Minutes
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

August 13, 2009

I. **CALL TO ORDER** - The meeting was called to order at 1:33 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Vice-Chair Carolyn Richardson; Joan Whitman; Mike Owens; Lynn Roche-Phillips (arrived at 1:40 p.m.); Mike Cravens; Marie Copeland and Patrick Brewer. Frank Penn and Ed Holmes were absent.

Planning Staff Present – Chris King, Director; Bill Sallee, Barbara Rackers, Tom Martin, Cheryl Gallt, Chris Taylor, Denice Bullock and Jimmy Emmons. Other staff members in attendance were: Hillard Newman, Division of Engineering; Bob Carpenter, Division of Building Inspection; Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire & Emergency Services; Paul Hockensmith, Addressing Office and Jeff Neal, Traffic Engineering.

II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Ms. Whitman and carried 6-0 (Roche-Phillips, Penn and Holmes absent) to approve the minutes of July 9, 2009.

III. **POSTPONEMENTS OR WITHDRAWALS –** Requests for postponement and withdrawal will be considered at this time.

a. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (8/13/09)* - located at 5846 Old Richmond Road. (Council District 12) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-76F to the September 10, 2009, Planning Commission meeting.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Whitman, and carried 6-0 (Roche-Phillips, Penn and Holmes absent) to postpone PLAN 2008-76F to the September 10, 2009, Planning Commission meeting.

b. DP 2009-34: BEAUMONT FARM, UNIT 1, SECTION 1 (A PORTION OF) (AMD) (8/13/09)* - located at 3100 Beaumont Centre Circle. (Council District 10) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2009-34 to the September 10, 2009, Planning Commission meeting.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Ms. Whitman, and carried 6-0 (Roche-Phillips, Penn and Holmes absent) to postpone DP 2009-34 to the September 10, 2009, Planning Commission meeting.

c. PLAN 2009-72F: LANSDOWNE-MERRICK SUBDIVISION, UNIT 3-A (AMD) (10/8/09)* - located at 3119 Lansdowne Drive. (Council District 5) **(Wheat and Ladenburger)**

Staff Comments - Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of PLAN 2009-72F to the September 10, 2009, Planning Commission meeting.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Ms. Whitman, and carried 6-0 (Roche-Phillips, Penn and Holmes absent) to postpone PLAN 2009-72F to the September 10, 2009, Planning Commission meeting.

d. PLAN 2009-74F: HAROLD R. BLACK PROPERTY (AMD) (10/8/09)* - located at 3521 & 3589 Combs Ferry Road. (Council District 12) **(Wes Witt)**

Staff Comments - Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of PLAN 2009-74F to the September 10, 2009, Planning Commission meeting.

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Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Copeland, seconded by Ms. Whitman, and carried 6-0 (Roche-Phillips, Penn and Holmes absent) to postpone PLAN 2009-74F to the September 10, 2009, Planning Commission meeting.

e. DP 2009-27: RAMSEY/SULLIVAN PROPERTY (AMD) (8/13/09)* - located at 2663 and 2671 Kearney Ridge Boulevard.
(Council District 12) **(Carol Goes)**

Staff Comments - Mr. Martin said that the staff had received an email correspondence from the applicant, requesting indefinite postponement of DP 2009-27.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Whitman, and carried 6-0 (Roche-Phillips, Penn and Holmes absent) to indefinitely postpone DP 2009-27.

Note: Ms. Roche-Phillips arrived at this time.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, August 6, 2009, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Marie Copeland and Carolyn Richardson. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Chris Taylor, Tom Martin, Denice Bullock, Cheryl Gallt, Jimmy Emmons, Kenzie Gleason and Barbara Rackers, as well as Rochelle Boland, Department of Law; Capt. Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Paul Hockensmith, Street Addressing Office; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.
1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

A. CONSENT AGENDA - NO DISCUSSION ITEMS – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:
(1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
(2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
(3) no discussion of the item is desired by the Commission; and
(4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
(5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:
(1) due to prior postponements and withdrawals,
(2) from the Planning Commission,
(3) from the audience, and
(4) from Petitioners and their representatives.

At this time, Ms. Richardson requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the Planning Commission Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2009-70F: INGLESIDE APARTMENTS (AMD) (10/8/09)* - located at 1201 Devonshire Avenue.
(Council District 11) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots.

