

3. MMA MANAGEMENT, LLC, ZONING MAP AMENDMENT & HOUGHAM PROPERTY, LOT 1, ZONING DEVELOPMENT PLAN

- a. MARC 2013-8: MMA MANAGEMENT, LLC (6/27/13)* - petition for a zone map amendment from a Light Industrial (I-1) zone to a Heavy Industrial (I-2) zone (with zoning restrictions), for 20.0 net (22.71 gross) acres, for property located at 1100 Alexandria Drive (a portion of). A conditional use permit is also requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan recommends Light Industrial (LI) future land use for the subject property. The petitioner has requested a Heavy Industrial (I-2) zone, with conditional zoning restrictions, in order to establish a vehicle recycling facility. A conditional use permit has also been requested as part of this zone change.

The Zoning Committee made no recommendation on this request.

The Staff Recommended: Disapproval, for the following reasons:

1. Although proposed to be significantly restricted, the requested Heavy Industrial (I-2) zone is not in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Land Use Element of the Comprehensive Plan recommends Light Industrial (LI) future land use for the subject property. According to the text of the Plan, this is defined as "those establishments that assemble finished or semi-finished materials, food preparation, publishing, communication, construction materials, or any establishment or repair services that may present a moderate nuisance to adjacent properties."
 - b. No assembly of finished or semi-finished materials, food preparation, publishing, communications industry, construction materials or repair service is proposed for the subject property.
 - c. Heavy Industrial (HI) uses, according to the text of the Plan, have a high (rather than moderate) potential for nuisance factors such as noise, odors or vibrations, and are for uses that are somewhat unique or rare, such as "a mining establishment, power production facility, a stadium, or a waste disposal facility." The proposed use is unique; and, except for a similar facility located on 7th Street (an apparent non-conforming use dating back at least 50 years), only 25 or so are operated in the United States by the applicant.
2. The existing I-1 zone is appropriate for the subject property. It is the same as that found in the rest of the area and would permit uses in keeping with the 2007 Plan's future land use recommendation. Such uses would likely result in more employment (on a per acre basis) than that proposed by the applicant for the subject parcel.
3. There have been no unanticipated changes of an economic, social or physical nature that have occurred in this area since the 2007 Plan was adopted.

b. REQUESTED CONDITIONAL USES

1. Yard for storage of dismantled or partially dismantled automobiles
2. Junk Yard

Should the Planning Commission recommend Approval of the requested I-2 zone change, the Staff Recommends: Approval, for the following reasons:

1. A yard for storage of dismantled or partially dismantled automobiles and/or a junk yard, which are the two most similar uses to the applicant's proposed vehicular recycling center, should not adversely affect the subject or surrounding properties. The amount and type of traffic anticipated with this use should be able to be handled with the extension of Enterprise Court connecting to the adjacent business park.
2. All necessary public services and facilities, such as police and fire protection, are available and adequate for the proposed use.

This recommendation is made subject to the following conditions:

1. Provided the subject property is rezoned I-2 by the Urban County Council; otherwise, any Planning Commission action of approval is null and void.
2. The property shall be developed according to the submitted application and Zoning Development Plan, or as further amended by the Planning Commission.
3. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the facilities.
4. The accessory parking lots and driveways shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
5. The final design of the parking lots, access drives and internal parking lot circulation shall be subject to review and approval by the Division of Traffic Engineering.
6. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.

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3. MMA MANAGEMENT, LLC, ZONING MAP AMENDMENT & HOUGHAM PROPERTY, LOT 1, ZONING DEVELOPMENT PLAN

- a. MARC 2013-8: MMA MANAGEMENT, LLC (6/27/13)* - petition for a zone map amendment from a Light Industrial (I-1) zone to a Heavy Industrial (I-2) zone (with zoning restrictions), for 20.0 net (22.71 gross) acres, for property located at 1100 Alexandria Drive (a portion of). A conditional use permit is also requested with this zone change.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan recommends Light Industrial (LI) future land use for the subject property. The petitioner has requested a Heavy Industrial (I-2) zone, with conditional zoning restrictions, in order to establish a vehicle recycling facility. A conditional use permit has also been requested as part of this zone change.

The Zoning Committee made no recommendation on this request.

The Staff Recommended: Disapproval, for the following reasons:

1. Although proposed to be significantly restricted, the requested Heavy Industrial (I-2) zone is not in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Land Use Element of the Comprehensive Plan recommends Light Industrial (LI) future land use for the subject property. According to the text of the Plan, this is defined as "those establishments that assemble finished or semi-finished materials, food preparation, publishing, communication, construction materials, or any establishment or repair services that may present a moderate nuisance to adjacent properties."
 - b. No assembly of finished or semi-finished materials, food preparation, publishing, communications industry, construction materials or repair service is proposed for the subject property.
 - c. Heavy Industrial (HI) uses, according to the text of the Plan, have a high (rather than moderate) potential for nuisance factors such as noise, odors or vibrations, and are for uses that are somewhat unique or rare, such as "a mining establishment, power production facility, a stadium, or a waste disposal facility." The proposed use is unique; and, except for a similar facility located on 7th Street (an apparent non-conforming use dating back at least 50 years), only 25 or so are operated in the United States by the applicant.
2. The existing I-1 zone is appropriate for the subject property. It is the same as that found in the rest of the area and would permit uses in keeping with the 2007 Plan's future land use recommendation. Such uses would likely result in more employment (on a per acre basis) than that proposed by the applicant for the subject parcel.
3. There have been no unanticipated changes of an economic, social or physical nature that have occurred in this area since the 2007 Plan was adopted.

b. REQUESTED CONDITIONAL USES

1. Yard for storage of dismantled or partially dismantled automobiles
2. Junk Yard

Should the Planning Commission recommend Approval of the requested I-2 zone change, the Staff Recommends: Approval, for the following reasons:

1. A yard for storage of dismantled or partially dismantled automobiles and/or a junk yard, which are the two most similar uses to the applicant's proposed vehicular recycling center, should not adversely affect the subject or surrounding properties. The amount and type of traffic anticipated with this use should be able to be handled with the extension of Enterprise Court connecting to the adjacent business park.
2. All necessary public services and facilities, such as police and fire protection, are available and adequate for the proposed use.

This recommendation is made subject to the following conditions:

1. Provided the subject property is rezoned I-2 by the Urban County Council; otherwise, any Planning Commission action of approval is null and void.
2. The property shall be developed according to the submitted application and Zoning Development Plan, or as further amended by the Planning Commission.
3. All necessary permits shall be obtained from the Divisions of Planning and Building Inspection prior to any construction, and prior to occupancy of the facilities.
4. The accessory parking lots and driveways shall be paved, with spaces delineated, and landscaped/screened in accordance with Articles 16 and 18 of the Zoning Ordinance.
5. The final design of the parking lots, access drives and internal parking lot circulation shall be subject to review and approval by the Division of Traffic Engineering.
6. A storm water management plan shall be implemented in accordance with the requirements of the adopted Engineering Manuals, subject to acceptance by the Division of Engineering.

