the adjoining I-1 properties is provided via Old Frankfort Pike. Ms. Wade answered that the I-1 property that is owned by LFUCG (for the former landfill) is located off of Old Frankfort Pike. Access to the sanitary sewer treatment facility is off of Lisle Industrial Road.

Ms. Roche-Phillips stated that she is concerned about potential land use incompatibility if the sanitary sewer treatment facility is ever expanded in order to use a tertiary-level treatment method, and asked if there are plans to do so. Ms. Wade responded that she would need to defer that question to the Division of Engineering staff.

Ms. Copeland asked if any I-1 land would be left in the vicinity of the subject property, not controlled by LFUCG, in order to help facilitate the live/work/play concept for the residents of the Townley development. Ms. Wade answered that most of the properties along Lisle Industrial Road, although developed, are not owned by LFUCG. She added that some of the properties along Lisle Industrial Road have the potential to be subdivided, but she was not aware of any vacant I-1 land in the area. Ms. Copeland said that it appears that there is sufficient I-1 land in the area to allow residents to live, work, and play in the same area, without driving long distances to their jobs. Ms. Wade noted that there are many retail businesses and restaurants in the Sharkey Property area, as well as office space, which offer that opportunity as well.

Mr. Newman stated, in response to Ms. Roche-Phillips's earlier question, that he was unsure as to any potential plans for expansion of the LFUCG treatment plant facility, but there is currently a large amount of open space on the property in which the facility could expand.

Mr. Penn stated that, at the Zoning Committee meeting, the Committee members had discussed the odor problem on the subject property, from the sanitary sewer facility. He asked if LFUCG had, in fact, been able to implement improved odor-control measures. Mr. Newman answered that the Division of Water Quality has an ongoing odor-control program for all of their facilities, but he was not aware of the details of that program.

Mr. Holmes stated that, although an odor problem may exist in the area, the Sharkey Property has already been developed and there are residents living there. He said that he did not believe that the addition of 120 units on the property would worsen the problem.

Development Plan Presentation: Mr. Martin presented the corollary development plan, further orienting the Commission members to the location of the subject property. He said that the petitioner proposes to construct four three-story apartment buildings, consisting of one- and two-bedroom units, at just over 113,000 square feet of floor area. The petitioner also proposes to construct accessory parking for the apartment buildings and a large detention basin. The plan also includes a walking trail, which is proposed to extend throughout the Townley development.

Mr. Martin stated that the Subdivision Committee recommended approval of this plan, with nine standard conditions, including two items which need to be resolved. Condition #10 refers to the conditional zoning restriction recommended by the staff, and it could be changed to read: "Denote conditional zoning restrictions." With regard to condition #11, Mr. Martin said that Louie Place currently terminates directly into the subject property. In order to comply with the Subdivision Regulation requirements, the petitioner will need to either construct a "knuckle" or cul-de-sac, or seek a waiver of such from the Planning Commission. Therefore, condition #11 should be changed to read: "Continuation of Louie Place will be determined at time of final development plan or preliminary subdivision plan for lots 2 and/or 3 (proposed).

Commission Question: Ms. Roche-Phillips asked if the staff was recommending approval of the waiver for the termination of Louie Place. Mr. Martin answered that, should the petitioner choose to seek a waiver, that request will not be filed until the final development plan stage.

Petitioner Representation: Dick Murphy, attorney, was present representing the petitioner. He said that the petitioner proposes to construct four additional apartment buildings that will be similar to the existing apartments on the west side of the Townley development, which are currently at full capacity. According to the existing residents, the amenities provided, including the walking trail and nearby stores and restaurants, are a major selling point for the apartments.

Mr. Murphy stated that, in considering the best possible use for the subject property, the petitioner does not believe that an industrial use would be a contributor to the existing neighborhood. The additional residents in the proposed apartment buildings would contribute to the vitality of the development by visiting the stores and restaurants, and using the walking trail. Mr. Murphy noted that the petitioner has met with representatives of the Meadowthorpe Neighborhood Association, as he has for all phases of the Townley development, and they are in agreement with this request.