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

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6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of private utilities listing per Article 5-4(e) of the Land Subdivision Regulations.
8. Clarify note numbers 2 and 4.
9. Denote detention easement.
10. Denote: No access to parcel 2 from Devonshire Avenue.
11. Identify the location of the sinkhole related to non-buildable area (from application).
12. Delete the utility easement from the tree protection area.

2. PLAN 2009-71F: BROCK MCVEY & BARRY DOTSON PROPERTY, UNIT 1, LOTS 1 & 3 (AMD) (10/8/09)* - located at 1063 East New Circle Road. (Council District 5) **(Endris Engineering)**

Note: The purpose of this amendment is to subdivide Lot 1 into two lots and to show right-of-way dedication.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Addition of adjacent information.
8. Addition of notes from previously approved plan.
9. Label access easement.
10. Denote: Landscaping shall conform to Article 18-3(a)(2) of the Zoning Ordinance.
11. Denote: the signage restriction for Lot 3 per the development plan.

3. PLAN 2009-73F: LEXINGTON HOUSING AUTHORITY (10/8/09)* - located at 898 Georgetown Road. (Council District 1) **(Sherman/Carter/Barnhart)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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. Denote: Mailbox location(s) shall be subject to the approval of the United States Postal Service.
8. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
9. Addition of private utilities listing per Article 5-4(e) of the Land Subdivision Regulations.
10. Addition of tree planting easement on cross-section.
11. Denote: Street trees are to be planted within a year of recordation of this plat.
12. Denote: Home builders are responsible for the planting of street trees.

4. PLAN 2009-82F: LOCHMERE, UNIT 2 (ANDOVER HILL) (A PORTION OF) (AMD) (10/20/09)* - located at Gingermill Lane. (Council District 7) **(EA Partners)**

Note: The purpose of this amendment is to amend the cross-section of Gingermill Lane.

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

5. PLAN 2009-83F: MARSHALL PROPERTY, UNIT 2-J (10/20/09)* - located at 3000 Leestown Road. (Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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 required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.

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7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
9. Addition of adjoining property information on the west property line.
10. Review by Technical Committee prior to certification.
11. Provided the Planning Commission makes a finding per Article 6-8(m) of the Land Subdivision Regulations on the access easement.

6. PLAN 2009-87F: MAHAN PROPERTY, LOT 1 (AMD) (10/27/09)* - located at 4057 Mooncoin Way. (Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to remove the non-building restrictions.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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 required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of building lines.
8. Resolve the timing of construction and dedication of Victoria Way prior to certification.
9. Review by Technical Committee prior to certification.

7. PLAN 2009-88F: COMMONWEALTH OF KENTUCKY PROPERTY (FOR THE UNIVERSITY OF KENTUCKY) (10/27/09)* - located at 351 Scott Street. (Council District 3) **(EA Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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 required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of written scale.
8. Addition of all calls and dimensions on Lot 1.
9. Complete adjacent property information.
10. Review by Technical Committee prior to certification.

8. DP 2009-34: BEAUMONT FARM, UNIT 1, SECTION 1 (A PORTION OF) (AMD) (8/13/09)* - located at 3100 Beaumont Centre Circle. (Council District 10) **(EA Partners)**

Note: The Planning Commission postponed this plan at its June 11, 2009, and July 9, 2009, meetings. The purpose of this amendment is to add a turn lane and access off Beaumont Centre Circle, and add a generator yard next to the dumpster location.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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. Remove the entrance to Beaumont Centre Circle, as per the approved development plan.

9. DP 2009-49: INTERSTATE SERVICE CENTER (AMD #26) (10/8/09)* - located at 1927 Stanton Way. (Council District 12) **(Design Engineering)**

Note: The purpose of this amendment is to add square footage and revise the parking area for a restaurant.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.

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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. Addressing Office's approval of street names and addresses.
6. Addition of dimensions to parking aisles and parking spaces.
7. Addition of dimensions to the existing building.
8. Addition of site statistics and information for the existing restaurant building.
9. Addition of dumpster locations.
10. Verify floodplain information and reference current FEMA Map(s).
11. Correct adjacent property information to match the approved development plan and/or provide updated information.
12. Clarify the metes and bounds information.
13. Correct plan title to state "AMD #26" and clarify area of amendment.