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7. The approval of a junk yard at this location is to be limited to the processing of automobiles only, and would not apply to other materials, such as used lumber and building salvage, that are within the definition of a "junk yard" found in Article 1-11 of the Zoning Ordinance.
8. Prior to approval of a final development plan, a qualified environmental professional will make a recommendation on the type of surface that should be used in the vehicle storage area and provide information on possible storm drainage impacts to the spring located to the south of the subject site.

Should the Planning Commission recommend Disapproval of the requested I-2 zone change, the Staff Recommends: **Disapproval**, for the following reasons:

1. Under Article 6-4(c) of the Zoning Ordinance, the Planning Commission may only hear conditional uses and variances when filed with an associated zone change. Thus, unlike the associated zoning development plan, the Commission may only consider this matter within 90 days of its filing.
 2. Disapproval of the conditional use does not prohibit the applicant from filing a conditional use application with the Board of Adjustment, should the Urban County Council approve the requested I-2 zoning of the subject property.
- c. ZDP 2013-21: HOUGHAM PROPERTY, LOT 1 (5/23/13)* - located at 1100 Alexandria Drive.
(EA Partners)

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

1. Provided the Urban County Council rezones the property I-2; 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. Department of Environmental Quality's approval of information regarding environmentally sensitive areas.
7. Resolve timing of the construction of the detention basin at the rear of the property.
8. Discuss proposed access and the timing of the construction and dedication of Enterprise Drive.

Commission Comment: Mr. Berkley stated that he had been advised by Ms. Jones that he should abstain from the hearing on this item, as he owns property in the industrial park where the subject property is located.

Note: Mr. Berkley left the meeting at this time.

Zoning Presentation: Mr. Sallee began the presentation of the staff's zoning report by noting that the staff had received three communications from citizens in opposition to this request: one from the Fayette County Neighborhood Council; one from the Saddle Club Homeowners Association; and an email from the Beaumont Park Neighborhood Association. He distributed copies of those documents to the Commission members for their review.

Mr. Sallee briefly oriented the Commission to the subject property at 1100 Alexandria Drive, which is located along a collector street that intersects Old Frankfort Pike to the north of the property. An at-grade railroad crossing, as well as the New Circle Road overpass, are located near the subject property along Alexandria Drive. A short distance to the east is the three-way stop at the intersection of Alexandria with Viley Road. Mr. Sallee said that the subject property is currently accessed via either Alexandria Drive, where there is an existing driveway to an agricultural portion of the property; or, via Enterprise Court, which terminates into the subject property. He noted that there is also an at-grade railroad crossing (of the same line that crosses Alexandria Drive) on Enterprise Court. The parcel being requested for rezoning at this time comprises slightly over half of the entirety of the property at 1100 Alexandria Drive, on the northern portion of the property. The southern half is currently zoned I-1, and is not part of the proposed rezoning.

Mr. Sallee displayed several photographs of the subject property, including: 1) a view from the south, noting the adjacent mini-warehouse development in the industrial park; 2) a closer view of the property, from the opposite direction; and 3) the access to the subject property from the signalized intersection at Enterprise Drive, along Old Frankfort Pike, and Enterprise Court, which is a local street also serving the mini-warehouse facility and a cell tower.

Mr. Sallee stated that the petitioner had proposed conditional zoning restrictions as part of this rezoning application. Those restrictions would allow only: the principal permitted uses in the I-1 zone; automobile assembling, rebuilding, and reconditioning; gas storage, either above or below ground, under a number of conditions; vehicle storage yards; and adaptive reuse projects as set out in the Special Provisions in the Zoning Ordinance. The petitioner has indicated that approximately 15 to 20 employees are proposed for this use.

Mr. Sallee said that the staff had distributed to the Commission members a portion of the text of the 2007 Comprehensive Plan. The Land Use element of the Comprehensive Plan recommends Light Industrial use for the subject

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property, which generally includes "establishments that assemble finished or semi-finished materials; food preparation; publishing; communication; construction materials; or establishments or repair services that may present a moderate nuisance to adjacent properties." Mr. Sallee explained that the purpose of distributing that portion of the Comprehensive Plan to the Commission was to help differentiate the differences between Heavy Industrial and Light Industrial uses. He said that, in general, Heavy Industrial uses have a higher potential for nuisance than do Light Industrial uses; they are more likely to manufacture items from raw form; and they often involve unique or rare land uses.

Mr. Sallee stated that the proposed use of the subject property is somewhat unique, in that there are only approximately 25 such uses operated by the petitioner in the United States. He said that the staff was only able to find one similar use in the Urban County. He displayed a photograph of that use on the overhead, explaining that it was either currently or formerly known as Bluegrass Auto Parts on Seventh Street. At that facility, customers can remove parts from vehicles that are no longer operable.

Mr. Sallee stated that the staff cannot find that the petitioner's proposal to construct an automobile recycling facility is in agreement with the Light Industrial land use recommendation of the Comprehensive Plan. In addition, in evaluating the appropriateness of this request, the staff was concerned that the facility is not expected to generate a large number of new jobs, given the acreage of the property (less than one job per acre), and that there is a limited amount of industrial land in the community. Mr. Sallee said that the staff found it would be more appropriate to try and create a greater number of jobs with the available vacant industrial land. The staff also could not identify any unanticipated changes in the vicinity of the subject property since the 2007 Comprehensive Plan was adopted; and they could not find that the existing I-1 zoning was inappropriate, given that it is surrounded, with one exception, by Light Industrial property. Thus, Mr. Sallee stated that the staff is recommending disapproval of this request, for the reasons as listed in the staff report and on the agenda.

Development Plan Presentation: Mr. Martin presented the corollary preliminary development plan, noting that the staff had distributed their revised recommendation to the Commission members prior to the start of the hearing.

Mr. Martin stated that the petitioner is proposing to construct two structures on the subject property: a main building for customer access and inventory control, and a building for processing vehicles after the parts have been removed. The petitioner is proposing an access point to Enterprise Court, with an extension of that roadway, and associated parking. That extension of Enterprise Court is not included as part of this plan at this time.

Mr. Martin stated, with regard to the staff's revised recommendation, that one of the conditions involves the construction of the detention basin on the property, which was originally depicted on the plan as spanning a property line. The staff also believes it would be appropriate to discuss the timing of the construction of the basin relative to the display area at the time of the Final Development Plan. There were some questions regarding the necessity of the basin, future development, and what portion of the property the basin will serve.

Mr. Martin said that of greater concern to the staff was the extension of Enterprise Court, which the staff has discussed extensively with the petitioner. The 20-acre property requires substantial frontage on Enterprise Court, and the staff is concerned about the timing of the construction of that roadway, since the previous preliminary plan for the property depicts future lots that would need to have access provided via that roadway. Mr. Martin stated that, since the petitioner is proposing to tightly control the proposed access from Enterprise Court in order to protect their inventory, the staff believed that it might be appropriate to provide an emergency entrance to the vehicle storage yard along Alexandria Drive. The staff believes that the timing of the construction, any necessary additional right-of-way dedication, and other issues can be determined at the time of a Final Development Plan for the property. Mr. Martin stated that the Subdivision Committee recommended approval of this plan.