With regard to some of the Commission members' earlier questions, Mr. Murphy stated that he did not believe that the Townley development would be affected by a possible expansion of the sewage treatment facility. He noted that a "land swap" was accomplished after the time of the 2002 rezoning in order to provide additional property to LFUCG for the treatment facility. At that time, the petitioner traded some land at the rear of the Sharkey property for the parcel adjoining New Circle Road, where the existing apartment buildings are located. Mr. Murphy said, with regard to the question about odor control at the sewage treatment facility, that the petitioner's office is located in the Townley development, and he spends a great deal of time on the property. The petitioner has reported a considerable improvement in odor control since the property was rezoned in 2002, although the odor has not been completely eliminated at all times. Mr. Murphy noted that the odor issue has not affected the marketability of the residential units in the Townley development.

Mr. Murphy stated that the petitioner believes that residential uses would be the most appropriate for the subject property, and would contribute to the overall vitality of the community. He noted that most of the traffic from the proposed apartments would probably use the Louie Place access to Leestown Road, so a large amount of traffic would not be added to the main intersection at Towne Center Drive. There is a connection to the Meadowthorpe Shopping Center as well, which has a traffic light to Leestown Road.

Mr. Murphy said that the petitioner is in agreement with the staff's recommendations, including the conditional zoning restriction and the development plan conditions. He stated that the petitioner believes that the subject property is an ideal location to provide additional affordable housing units for the community, and he requested approval.

Commission Questions: Ms. Copeland asked if the petitioner believes that all of the traffic from the proposed apartments will use the Louie Place access to Leestown Road. Mr. Murphy answered that he believed that it would, although he was making that assumption based on the fact that that would be the most direct means of access to Leestown Road.

Mr. Owens asked if the petitioner will need to provide access to the parcel at 1900 Leestown Road, which is located at the rear of the Sharkey Property. Mr. Murphy responded that the petitioner does not anticipate having to provide access to that parcel, because it is owned by LFUCG and access is provided on either Lisle Industrial Road or Old Frankfort Pike.

Citizen Support: There were no citizens present who wished to speak in favor of this request.

Citizen Opposition: Jean Settle, 172 Towne Center Drive, stated that she was not sure about her opinion on this proposal, because this meeting was the first opportunity she had had to review all of the information. She said that she had received a notification letter in the mail for this hearing, but the petitioner had not approached any of the residents of the Townley Park neighborhood to discuss this rezoning request. The Townley Park residents were also not informed of the petitioner's prior meeting with the Meadowthorpe Neighborhood Association. The neighborhood residents would like to have the opportunity to see the proposed plans for these apartments and hear the petitioner's description of the project prior to the Planning Commission's approval of this request. The residents believe that residential use may be more appropriate for the subject property than industrial use, but they would like to suggest some modifications to the development plan.

Ms. Settle said, with regard to the issue of odor from the sewage treatment facility, that an odor problem still exists, particularly in the evenings, and it is worse during the summer months. She stated that the possibility of odor problems was not conveyed to potential home buyers prior to the purchase of their property.

With regard to the use of the Louie Place access to Leestown Road, Ms. Settle stated that she does not believe that the majority of the drivers exiting Townley Park will use that access, since it is right-turn only. Anyone wishing to make a left-hand turn onto Leestown Road will be forced to use either the signalized intersection at Towne Center Drive, or the Meadowthorpe Shopping Center access, both of which are already congested.

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

Ms. Settle said that the Townley Park residents are concerned about the possible loss of greenspace in the neighborhood. She noted that, although the proposed walking trail was cited as an incentive to potential home buyers in the area, that trail has not yet been constructed. There is no common greenspace in the neighborhood, and the construction of the proposed apartments would reduce that limited greenspace even further. Ms. Settle urged the Planning Commission to allow the Townley Park residents to meet with the petitioner prior to acting upon this rezoning request, in order for them to resolve some of their concerns.

Staff Rebuttal: Ms. Wade stated that the staff notified the newly-formed Townley Park Homeowners Association, in care of Ed Maggard on Walton Avenue, as well as an individual who lives in Townley Park.

Commission Questions: Mr. Holmes asked if there was a Townley Park Neighborhood Association. Ms. Wade responded that the homeowners association had just formed within the last six months and that the Council Office had notified the staff of the new homeowners association. She noted that the staff does not normally facilitate meetings between petitioners and neighborhood associations.