10. DP 2009-50: B.M. COLE ESTATE (CARMAN PROPERTY, LLC) (AMD) (10/8/09)* - located at 651 West New Circle Road. (Council District 1) **(CMW)**

Note: The purpose of this amendment is to increase the building square footage and revise the off-street parking.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Addressing Office's approval of street names and addresses.
6. Verify floodplain information and reference current FEMA Map(s).
7. Denote the required five off-street parking spaces for employees.
8. Clarify and correct parking statistics for subject lot.
9. Clarify limits of customer parking area and automobile display area.
10. Addition of Lot 1 to tree planting plan.
11. Addition of all existing and proposed easements.

11. DP 2008-12: HOPE CENTER APARTMENTS (11/3/09)* – located at 1518 Versailles Road. (Council District 11) **(Carman & Associates)**

Note: This item was originally approved by the Planning Commission on February 14, 2008, subject to the following conditions:
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 landscape buffers.
4. Urban Forester's approval of the tree preservation plan.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Environmental Planner's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Approval of street names and addresses per e911 staff.
10. Correct site statistics (zoning).
11. Remove extraneous information from plan.
12. Certification of consolidation plat prior to plan certification.
13. Clarify street cross-section information.
14. Add pedestrian improvements to cross-section.
15. Resolve tree protection area.
16. Resolve parking lot reconfiguration and shared parking.

Note: The applicant requests a reapproval of this item.

The Staff Recommended: Reapproval, subject to the previous requirements.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval by the Commission, unless there was a request for an item to be removed from consideration.

Audience Comments – Ms. Richardson asked if anyone in the audience wished to discuss any of the items listed on the Consent Agenda. There was no response.

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Planning Commission Comments – Ms. Richardson asked if any Commission member wished to discuss any of the items listed on the Consent Agenda. Mr. Owens requested that PLAN 2009-83F be removed from the Consent Agenda for further discussion.

Ms. Copeland requested that PLAN 2009-87F be removed from the Consent Agenda for further discussion.

Action - A motion was made by Mr. Owens, seconded by Ms. Whitman, and carried 7-0 (Penn and Holmes absent) to approve the items listed on the Consent Agenda, removing PLAN 2009-83F and PLAN 2009-87F for further consideration.

B. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. Final Subdivision Plans

Note: The next two items were heard simultaneously.

a. PLAN 2009-39F: RAMSEY/SULLIVAN PROPERTY, UNIT 3, SECTION 2, LOTS 33-45 (KEARNEY HALL) (AMD) (8/13/09)* - 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, July 9, 2009, and July 23, 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.

b. 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.)**

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

Note: The Planning Commission postponed this plan at its July 9, 2009 and July 23, 2009, meetings. 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.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the original final record plat, as well as the amended final record plat (PLAN 2009-39F), and said that 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. Mr. Martin then directed the Commission's attention to a rendering of the original development plan, as well as the amended development plan (DP 2009-45), and said that the purpose of this amendment is to revise the unit layout and add building envelopes for a single family townhouse development. He noted that the subject site is located off of Georgetown Road, and is situated within Kitten Joy Circle, just off Meadowsweet Lane. He also noted that the Commission had previously approved a multifamily development that abuts Meadowsweet Lane.

Mr. Martin stated that through the course of the staff review of the development plan, they felt that the clarity of information depicted did not properly indicate all necessary information from the original development plan. He said that the applicant had modified the development plan by shifting its layout to provide a rear access into the townhouse development. In the course of this change, some of the information was lost. Since that time, the applicant has submitted a revision that addresses several of the staff's concerns. The revised submission now shows the location of the proposed access easement. The building dimensions and the floor area ratio, as well as the proposed buildings are also being shown.

Mr. Martin then stated that the final record plat will be creating the proposed lots, and establishing the easements; however, the concern is with the street light easement that runs through lot 44. He said that the staff had suggested that this conflict be resolved prior to certification and the staff understands that the process of releasing the easement is now underway.

Ms. Richardson interrupted and said that there is some confusion among the Commission members, and asked for further explanation regarding the proposed renderings. Ms. Roche-Phillips noted that the renderings are not oriented the same way.

Mr. Martin explained that the development plan covers the overall area of the Ramsey/Sullivan Property that has been approved by the Commission, while the final record plat depicts the area of the amendment. He said that the portion of the subject site that is noted on the final record plat has been enlarged to illustrate the area where this amended development will take place. He noted that the applicant' was shifting the layout of the development to provide the rear access into the townhouse area.