Commission Question: Mr. Owens asked Mr. Martin to elaborate on the proposed use of the processing building depicted on the plan. Mr. Martin stated that it was the staff's understanding that, after cars on the site have been utilized for parts, they are processed and prepared for shipping.

Conditional Use Request Presentation: Mr. Emmons presented the staff report on the conditional use request, explaining that the petitioner is requesting two uses: a yard for storage of dismantled or partially dismantled automobiles, and a junkyard. Both of those uses are conditional uses in the I-2 zone; the petitioner is proposing a vehicular recycling facility, which is not a defined use in the Zoning Ordinance; the two conditional uses proposed are those that most similar to the petitioner's proposed use, and are defined in the Ordinance.

Mr. Emmons explained that, when the Planning Commission reviews a conditional use request, they take on the role of the Board of Adjustment. The standards that they must consider for a conditional use are: whether the proposed use will cause any adverse impacts to the subject or surrounding properties; if there is adequate public infrastructure to serve the conditional use; and if there are special circumstances that must be considered. Mr. Emmons noted that the two conditional uses requested are most similar to the petitioner's proposal; however, the complete definition of

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"junkyard" allows more activities than what the petitioner is proposing at this location, including the receiving of lumber and various types of scrap metal.

Mr. Emmons stated that the staff report on this conditional use request refers to three distinct areas of the proposed vehicle storage yard use: the customer service area and paved parking lot; the vehicle storage area, which is proposed to be graveled; and the processing facility, where the vehicles will be drained and crushed, which will be limited to employees only. The processing facility, which will involve the most intense use on the property, is the reason behind the petitioner's request for a junkyard use.

Mr. Emmons said that, in considering whether the requested conditional uses will constitute a nuisance to nearby property owners, the staff recognized that the most intense uses are proposed to be in the processing area, which will be located approximately 1,500 feet away from the nearest residential property. That portion of the property is surrounded by other industrial uses, and is located along the railroad line; the staff believes that it will be the most buffered area of the property.

Mr. Emmons noted that the staff was concerned about the existence of a spring-fed pond on a portion of the Hougham property not included in this rezoning request, due to the petitioner's intent to use gravel in the area where inoperable vehicles will be stored. The staff is recommending that, should the requested zone change be approved, the petitioner must consult with an environmental specialist prior to the approval of a Final Development Plan, in order to ensure that the groundwater quality will be protected.

Mr. Emmons stated that the staff is recommending approval of the conditional use request, for the reasons as listed in the staff report and on the agenda, subject to the eight conditions as listed. He noted that the staff recommended condition #7 in order to require that the operations on the subject property are limited to the processing of automobiles only, which would prohibit the processing of other materials that might be permitted by the Zoning Ordinance for such a use. He added that the petitioner is proposing to process the vehicles with a car crusher, rather than a shredder, which is much quieter and less intense.

Mr. Emmons explained that, since the staff was recommending disapproval of this rezoning request, they also included findings for a recommendation of disapproval for the conditional use, should the Commission recommend disapproval of this rezoning request.

Commission Question: Ms. Plumlee asked, with regard to condition #6, what would happen if the Division of Environmental Quality determined that there was a problem on the site. Mr. Emmons answered that it was not a question of there being circumstances that would prevent the Division of Environmental Quality from approving the proposed plan; rather, under what circumstances could they approve it. He explained that there would likely be some type of engineering solution to any problems that might be discovered.

Petitioner Presentation: Bruce Simpson, attorney, was present representing the petitioner. He said that, although the staff is recommending approval of the petitioner's conditional use request, they are recommending disapproval of the zone change, because it does not comply with the Comprehensive Plan's land use recommendation. Mr. Simpson said that, since 2001, no Heavy Industrial land has been recommended for future development in Lexington-Fayette County. The subject parcel, however, has been recommended for Light Industrial development since 1969. The petitioner contends that the "low-intensity industrial" use proposed is "equal to or less than" some of the existing uses in the Light Industrial zone. The petitioner also contends that surrounding the proposed use by other uses, which are zoned I-1 but have more intense uses than the subject property, results in the proposed vehicle storage facility being in substantial compliance with the Comprehensive Plan.

Mr. Simpson stated that the petitioner also has a long track record of being an exemplary environmental steward of its property. He said that the term "junkyard" has a negative connotation, and the petitioner encountered resistance from some of the communities in which their 25 existing facilities are located, as well, during the early phases of development. The petitioner contends that their business is "totally green:" cars are brought to the property; fluids are drained and recycled; vehicles are placed on the storage yard; customers are able to pull parts from the vehicles; and the vehicles are then crushed, three cars at a time. The petitioner also contends that their facilities are low-impact, for Light Industrial uses.

Mr. Simpson said that the petitioner has a positive reputation for taking care of their property and being good neighbors to their surrounding communities. The petitioner has reached out to the owners of the neighboring properties in the Enterprise Industrial Park; representatives of Calumet Farm; and the surrounding neighborhoods. The petitioner in particular hoped to get feedback from the neighborhoods, in order to get their feedback about the proposed vehicle storage yard, and to get suggestions about how to make the use more compatible with the rest of the surrounding area.

Steve Levetan, Senior Vice-president of Pull-A-Part, stated that it was important for the Commission to see what the company does and does not do, since there is a stigma attached to their industry. He said that the Pull-A-Part operation is "not what people's image of the industry is."

Mr. Levetan said that Pull-A-Part is a do-it-yourself, discount used auto parts retailer. They have 25 locations in 12 states, having started as a small, family-owned recycling business in 1915.

Referring to an aerial photograph displayed on the overhead projector, Mr. Levetan stated that the subject parcel is completely surrounded by industrial uses. He said that the entire facility would be surrounded by a solid, 8-foot steel wall for security and visual purposes. The petitioner makes a commitment to site design, environmental protection, and customer satisfaction for community in which they are located.

Mr. Levetan stated that Pull-A-Part has won several awards for environmental protection. He said that inoperable vehicles left on the streets often leak hazardous fluids. By moving those vehicles, and ensuring that all the fluids are properly removed and recycled, the petitioner helps to mitigate environmental hazards. All fluids are safely removed from each vehicle and stored under roof, in above-ground storage tanks, and batteries are safely transported to off-site recycling locations. Mr. Levetan played a brief video, which indicated that each Pull-A-Part location removes approximately 8,000 – 10,000 cars from city streets, and recycles more than 50,000 gallons of fluids, each year. He said that, until 2003, vehicles often contained one or more switches, each of which could contain as much as a gram of mercury. Each gram of mercury is enough to contaminate 132,000 gallons of water above Environmental Protection Agency (EPA) drinking water standards. Mr. Levetan noted that Pull-A-Part's Atlanta facility recently was chosen for the commemoration of the one millionth mercury switch nationally, which included attendance by representatives of the EPA. He stated that each facility also has a stormwater permit, as well as spill prevention and stormwater pollution plans. Each such plan is specifically engineered for its site, and notes any issues particular to that site.