Mr. Penn asked if the proposed trail has been included on any of the development plans for the Sharkey property. Ms. Wade answered that she was not sure, but some of the photos seem to include walking trails.

Tony Barrett, Barrett Partners, stated that the walking trail has been connected from Taylor Drive to Towne Center Drive near the Walgreen's store. The proposed trail from the existing apartments will eventually connect to the Town Branch Trail. The Improvement Plans for that trail system have recently been submitted to the Division of Engineering.

Mr. Penn asked if the construction of that trail is in process at this point. Mr. Barrett answered that the trails will be built; the drawings have been submitted to the Division of Engineering, and construction will begin as soon as the permits are received.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner had met with the Meadowthorpe Neighborhood Association, although that meeting was not required, in an attempt to be inclusive of the Meadowthorpe residents. The staff notified the president of the Townley Park Homeowners Association, and the petitioner has spoken with that individual. Mr. Murphy noted that at least 33 letters were sent to individual property owners in Townley Park. He said that the petitioner would be willing to meet with the Townley Park residents, but would request that the Planning Commission not postpone this request in order to allow that meeting to take place. The construction season is nearing its close, and the petitioner would like to construct the footers for the new apartment buildings prior to the end of this construction season—ahead of winter.

Commission Questions: Mr. Holmes asked if the petitioner had met with the president of the Townley Homeowners Association. Mr. Murphy answered that he had not met with the president, but he did have a telephone conversation with him about the proposed rezoning.

Ms. Roche-Phillips asked when the letters were sent to property owners in Townley Park. Ms. Wade responded that those letters were mailed on June 19th (five weeks prior to this hearing).

Mr. Cravens asked if the petitioner would be willing to meet with the Townley Park residents prior to the submission of a final development plan for the property. Mr. Murphy responded that he would be agreeable to meeting with the residents.

Mr. Owens asked why the subject property was not rezoned at the time of the other rezonings on the Sharkey Property. Mr. Murphy answered that, on previous development plans, the detention basin was much larger, and the petitioner was unsure whether there would be enough acreage there to allow for any kind of development. Once it was determined that the detention basin would not need to be so large, the petitioner realized that the subject property would be large enough to develop.

Mr. Owens asked if the proposed walking trails could be required at the time of the final development plan. Ms. Wade answered that they could.

Ms. Roche-Phillips asked if the Planning Commission is permitted by Ordinance to collect performance bonds or letters of credit for the construction of the trails. Ms. Wade responded that they are not; as bonds and letters of credit are provided only for required improvements, like streets and sidewalks.

Mr. Penn asked if the trails would be required to be built, if they are included on the final development plan. Ms. Wade responded that they would be required.

Zoning Motion: A motion was made by Mr. Cravens, and seconded by Ms. Richardson, to approve MAR 2009-8, including the revised conditional zoning restriction as provided by the staff, for the reasons provided by the staff.

Discussion of Motion: Mr. Holmes said that he would have liked to see a greater effort on the part of the petitioner to meet with the representatives of the Townley Park Homeowners Association. He does believe, however, that residential use is more appropriate for the subject property than the current industrial zoning. Mr. Holmes would like for the petitioner to follow up with the Townley residents and address their concerns as part of any final development plan.

Zoning Action: Mr. Cravens' motion carried, 7-0 (Brewer and Whitman absent).

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 7-0 (Brewer and Whitman absent), to approve ZDP 2009-47 with the original nine conditions, changing #10 to read: "Denote conditional zoning restrictions," and changing #11 to read: "Continuation of Louie Place will be determined at time of final development plan or preliminary subdivision plan for lots 2 and/or 3 (proposed)."

V. COMMISSION ITEMS

- A. **RESOLUTIONS FOR FORMER PLANNING COMMISSION MEMBERS** - Chairman. Penn stated that, at this time, the Commission and the staff would like to take an opportunity to honor Randall Vaughn and Neill Day for their dedication and service to the Planning Commission and the Lexington-Fayette County community. Mr. Vaughn and Mr. Day joined Mr. Penn and the other Commission members at the podium, where Mr. Penn read the resolutions for them, copies of which are filed with the minutes of this meeting. Mr. Penn stated that it had been an honor and a pleasure to serve on the Planning Commission with Mr. Day and Mr. Vaughn, and thanked them for their years of service. He then offered Mr. Day and Mr. Vaughn the opportunity to speak, if they so chose.