Mr. Martin said that the applicant did submit a revised development plan to the staff; and with that revised submission, the staff is recommending approval of DP 2009-45, subject to the following conditions:
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~~ Clarify all proposed buildings, garages, driveways and private open spaces.
9. ~~Addition of~~ Clarify 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~~ Clarify 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.~~ Release street light easement prior to certification.
19. ~~Resolve building envelopes and building/easement conflict.~~

Mr. Martin then said that the key to the final record plat has always been contingent upon the development plan matching it. He said that when the applicant first submitted the development plan, the two items did not match; however, with the changes made by the applicant, these two plans now coincide with each other. With that being said, the staff is recommending approval of PLAN 2009-39F, subject to the following conditions:

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.

Mr. Martin noted that there are several cleanup conditions listed on the recommendation that includes a discussion item concerning the access easement and storm and sanitary sewer easement and swale conflicts. These conflicts run along the front lots, particularly near lots 41 through 44. He said that the applicant has met with the Division of Engineering, and their staff is comfortable with notes that are already on the plan and how this swale will function in relation to the storm and sanitary sewer system. With that being said, the staff is recommending changing condition number 23 to read: "Resolve the access easement and storm and sanitary sewer easement and swale conflicts."

Planning Commission Questions – Ms. Whitman asked the location of lot 37, and asked if the building line will be reduced from 20 feet to 10 feet. Mr. Martin illustrated the location of lot 37, and said that lot 37 is being amended to accommodate the proposed access easement.

Mr. Owens asked if the Division of Engineering will still need to approve any changes. Mr. Martin responded affirmatively. He said that the Division of Engineering will be requesting a signoff on the building permits, in addition to their normal signoff, to make sure that this will be constructed appropriately. Mr. Owens then asked if that additional signoff needs to be added as a condition. Mr. Martin said that the staff is comfortable with that signoff being under condition number 1.

Representation – John Barlow, Barlow Homes, was present. He stated that they are in agreement with the staff's recommendations, and requested approval of PLAN 2009-39F and DP 2009-45.

Planning Commission Questions – Mr. Owens asked if Mr. Barlow agrees with the Division of Engineering request for an additional signoff on the building permits. Mr. Barlow replied affirmatively.

Mr. Brewer asked how these conflicts will be resolved. Mr. Barlow said that there is an existing storm pipe going through the property that will collect and take the storm water away from their development. Mr. Brewer said that staff had mentioned that, as the site exists today, there are conflicts in three key areas; and asked if there is an existing stormwater system already on site that will resolve these conflicts. Mr. Barlow said that there is an existing storm pipe that comes through the middle of the property and on out to Meadowsweet lane. He said that the staff was unaware that there are two beehive inlets that will help collect the runoff. Mr. Brewer confirmed that there is existing infrastructure already in place on this site that addresses the mentioned conflicts. Mr. Barlow replied affirmatively. Mr. Brewer asked if this was the staff's understanding, and if so, then why there is a conflict. Mr. Martin said that it is the staff's understanding that the Division of Engineering is confident that any issues pertaining to the construction of the infrastructure and the units can be resolved.

Mr. Owens said that the original development plan does not appear to depict the rear access easement. Mr. Martin said that that change is now shown on the amended development plan. Mr. Owens asked if that change was discussed with the original development plan. Mr. Martin said that that change would be approved with the amended development plan.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Ms. Whitman, and carried 7-0 (Holmes and Penn absent) to approve PLAN 2009-39F, subject to the conditions listed on the agenda, changing condition number 23 to read: "Resolve the access easement and storm and sanitary sewer easement and swale conflicts."

Action - A motion was made by Mr. Cravens, seconded by Ms. Whitman, and carried 7-0 (Holmes and Penn absent) to approve DP 2009-45, subject to the following revised conditions:
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. Clarify all proposed buildings, garages, driveways and private open spaces.
9. Clarify building heights, lot coverage and floor area ratio information.
10. Clarify all proposed building dimensions.
11. Complete site statistics.

c. PLAN 2009-69F: WRITT STATION SUBDIVISION (AMD) (10/8/09)* - located at Laclede Avenue.
(Council District 6) **(Summit Engineering)**

Note: The purpose of this amendment is to remove the provisions for shared driveway access.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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. Denote: This property shall be developed in accordance with the approved final development plan.
7. Correct Planning Commission's certification.
8. Addition of private utilities listing per Article 5-4(e) of the Land Subdivision Regulations.
9. Denote: Street trees and arterial screening are to be planted within a year of recordation of this plat.
10. Provided the Planning Commission grants a waiver to Article 5-4(h)(2) of the Land Subdivision Regulations.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the amended final record plat, and said that the subject property is located on Laclede Avenue. He said that Laclede Avenue is between Wickland Drive and Edgeworth Drive, and it is adjacent to I-64 and -I75. He noted that the Bryan Station High School campus is in the general vicinity, as well.