Mr. Levetan said that, although the subject parcel is completely surrounded by industrial uses, there are some neighborhoods nearby. He displayed a video that featured testimonials from several residents who live near Pull-A-Part facilities, who indicated that the company operates clean, environmentally safe properties. Integrity Real Estate Resources, a national commercial valuation company, conducted research that found that Pull-A-Part had no negative impact on resale or home values. The petitioner contends, rather, that in some cases the fully screened and fenced facilities left a much better impression on nearby residents. In addition, noise level testing indicated that noise levels are less than normal outdoor conversation. The petitioner plants extensive landscaping at each location in order to make their facilities visually pleasing, as well.

Mr. Levetan displayed several photos of Pull-A-Part facilities, noting the Norcross, Georgia facility, where one of the nearby residents gave a testimonial about the lack of noise from the facility in the video; the Indianapolis facility, which is located in an industrial park similar to the subject property; and the Louisville facility, noting the stormwater retention area, which is a 12.5-acre wetland with resident wildlife.

Mr. Levetan stated that the proposed Pull-A-Part facility is projected to create about 20 jobs directly, and a number of other jobs indirectly. He said that those jobs will provide full medical benefits and retirement to employees.

Mr. Levetan played another brief video, which indicated that the petitioner will spend between \$4 and \$5 million developing its new facility on the subject property, which would then be expected to generate \$2.5 million in annual sales. Mr. Levetan said that one of the company's main goals is to improve lives in each community where they have a facility.

Mr. Simpson stated that the proposed Pull-A-Part facility is a new concept in Lexington. He displayed a photograph of a junkyard, noting that he believed that many of the neighbors were opposing this request out of fear that a junkyard might locate near their neighborhoods. Mr. Simpson displayed several photographs of Pull-A-Part facilities around the country, noting that the cars, parked in orderly rows, appear much the same as cars in the parking lot at Commonwealth Stadium, of which he also displayed a photograph.

Mr. Simpson displayed several photographs of the other uses in the Enterprise Industrial Park, noting that the petitioner contends that the proposed facility would be a less intense use than many of the uses located there. Referring to his exhibit packet, he said that the Comprehensive Plan states that the Light Industrial zone "is intended for manufacturing, industrial, and related uses, not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light, or industrial waste." The petitioner contends that the proposed Pull-A-Part facility falls within the intent of that description. Mr. Simpson said that the Light Industrial zone allows asbestos manufacturing; rebuilding of auto parts; building materials and sales; rental storage yards; crematoriums; underground storage of inflammable liquids; railway or truck terminals; and stone monument works. The petitioner contends that the proposed facility will be very similar to, or less intense than, all of those uses. For that reason, the petitioner is suggesting conditional zoning restrictions to prohibit every other use in the I-2 zone.

Mr. Simpson stated, with regard to the neighbors' concerns about the proposed Pull-A-Part facility, that the petitioner has study results that indicate that their other facilities are not noisy. The petitioner also consulted with Ted Hardwick, professor of Landscape Architecture at the University of Kentucky, to prepare an exhibit depicting what the facility could look like from several viewpoints in the area. Mr. Simpson said that, from Kelsey Drive (approximately 400-700' away from the subject property), residents should not be able to see the facility at all, because the New Circle Road overpass slopes upward. He added that the facility should not be visible from Enterprise Industrial Park, Alexandria Drive, Our Native Lane, or Calumet Farm, due to the screening that the petitioner has committed to installing, which will include a 10' berm and a 10' fence. Mr. Simpson noted that the residents of Our Native Lane could likely see the Cloud Concrete facility, which is located in the industrial park, and another concrete facility could locate on the subject property without a zone change.

Mr. Simpson said that the Planning Commission previously approved a preliminary subdivision plan for the entirety of the subject property, with 34 Light Industrial lots and access to Alexandria Drive, which could be constructed at any time. If those industrial buildings were built, there would be no requirement to screen them from the surrounding residential uses.

Mr. Simpson stated that, because of the commitments that the petitioner has made, the owners of Calumet Farm are not opposed to the proposed Pull-A-Part facility. In addition to the commitments to limit the use of the property to a vehicle storage facility; provide screening beyond the requirements of the Zoning Ordinance; restrict the Alexandria Drive access to emergency vehicles only; and limit lighting, the petitioner has committed to placing the car flattener within an enclosed structure, which will be surrounded by an 8' steel fence. Mr. Simpson said that the petitioner contends that the proposed Pull-A-Part facility in an I-2 zone would be a better use for the property than many of the allowable uses in the existing I-1 zone, which could be up to 75 feet in height.

Citizen Support: Steve Caller, real estate developer, stated that he and his partners developed the Enterprise Industrial Park. He said that he supports the proposed zone change, because he believes that the proposed Pull-A-Part facility will be a good neighbor.

Bill McAlpin, owner of the subject property, stated that he and his partners were initially apprehensive when the petitioner approached them about purchasing a portion of their acreage for the proposed facility. He said that his partner, Ray Ball, after touring the Louisville Pull-A-Part facility, indicated that he believed that it would be a good use for the subject parcel. Mr. McAlpin noted that he and his partners would be the neighbors most affected by the facility, because they still own the adjoining 21 acres, and they believed that Pull-A-Part would be a good neighbor.

Mr. Caller stated that, five years ago, the city of Lexington entered into a lease with the petitioner for land they owned on Old Frankfort Pike, which was a reclaimed brownfield area. The state environmental agency, however, would not allow anyone to "break the cap" on the site, so the deal fell through, but the proposal met all of the necessary city requirements.

Note: Chairman Owens declared a brief recess at 6:35 p.m. The meeting reconvened at 6:42 p.m., with the same members in attendance.

Citizen Opposition: Christine Westover, attorney, was present representing the High Point Neighborhood Association. She said that, no matter how appealing the proposed Pull-A-Part facility might sound, the Planning Commission is bound by the statutory requirements set out in KRS 100.213 that govern the granting of a zone change. If the Commission chooses to grant this requested zone change, they must be able to find that the request is in agreement with the Comprehensive Plan; that the existing zoning is inappropriate and the proposed zoning is appropriate; or, that there have been unanticipated changes in the area since the adoption of the Comprehensive Plan. Ms. Westover contended that there has been no evidence presented to indicate that the existing I-1 zoning is inappropriate, or that there have been unanticipated changes the area. She noted that Mr. Simpson's primary argument has been that the proposed facility is similar to Light Industrial uses; since he cannot prove both appropriateness and inappropriateness, that finding was not applicable in this case.

With regard to the first finding, for agreement with the Comprehensive Plan, Ms. Westover stated that case law shows that the most important element of the Plan is the Land Use map. She said that the subject property is recommended for Light Industrial use; as a matter of law, the proposed zone change does not meet the requirements that would allow the Commission to adopt the finding that the rezoning could be granted. She read the following into the record, from the Comprehensive Plan:

"The zone is intended for manufacturing, industrial, and related uses, not involving potential nuisance in terms of smoke, noise, odor, vibration, heat, light, or industrial use."