Mr. Day stated that it had been an honor and a pleasure to serve on the Planning Commission, and that he is grateful for the friendships he built during his eight years on the Commission. He said that he would advise any new Commission members to recognize the importance of the Planning staff, and look to them for their technical assistance.

Mr. Vaughn said that, like Mr. Day, he appreciated the friendships he had formed during his terms of service on the Planning Commission. He stated that his service had been a good experience, and he had enjoyed working with the community and with the Planning staff. Mr. Vaughn said that he believed that the Planning staff is the hardest-working, most dedicated group of individuals in the Urban County Government, and he would miss working with them, as well as the other Commission members.

VI. STAFF ITEMS

- A. **WESTMORLAND NEIGHBORHOOD ZONE CHANGE INITIATION REQUEST** – petition request by residents of the Westmorland neighborhood for Planning Commission initiation of an ND-1 overlay zone.

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

Staff Presentation: Ms. Wade began the staff's presentation by noting that the Westmorland neighborhood had been working for the past two or three years on this ND-1 proposal. She briefly oriented the Commission to the location of the Westmorland neighborhood, which is designated in the 2007 Comprehensive Plan as an "existing rural residential area."

Ms. Wade stated that the Westmorland neighborhood encompasses 146 properties, of which all but one are platted as part of the neighborhood. One large tract on the west side of the neighborhood voluntarily became part of the neighborhood association, even though the property was not platted as such. Most of the lots in the neighborhood are between one and three acres in size, with the exception of the largest lot, which is 38 acres in size, and one lot on Gloucester Drive, which is approximately seven acres in size. The Westmorland Neighborhood Association is requesting Planning Commission initiation of an ND-1 overlay zone change at this time. By initiating this request, the Commission would be agreeing to become the applicant for the zone change, with the neighborhood being the requesting party.

Ms. Wade noted that this request marks the first use of the new Planning Commission by-law requiring postcard notification of neighborhood residents ahead of the ND-1 initiation. The staff has received 90 returned postcards, of which 66 were in favor of the proposed ND-1 overlay, and 24 were in opposition. There were, therefore, 56 property owners who chose not to respond. Ms. Wade displayed a map depicting a geographic summary of the responses, according to their location in the neighborhood. The staff received two letters in opposition to this request, in which the residents declared their concerns about the proposed restrictions on fencing and garage doors.

Ms. Wade noted, for the record, that any existing situation which does not comply with the proposed ND-1 standards would be grandfathered in, and would become a non-conforming aspect of the property. The neighborhood is proposing six ND-1 restrictions pertaining to: 1) exterior building materials; 2) building heights; 3) rear yard setbacks; 4) garages; 5) fences; and 6) pool fences. Since this ND-1 zoning request has not yet been initiated by the Planning Commission, the staff has not taken a position or made a recommendation on the proposed design standards. If the Commission chooses to initiate this request, the staff would then review the proposed standards and make a recommendation.

Neighborhood Representation: Doug Jones, 3572 Salisbury Drive, stated that he was present representing the Westmorland Neighborhood Association as a member of its Board of Directors. Mr. Jones stated that, approximately two years ago, the

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

neighborhood association authorized the Board to pursue ND-1 zoning. The Board members observed the ND-1 processes in the Greenbrier and Chevy Chase neighborhoods, and learned from some of the issues that those neighborhoods faced.

Mr. Jones displayed several photographs of the Westmorland neighborhood, including aerial views, as well as photos of the common areas and some of the homes in the neighborhood. He noted that 87% of the homes in the neighborhood are constructed of either brick or stone.

Mr. Jones stated that, when the original developer of the Westmorland neighborhood was living, he made several decisions about allowing different types of housing that would not be permitted today, which is part of the reason why the neighborhood association decided to pursue ND-1 zoning. When the neighborhood association conducted their official vote on whether or not to pursue ND-1 zoning, the result was 82% of the residents in favor, and 18% opposed. Mr. Jones displayed a rendered graphic depicting the locations of the yes and no votes on the issue. He said that the residents of Westmorland are committed to protection of the common open space areas, which is the reason for the prohibition on back yard fencing. The residents were also very concerned about the possible construction of large structures, such as garages or back yard features, which might be out of character with the rest of the neighborhood, so they are proposing to require at least 33% open space on each lot.