Ms. Westover explained that some of the uses in the I-2 zone that are permitted by right are included as conditional uses in the I-1 zone, because it is important to study properties to see whether they have the characteristics that would support the conditional use. In the Heavy Industrial zone, which would be the only zone to allow the proposed

use, the allowable uses tend to be more intensive, noxious, and noisy. Ms. Westover stated that the proposed use of the subject property meets the definition of a junkyard, which is allowed only as a conditional use in the I-2 zone, because it is one of the most potentially noxious and hazardous uses allowed in the Urban County.

Ms. Westover said that the petitioner has attempted to argue, through conditional zoning, that the proposed use was substantially similar to Light Industrial uses, but, she contended, that is incorrect. She opined that that line of reasoning actually makes the proposed use seem more like a Heavy Industrial use, because the suggested conditional zoning restrictions would eliminate many of the traditional I-1 uses that carry forward to the I-2 zone. Therefore, Ms. Westover maintains, this proposed zone change is not in agreement with the Comprehensive Plan.

Ms. Westover said that there is precedent in Lexington-Fayette County in locating junkyards in the I-2 zone. In the early 1980s, a Board of Adjustment decision permitted a junkyard in the I-1 zone. That case was litigated, and, as a result, a text amendment was enacted thereafter that clarified that junked vehicles are only permitted in the I-2 zone as a conditional use. Ms. Westover distributed a letter that was written by Bill Lear, attorney, who was representing the concerned owner of a property located near a proposed junkyard site, reading the following into the record:

"The proposed ordinance would set the precedent of legitimizing an illegal use which may have been permitted wrongfully by the Building Inspector's office. If the Ordinance can be bent and shaped to allow a Heavy Industrial conditional use to be either legalized after the fact in a Light Industrial zone, or downgraded to a use permitted in the I-1 zone, then such reclassifications may occur throughout the Zoning Ordinance. Remember that conditional uses in the Heavy Industrial zone are reserved for the most noxious businesses which are permitted to operate in Fayette County. One look at a lot upon which are stored hundreds of wrecked automobiles reveals why the framers of the current Ordinance thought it appropriate for such use to be placed in the I-1 zone, and even then, only with a conditional use permit."

Ms. Westover stated that, when the Commission chooses to rezone property, they have to think about the consequences, not just to that particular property or applicant, but globally. She said that, if the Commission makes a finding of approval for this junkyard, other uses could use the same rationale, which, she opined, "puts zoning ahead of planning."

Ms. Westover said that the petitioner is relying heavily on the protection of limiting uses on the subject property via conditional zoning, but conditional zoning is historically much easier to remove than a typical rezoning. She explained that, in order to remove conditional zoning restrictions from a property, a petitioner simply has to prove that there were major changes unanticipated since the condition was imposed. In reviewing past zone changes that were approved based on the imposition of conditional zoning restrictions which were then removed after some circumstance changed, Ms. Westover stated that she referred back to the Mist Lake Plaza rezoning. In that case, the applicant for the property at the corner of Man o' War Boulevard and Richmond Road requested a B-3 zone, with a conditional zoning restriction that the property be used as an "auto park." A few years later, the applicant requested the removal of that conditional zoning restriction, based on the fact that auto parks were no longer a viable concept. The property was then rezoned, over the Planning Commission's recommendation of disapproval, to B-3 with no conditional zoning restrictions, which resulted in the construction of the Wal-Mart store there. Ms. Westover said that, during the rezoning of the property for the Bates Creek Library in 1998, there were concerns about steep slopes and environmentally sensitive areas. The Planning Commission recommended disapproval of that rezoning, but there was a hearing at the Council, where it was approved. The Council imposed conditional zoning restrictions limiting the parking and square footage of the building, in order to protect the environmentally sensitive areas. Two years later, a request was filed to modify the conditional zoning restriction, in order to provide more usable space for the library. That request was approved by both the Planning Commission and the Council. Ms. Westover stated that, a few years after that, one of the other lot owners in the development was seeking additional square footage and parking; the Planning Commission recommended disapproval of that request, but the Council approved it. Some time later, another lot owner in the development was granted additional square footage, based upon the finding that the two previous modifications of the conditional zoning restrictions constituted a major change in the area. Ms. Westover said that those cases prove that conditional zoning restrictions do not provide sufficient protection. She noted that, between January 2000 and January 2012, every request that was filed to modify conditional zoning restrictions was approved by the Planning Commission and Council.

Ms. Westover displayed a history of the Hougham property, explaining that it was first included in the Urban Service Area boundary in 1967. The Comprehensive Plan later recommended residential uses for the property. A rezoning request, in disagreement with the Plan, was filed in 1979; it was denied. Another rezoning application, in agreement with the Comprehensive Plan, was filed in 1996; it, too, was denied. A request for rezoning for residential uses which was filed some time later was recommended for disapproval by the Planning Commission, and later withdrawn. In 2007, a rezoning request to I-1 was submitted, which was in agreement with the Comprehensive Plan. At that time, several neighboring residents worked out an agreement with the developer, and there were no opponents to the request at the Planning Commission's public hearing, where the request was recommended for approval. Ms. West-

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

over stated that, after such an extensive history, it was possible that the subject property could be requested for rezoning again, or for a modification of the conditional zoning restrictions to allow additional I-2 uses. She said that the law says that surrounding property owners should be able to rely on the recommendations of the Comprehensive Plan in making important decisions about property investment.

Ms. Westover stated that Kentucky zoning statutes "strongly prefer planning over zoning" so that major property decisions can be appropriately considered and planned for, rather than made at the last minute on the day of a zoning hearing. She read the following ruling in the *City of Louisville v. McDonald* case:

"In the Fritz case, we invalidated a zone change because the action of the legislative body was found to be arbitrary. In that opinion, we made the following significant comment: 'An examination of the multitude of zoning cases that have reached this Court leads us to the conclusion that the common practice of zoning agencies after adoption of an original ordinance is simply to wait until some property owner finds an opportunity to acquire a financial advantage by devoting his property to a use other than for which it is zoned, and then struggle with the question of whether some excuse can be found for complying with his request for a rezoning. The result has been that, in most of the rezoning cases reaching these courts, there actually has been spot zoning, and the Courts have upheld or invalidated the change according to how flagrant the violation of true zoning principles this has been. It is to be hoped that, in the future, zoning authorities will give recognition to the fact that an essential feature of zoning is planning.' This statement, made in 1961, has had little discernible effect."

Ms. Westover stated that the purpose of a Comprehensive Plan and a staff of professional planners is to study cases such as these. She said that this proposed use is a "land eater;" a 20-acre project that is projected to create only 20 jobs, or one job per acre. Ms. Westover displayed the Goals & Objectives of the 2007 Comprehensive Plan, noting that they refer to jobs, employment, and job creation many times; one of the major Themes of the 2012 Plan is creating jobs and prosperity."

With regard to historical land use policy in Lexington-Fayette County, Ms. Westover said that the goal has been to place reasonable development within the Urban Service Area, so as not to put pressure on the Rural Service Area, in order to maintain "the most precious and finite resource in Fayette County." She noted that, in 2007, there were 54,619 acres of land within the Urban Service Area, with almost 9,000 of undeveloped land. Ms. Westover opined that it would be "an irrational use of our precious, finite land to put 20 acres aside for a huge junkyard." She said that the time might have come for the Planning Commission to study economic development in terms of rational and sound land use, and what types of businesses should be encouraged. Ms. Westover urged the Commission members to, instead of recommending approval of this request, study the I-1 and I-2 zones with regard to the economic land use policy.

Ms. Westover distributed to the Commission members for their review copies of relevant land use cases, opining that Mr. Simpson's findings were inadequate to demonstrate why this property should be entitled to rezoning relief. She noted, with regard to Mr. Simpson's comments about the petitioner's commitment to restrict the access to Alexandria Drive, that that decision ultimately falls to the Planning Commission, not the individual property owner. Ms. Westover concluded by urging the Planning Commission to disapprove this rezoning request, because it does not comply with the state statute.

Jason Morgan, attorney, stated that he had reviewed the Property Valuation Authority (PVA) records for the properties in the Enterprise Industrial Park, and conferred with some of the business owners in the park, and they calculated that there are between 200 and 500 existing jobs on that 90 acres. He opined that that number, when compared to the 20 jobs that are projected on the 20-acre subject parcel, does not equal an efficient use of the land.

Mr. Morgan said that, in order for the Planning Commission to act as the Board of Adjustment and grant a conditional use permit, they must produce a statement of adjudicative, specific facts; the burden is on the applicant to provide those specific facts. He said that he does not believe that the Planning Commission can grant this conditional use request. He said that, in the staff report, the staff indicated their concerns about several issues, including the single access point. In *Murphy vs. Key West Crossing, LLC*, a conditional use permit was requested for a golf course. The issue in that case was safety concerns related to an access point near a railroad crossing. When the case went up on appeal, the Appellate Court ruled that the applicant did not satisfy their burden of proof that the safety issue would be addressed.

Mr. Morgan stated that the staff report also noted the staff's concerns about the safety of a spring-fed pond on the property, which is located approximately 1,000 feet away from the Wolf Run Watershed. The staff recommended, as a condition for approval of the conditional use permit, that a qualified environmental professional must make a recommendation on that issue prior to the certification of a Final Development Plan for the property. Mr. Morgan opined that, again, the petitioner failed to produce sufficient adjudicative fact, in that they did not provide the results of that professional recommendation at this hearing.

Mr. Morgan said that the staff indicated that they had discussed the single access point with the staff of the Division of Fire and Emergency Services, who were in agreement with it. He explained that that is not a delegable duty; the Planning Commission must find that they could grant the conditional use permit based on adjudicative facts before them at this hearing, provided by the petitioner.

Mr. Morgan stated that, in his legal opinion, the Planning Commission cannot grant this conditional use permit request based upon the evidence that has been presented. He said that the Court found, in the previously referenced case, that the petitioner cannot remedy the burden of proof after the fact; they could not, then, satisfy the condition requiring an environmental report at any time after this hearing.

Mr. Morgan contended that the proposed use is not in keeping with the character and integrity of the area surrounding the subject property, particularly Calumet Farm. He requested that the Planning Commission disapprove this request.

Citizen Opposition: Todd Strecker, 1404 Parterre Place, stated that he was concerned about the proposed use. He said that he has had extensive communications with the owners of Calumet Farm, who had intended to be present at this hearing, about the proposed facility.

Mr. Strecker read his letter into the record:

"This letter represents the many contacts I have had through small group meetings and phone calls to me from residents within our neighborhood association area near the property under consideration since posting of the proposed zone change on a portion of the 40-acre tract located at 1100 Alexandria Drive. All those calling me (as neighborhood association president) have expressed strong opposition to the proposed zone change from Light Industrial to Heavy Industrial. They're concerned that this will depress property values in the area. A widely expressed objection is that I-2 zoning would remain in place beyond the time when the vehicle recycling operation may be present, opening the door to other I-2 businesses to locate on the tract. Because the business sells auto parts to the public, there is substantial concern over the volume of traffic to and from the property. This, numerous residents pointed out, will create pressure to open access directly onto Alexandria Drive from the tract. Many believe the operation will create a negative presence visually, including a less-than-desirable impact on travelers arriving by aircraft, since the property is below the northeast approach/departure flight path to Bluegrass Airport."

Mr. Strecker respectfully requested disapproval of this zone change.

John VanNagell, Advantage Linen Inc., stated that he is a tenant in the industrial park. He said that he was not opposed to the Pull-A-Part company, and he liked their proposal, but he was afraid of "cracking Pandora's Box." Mr. VanNagell said that, once a portion of the industrial park is rezoned, other portions could follow. He opined that the industrial park currently has a good mix of light industrial tenants, and he and many of the other tenants are concerned about what could possibly happen there if this request is approved.

Georgia Cruse, 1171 Kelsey Drive, stated that she was not opposed to development, but she believed that it should be appropriate for the community and neighborhood. She opined that the proposed use is a junkyard, and it could become an "attractive nuisance," inviting vandalism and other undesirable activities. Ms. Cruse added that she believed that the subject property could be better developed with a use that would create more jobs.

Kirk Catinna, 1166 Kelsey Drive, stated that he had researched criminal activity around some of the existing Pull-A-Part sites, and he discovered that, in those communities, there was an increase in thefts of cars, which were then sold to Pull-A-Part. In many cases, the cars' owners were not able to retrieve them from the facility before they were dismantled and crushed.

Mr. Catinna stated that the problem appeared to stem from the Pull-A-Part policy of accepting cars to be junked with just a bill of sale, rather than a title. That leaves the company with no means to verify whether or not a car has been stolen. Mr. Catinna opined that the ability to easily sell stolen cars to a facility such as Pull-A-Part could lure career criminals to his neighborhood, placing residents in danger.

Mr. Catinna said, with reference to Mr. Simpson's assertion that the proposed facility could employ as many as 20 people, that, during his research, he had discovered that many of the Pull-A-Part sites around the country employ as few as five individuals. He stated that, although the petitioner contends that they make significant contributions to the communities in which their facilities are located, he does not believe that those contributions are as beneficial as they are made out to be.

Michelle Catinna, 1166 Kelsey Drive, stated that she agreed with Ms. Westover's statements that the proposed Pull-A-Part facility will not make any significant contribution to the economic development of Lexington-Fayette County. Citing a report by the Kentucky Workforce Development Cabinet that projects job and industry growth through 2018, Ms. Catinna said that the report indicated that industries such as junkyards are projected to decline during that time period. She opined that "junkyards are a declining industry, and we do not need to sacrifice 20 acres of land to a facility that could provide as few as five jobs."