Mr. Jones thanked the staff for their assistance during this process, and asked that the Planning Commission please initiate this request for the Westmorland neighborhood.

Commission Questions: Mr. Holmes asked why the Westmorland Neighborhood Association did not revise their deed restrictions, rather than seeking ND-1 zoning. Mr. Jones answered that the Board of Directors did a great deal of research on the issue, and were informed that, in order to change their deed restrictions, 100% of the residents would have to be in agreement. The Board members did not believe that they would be able to get all of the property owners to agree. They decided to seek ND-1 zoning in order to prevent the type of "arbitrary, personal opinion" decisions that had been made in the past with regard to some of the construction in the Westmorland neighborhood.

Ms. Copeland asked what qualifies as greenspace. Mr. Jones responded that, as long as 33% open space is met on each lot, the neighborhood association would not object. Their main concern was that someone would purchase a lot, tear down the house, and build back a much larger house, as was the case in the Chevy Chase neighborhood prior to their ND-1 restrictions.

Citizen Opposition: Robert Riggs, 3784 Gloucester Drive, stated that he opposes the proposed ND-1 zoning. He stated that there are approximately 14 houses in the Westmorland neighborhood with garages that face the street, and he displayed photographs of four of them. Mr. Riggs stated that he purchased his home two years ago, with the intent of constructing a one-car garage at one end of their house. They were not informed at that time of the neighborhood association's intent to pursue ND-1 zoning. Mr. Riggs's existing basement garage is not large enough to accommodate two cars, and there is a nine-foot grade change on the driveway itself. He researched the deed restrictions carefully prior to buying the house, and learned that he would be able to widen the driveway and construct a garage, as long as it was attached to the house by the roof.

Mr. Riggs stated that, under the proposed ND-1 zoning restrictions, he would not be permitted to construct a garage anywhere on his property, because of the topography. He said that he believes that the proposed ND-1 restrictions are an "attempt to control the aesthetics of the neighborhood," and they are not in keeping with the true purpose of ND-1 zoning, which is to protect the character of the neighborhood. Mr. Riggs asked that the Commission remove the portion of proposed restriction #4, which would prohibit garage doors facing the street.

Citizen Support: Ben Harper, 2686 Sussex Drive, stated that he is the president of the Westmorland Neighborhood Association. He said that the neighborhood association began this project in the spring of 2007, because they were concerned that the existing deed restrictions were very general in nature. The neighborhood association has attempted to compromise with residents in some situations, while still maintaining the original concept of the neighborhood, as established by the developer.

Chair Comment: Mr. Penn noted that the request that the Commission had before them today was simply to initiate the ND-1 zoning application; this meeting was not intended to serve as the public hearing.

Commission Comments: Mr. Cravens asked if the Commission should be concerned with the specifics of the proposed guidelines at this point, since this is an initiation request. Mr. Penn answered that the Commission is simply deciding whether or not to initiate the ND-1 request at this point.

Staff Comment: Ms. Wade noted that the staff worked with the neighborhood association to pare down their original list of 25 guidelines, to reach a point where the neighborhood was prepared to propose six guidelines. She said that, if the Commission chooses to initiate this request, the staff will then review the six proposed guidelines more closely, and make a recommendation.

With regard to Mr. Riggs's request to withdraw a part of one of the restrictions, Mr. Cravens asked if it would be appropriate to do so at this point in the process. Ms. Wade answered that the Commission could withdraw that part of the guideline if they so chose, but the neighborhood association has conducted research to determine that most of the homes in the neighborhood do not have front-facing garages, which is why that restriction is proposed. Mr. Cravens noted that some of the information provided by the

neighborhood association was unclear with regard to the actual number of front-facing garages. Ms. Wade reviewed the information to which Mr. Cravens was referring, and said that it appears that 12 homes have garage doors that face the primary street; Mr. Riggs indicated that that number is actually 14.