Ms. Catinna said, with regard to the petitioner's references to the Louisville Pull-A-Part facility, that that site is completely different from the subject property; it is located on a national turnpike, in an "industrial wasteland." The nearest neighbors to that location are scrapyards, and it is entirely surrounded by heavy industrial uses. Ms. Catinna stated that she believes that locating a Pull-A-Part facility on that site is entirely appropriate, given the surroundings.

Ms. Catinna stated that the Alexandria Drive neighborhoods have "no through trucks" signage, and she was concerned that heavy truck traffic might use that route to reach the subject property. She said she spoke with Jeff Neal, Traffic Engineering, who indicated that the Alexandria Drive access would be open, not only for emergency vehicles, but to all traffic except large trucks. Mr. Neal also indicated in that conversation that there were concerns about the Enterprise Drive access to the subject property, as traffic would have to cross the railroad tracks. Ms. Catinna said that she believed that it was more important to restrict truck traffic through established neighborhoods, rather than across a railroad line. She added that the reason for the neighborhoods' agreement with the 2007 rezoning of the subject property was the developer's assurance at that time that there would be no access to Alexandria Drive.

Ms. Catinna stated that she also believed that the proposed Pull-A-Part facility would be an "aerial eyesore," as it would be easily visible from airplanes approaching Bluegrass Airport.

Carolyn Rabold, High Point Farm Association, displayed a photograph of the subject property, taken from the entrance to her neighborhood, located across Alexandria Drive. She stated that, since the subject property is much lower than the High Point neighborhood, the proposed fence and berm would not be effective in screening the junked vehicles from view. Ms. Rabold also displayed two photographs taken from the Pull-A-Part website, noting that junked vehicles and crushed cars were easily visible. She asked that the Planning Commission disapprove this request.

Joey Williams, 1155 Kelsey Drive, stated that he had spoken with over 200 of his neighbors, and they all agreed that they do not want the Pull-A-Part facility to locate on the subject property. He asked that the Planning Commission disapprove this request.

Mike Markland, 1298 Viley Road, agreed, as a pilot, that the vehicles stored on the subject property would be easily visible from the air.

Mr. Markland stated that he was concerned about 8,000 – 10,000 cars a year, which could possibly be leaking fluids, being brought in to the facility on wreckers through his neighborhood. He said that there were no restrictions in place to control the volume of additional traffic through the area.

Mr. Markland said that he wished that representatives from Calumet Farm were present to present their opinion on this request, because he "could not imagine a junkyard located next door" to the farm. He opined that Lexington is not Atlanta, Louisville, or Cincinnati; it is a town built around horse farms, and it is too beautiful to allow a junkyard in that area. Mr. Markland asked that the Planning Commission uphold the staff's recommendation of disapproval of this request.

Donald Brown, member of the High Point Farm Association, displayed a map of the Wolf Run watershed, noting the location of the Town Branch Creek. He stated that there were existing stormwater problems in the vicinity of the subject property, and he was concerned about the containment of fluids at the proposed facility. Mr. Brown opined that the community has been attempting to clean up Town Branch for years, and he did not believe that it was worth the risk to allow the Pull-A-Part facility to locate in the watershed.

Mr. Morgan stated that the staff report on the requested conditional use did not provide sufficient findings for the Commission to recommend approval. He said, with regard to Ms. Plumlee's question, that, if the proposed facility failed to present an adequate stormwater management plan along with the Final Development Plan, it would be too late, because the conditional use permit would already be approved.

Petitioner Rebuttal: Mr. Simpson stated that he did not believe that the crime report data presented was valid, since no officially prepared report to that effect was distributed.

Mr. Simpson said that he understood people's fears of the unknown; but he believed that the Commission appreciated the petitioner's sincerity and the factual basis of their arguments, as well as their commitment to abide by the suggested conditions in order to finally develop the subject property. He stated that the subject property has been in-

cluded in the Urban Service Area since 1969, and it has been recommended by the Comprehensive Plan for Light Industrial use the entire time. In those 44 years, not a single job has been created on the property. Mr. Simpson said that the petitioner and the property owners believe that locating the Pull-A-Part facility on the subject property will provide an impetus for additional employers to locate there, as well as create approximately \$2 million in tax revenue for the Urban County Government.

Mr. Simpson stated that the subject property has not developed, because many people do not want it to develop. With regard to the citizen comments about Calumet Farm, he said that representatives of the farm have appeared without fail at every Planning Commission meeting where the subject property was discussed, and they were not present at this hearing because they do not object to this request. They indicated to Mr. Simpson that they evaluated the proposal, and found that, with the proposed conditional zoning restrictions, they had no objections.

Mr. Simpson said that the opposing counsel spent all of their time arguing about the rule of law and how it applies to Urban County Governments, but they neglected to mention that there are very few such governments in the state of Kentucky. He explained that, in order to remove a conditional zoning restriction, a zone change request must be filed and approved by the Planning Commission and the Council. He noted that it would be unlikely for the petitioner to go to all of that trouble to alter the restrictions by which they have made a commitment to abide.

With regard to the opposing counsels' comments about adjudicative facts, Mr. Simpson stated that changes in the law made zone changes different from other decisions, and they are now legislative rather than adjudicative. He opined that those arguments would be more appropriately directed to the courts, rather than to the Planning Commission.

Mr. Simpson said that the community has not sufficiently planned for Heavy Industrial land uses since 2001; there has been no new land recommended for that use since that time. He opined that many of the land uses allowable under the existing I-1 zoning would be less intense than the proposed Pull-A-Part facility. Mr. Simpson stated that no other potential developer of the subject property would agree to eliminate such a large number of potential uses, and he noted that the Planning Commission could revoke those conditional zoning restrictions if the petitioner did not comply with them.

Objectors' Rebuttal: Ms. Westover reiterated that the proposed rezoning does not agree with the Comprehensive Plan, and the petitioner did not present sufficient findings to support their request. She requested that the Commission recommend disapproval of the rezoning and the conditional use permit request.

Staff Rebuttal: Mr. Sallee stated that the staff believed that the property was first recommended for Light Industrial land use in the 1980 Comprehensive Plan.

With regard to Mr. Simpson's assertion that no land had been recommended for Heavy Industrial use, Mr. Sallee stated that some land had been recommended for such a use. He added that the overall amount of industrial land has decreased, but there are still opportunities for development on underutilized Heavy Industrial properties.

Commission Questions: Ms. Beatty asked if any of the land recommended for Heavy Industrial use was currently available. Mr. Sallee answered that he did not believe that any of it was vacant, although the staff does not typically analyze whether or not property is "available." Ms. Beatty asked if there were any other areas zoned for Heavy Industrial use. Mr. Sallee responded that, besides the Old Frankfort Pike corridor, there was Heavy Industrial zoned land in the Avon Rural Activity Center, and a smaller area off of Dove Run Road in the Stone Road area near the Nicholasville Road corridor.

Commission Comments: Ms. Mundy stated that she had been a customer of Pull-A-Part, and she believed that it was a necessary business, but she would not necessarily want it near her residence. She opined that if she lived near an industrial area, however, she would prefer to have a Pull-A-Part facility nearby over a large industrial plant with many employees. Ms. Mundy added that the facility she utilized was neat and well-kept, and the cars were organized.

Mr. Wilson stated that he had visited the Louisville Pull-A-Part site. He said that it was a matter of perspective, but he was impressed with the level of professionalism displayed there.

Mr. Wilson said that he was also concerned with how well-received the Louisville facility was by its nearest neighbors. He discussed the issue with one of the nearby residents, who was also a city councilmember; she indicated that many of her neighbors were initially concerned about the project. A group of concerned Louisville residents traveled to Nashville to view a Pull-A-Part facility there, and they returned with a new assessment. Mr. Wilson stated that, after viewing the facility, he was impressed with the fact that all of the Freon, oil, gasoline and other fluids from the junked vehicles were being recycled, rather than being handled improperly.

Ms. Plumlee stated that, in her opinion, no evidence had been presented that the I-1 zone was inappropriate for the subject property. She said that she believed that "conditional uses could be tarnished," and the subject property should remain zoned I-1. Ms. Plumlee stated that she also believed that the subject property could be used to provide more than one job per acre, and that she was still concerned about the possible environmental impact of the proposed Pull-A-Part facility. She added that she was also concerned about the possibility of a "more offensive" I-2 use locating on the property at some point in the future.

Ms. Blanton stated that she was torn; she was impressed with the petitioner's presentation, believed that Pull-A-Part was a good business, but she was also concerned about the lack of jobs being provided. She said that the neighboring residents need to understand that they live near an industrial area, and they would have concerns about visual impact, truck traffic, and environmental issues no matter what type of industrial use located on the subject property. Ms. Blanton added that traffic was likely to be much worse if the subject property was occupied by a factory running three shifts. She said that, in the end, the issue for her was whether the proposed facility was the best use of the land.

Mr. Penn said that he was concerned that the petitioner was requesting a "one-spot" I-2 zone. He stated that, if the petitioner had wanted to rezone the entire property to I-2, rather than just a parcel, he would not have been nearly as concerned. He added that the property owners need to determine how they intend to use the rest of the property.

Mr. Penn stated that he did not have a problem with the Pull-A-Part facility, but he was not comfortable with putting an I-2 use in an I-1 area.

Mr. Cravens stated that he owned some I-1 property, and he did not understand why the I-1 zone did not allow for this type of use. He opined that inoperable cars should not have to be transported to another county; there should be somewhere in Lexington-Fayette County where they could be processed.

Mr. Cravens said that the subject property has been vacant since 1969, which was a long time for a parcel to remain undeveloped. He added that he believed that "activity breeds activity;" if one I-1 use locates on the property, additional uses will move there as well. For that reason, Mr. Cravens stated that he would support this request.

Ms. Beatty stated that she was concerned about the difference between land use and land development. She added that she believed that the term "junkyard" was "old terminology" that did not apply to the Pull-A-Part facility, which appeared to be more of a "recycling facility." Ms. Beatty opined that the Pull-A-Part use could be a viable recycling option for the community, but it might require a change to the Zoning Ordinance to determine in which zone it should be located.

Ms. Beatty said that it was a delicate balance between understanding the concerns of the nearby residents, and hoping that the subject property will be developed at some point in order to provide additional jobs. She stated that she would like to see more emphasis placed on this type of recycling facility.

Mr. Penn stated that it might be more appropriate to pursue a text amendment to allow the recycling of cars, rather than to rezone a property and limiting the uses via conditional zoning. He opined that he was not comfortable with rezoning a property "just to make something fit."

Ms. Blanton stated that Mr. Penn raised some good points, noting that she, too, was concerned about the "spot-zoning" aspect of this request. She said that there did not seem to be any other options for the petitioner; there was no available I-2 land, and the proposed use did not fit in the I-1 zone. Ms. Blanton stated that any text amendment to include this use would need to be written strictly enough to allow recycling of vehicles, but prohibit traditional-style junkyards.

Mr. Penn said that he believed that the text amendment would be a better venue for addressing this issue. He reiterated that he did not want to see the remainder of the subject property zoned I-2, which could create even more problems for the area residents. Mr. Penn added that text amendments could be more narrowly drawn than zone changes.

Mr. Owens stated that he was on the Board of Adjustment when the petitioner obtained approval for a conditional use permit for the Old Frankfort Pike site that was referenced earlier. He said that he had also been to the Seventh Street site, and he remembered when it was a "true junkyard;" the operators were currently in the process of attempting to make their business more like Pull-A-Part.

Mr. Owens said that he believed that Pull-A-Part was a "viable business that needs to be somewhere," but he had serious concerns about locating it on the subject property. He opined that changing the zoning of the subject parcel could hamper development of the other 21 acres that comprise the subject property with regard to job creation. Mr. Owens stated that people complained for years that the Coldstream business park was vacant, but it was now be-

gining to thrive. He said that he believed that, as less and less land is available for industrial development, eventually the subject property will be developed.

Mr. Owens stated that he was in support of the staff recommendation of disapproval, because he did not feel that the petitioner had met the burden of proof for any of the reasons allowable for a zone change. He added that he appreciated the concerns of the residents, and he did not have any suggestions for a solution to these issues, be he could not support this request at this time.

Mr. Wilson stated that he intended to make a motion of approval, and he wanted to express his respect for the staff and the neighbors.

Zoning Motion: A motion was made by Mr. Wilson, and seconded by Mr. Cravens, to approve the rezoning for MARC 2013-8, for the following reasons:

1. The applicant's proposed restrictions are similar and less intensive than some of the existing I-2 uses and the use is compatible with some of the uses in the surrounding industrial zones; thus, the use is in substantial conformance with the 2007 Comprehensive Plan.
2. The application is also consistent with the Goals & Objectives of the 2007 and 2012 Comprehensive Plan, encouraging economic development and new employment. This recommendation includes the conditional zoning restrictions listed in Mr. Bruce Simpson's June 27, 2013, letter to Mr. Mike Owens, Planning Commission Chair, outlined as letters "a" through "h."

Zoning Action: Mr. Wilson's motion failed, 3-5 (Cravens, Mundy, and Wilson in favor; Beatty, Blanton, Owens, Penn, and Plumlee opposed; Berkley disqualified; Brewer and Roche-Phillips absent.)

Zoning Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 7-1 (Cravens opposed; Berkley, Brewer, and Roche-Phillips absent) to disapprove MARC 2013-8, for the reasons provided by staff.

Conditional Use Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 7-1 (Cravens opposed; Berkley disqualified; Brewer and Roche-Phillips absent) to disapprove the requested conditional uses, for the reasons provided by staff.

Development Plan Action: A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 7-1 (Cravens opposed; Berkley disqualified; Brewer and Roche-Phillips absent) to indefinitely postpone ZDP 2013-21.