Mr. Jones stated that the intent of the proposed restriction was to prohibit garage doors that face the street. Of all the homes in the neighborhood, 112 have garage doors that open to either the side or the rear of the structure, rather than facing the street. With regard to Mr. Riggs's concerns, Mr. Jones said that the neighborhood association does not intend to set limits on the size of a garage, just to require that it not face the street.

Mr. Riggs asked if a homeowner with an existing front-facing garage door would be able to rebuild that garage after a fire, if the proposed ND-1 restrictions are enacted. Ms. Boland answered that she would need to consult with the Division of Building Inspection; but generally a legal non-conforming structure, which is partially or substantially destroyed through no fault of the owner, can be reconstructed as it was before, as long as the non-conformity is not made any greater than it was before.

Ms. Copeland asked what the Commission's next step should be.

Director Comment: Mr. King stated that the issue before the Commission today is the initiation of the ND-1 zoning request. Should the Commission choose to initiate this request, there will be a public hearing in the future on the merits of the proposal, with a full staff recommendation. Anyone who wished to speak in favor or of or in opposition to this request will be able to do so at that time. In the end, the Commission's recommendation will be forwarded on to the Council, and the final decision will be made by that body. If there is an item on which the Commission had reached a consensus, and they wanted to take it off the table today, they could do so. If the Commission is content that this proposal is worthy of consideration as it is, they can initiate this request today.

Mr. Jones stated that the neighborhood does not wish to make any changes to the proposed ND-1 restrictions.

Motion: A motion was made by Ms. Roche-Phillips, and seconded by Mr. Owens, to initiate ND-1 overlay zoning for the Westmorland neighborhood as requested.

Discussion of Motion: Mr. Cravens stated that he will oppose the initiation of this request, based on Mr. Jones's statement that the neighborhood is not willing to discuss any changes to the proposed ND-1 restrictions.

Action: Ms. Roche-Phillips's motion passed, 7-1 (Cravens opposed, Brewer absent).

- B. ZONING ORDINANCE TEXT AMENDMENT INITIATION** - The staff requests that the Planning Commission initiate a text amendment to the Zoning Ordinance and Subdivision Regulations in order to provide enhanced protection for private cemeteries throughout Fayette County, as part of the implementation of the 2007 Comprehensive Plan. If initiated, the text amendment(s) could be ready for a public hearing as soon as September 2009.

Ms. Rackers stated that the staff would like to request Commission initiation of a text amendment to the Zoning Ordinance and the Subdivision Regulations, based on the information that was presented to the Commission members at their most recent work session. The proposed text amendment would provide for enhanced protection for private and historic cemeteries. This text amendment is being proposed at the request of the Fayette County Cemetery Trust, and constitutes part of the implementation of the 2007 Comprehensive Plan. During the Plan update process, Lisa Sanden from the Cemetery Trust appeared before the Commission to request protection for cemeteries. The staff is proposing changes to Articles 3, 18, and 21 of the Zoning Ordinance, and Article 5 of the Subdivision Regulations. The staff has been working on the proposed changes since the fall of 2007; but they recently discovered, through discussions with the Division of Building Inspection, that some additional tweaks to the text will be required. Members of the Cemetery Trust have asked to be part of any text amendment discussions as well. Should the Commission choose to initiate this text amendment, it could be presented at their September zoning hearing.

Action: A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 7-0 (Brewer and Whitman absent) to initiate the proposed text amendments to the Zoning Ordinance and Subdivision Regulations.

- C. REQUEST TO CANCEL WORK SESSION** – Mr. King stated that there is an extra Thursday in the month of July, and the staff would like to propose that the Commission amend their Meeting & Filing Schedule to cancel the work session scheduled for Thursday, July 30th.

Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 7-0 (Brewer and Whitman absent) to adjust the official Meeting & Filing Schedule to cancel the July 30th Planning Commission work session.

VII. AUDIENCE ITEMS – No such items were presented.

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

VIII. MEETING DATES FOR AUGUST, 2009

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	August 6, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	August 6, 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 13, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 20, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	August 26, 2009
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 27, 2009

IX. ADJOURNMENT – There being no further business, Chairmen Penn declared the meeting adjourned at 4:05 p.m.

TLW/TM/BJR/BS/src

Frank Penn, Chair

Mike Owens, Secretary