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

Mr. Taylor said that the purpose of this amendment is to remove note #11 from the record plat, which is a provision for shared driveway access that was previously required. He then said that the applicant is requesting to allow the property owner the option to choose whether or not they have a driveway with a garage in the rear of each property.

In conclusion, Mr. Taylor said that the Subdivision Committee recommended approval of the applicant's request, subject to the conditions listed on the agenda. He noted that this request will require the Commission to grant a waiver to Article 5-4(h)(2) of the Land Subdivision Regulations, which will be presented momentarily by the staff.

Waiver Presentation – Mr. Martin stated that the applicant is requesting a waiver of the Engineer's and Surveyor's Certification that is required by Article 5-4(h)(2) of the Land Subdivision Regulations. He said that the purpose of this amendment is strictly to change note #11 on the plat. The applicant will not be making any engineering improvements or change to the layout or design of the subdivision. He then said that the approved preliminary development plan has been accepted by the Division of Engineering, as well as the Urban County Government, for the completion of the infrastructure in the area; and since there will no additional improvements to this subdivision, the applicant could not certify that they had completed the infrastructure phase, resulting in the need of the waiver.

Mr. Martin then stated that the staff is in agreement with approving the requested waiver, for the following reasons:
1. Granting the waiver will not adversely affect public health and safety, and will otherwise maintain compliance with the Land Subdivision Regulations.
2. Strict compliance with this requirements of the Land Subdivision Regulations would constitute a hardship for the applicant by requiring an engineer's stamp and signature to be affixed to the plat when it is not warranted by the same Land Subdivision Regulations.

This recommendation is made subject to the following additional requirement:

a. This certification shall read as follows:
"I hereby do certify that this record plan was prepared by me or under my direction; ~~that all work performed by me or under my direction, including engineering design and construction observation of the infrastructure,~~ was done in accordance with the provisions of the Land Subdivision Regulations, the Zoning Ordinance~~, the Division of Engineering Technical Manuals~~ and the requirements of the Planning Commission; that all monuments indicated hereon do exist and their locations, size, and materials are correctly shown; that, to the best of my knowledge and belief, the information shown hereon is accurate." (Engineer's and surveyor's signature, address, date, and seal)

Representation – Matt Williams, Summit Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2009-69F.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Ms. Whitman, and carried 7-0 (Holmes and Penn absent) to approve PLAN 2009-69F, subject to the conditions as listed by staff, and granting the waiver for the following reasons:
1. Granting the waiver will not adversely affect public health and safety, and will otherwise maintain compliance with the Land Subdivision Regulations.
2. Strict compliance with this requirements of the Land Subdivision Regulations would constitute a hardship for the applicant by requiring an engineer's stamp and signature to be affixed to the plat when it is not warranted by the same Land Subdivision Regulations.

This recommendation is made subject to the following additional requirement:

a. This certification shall read as follows:
"I hereby do certify that this record plan was prepared by me or under my direction; ~~that all work performed by me or under my direction, including engineering design and construction observation of the infrastructure,~~ was done in accordance with the provisions of the Land Subdivision Regulations, the Zoning Ordinance~~, the Division of Engineering Technical Manuals~~ and the requirements of the Planning Commission; that all monuments indicated hereon do exist and their locations, size, and materials are correctly shown; that, to the best of my knowledge and belief, the information shown hereon is accurate." (Engineer's and surveyor's signature, address, date, and seal)

d. PLAN 2009-83F: MARSHALL PROPERTY, UNIT 2-J (10/20/09)* - located at 3000 Leestown Road. (Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:
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 required street tree information.

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

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
9. Addition of adjoining property information on the west property line.
10. Review by Technical Committee prior to certification.
11. Provided the Planning Commission makes a finding per Article 6-8(m) of the Land Subdivision Regulations on the access easement.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the final record plat, noting that the subject property is located at 3000 Leestown Road. He said that the purpose of this plat is to subdivide the land into 42 lots in accordance with the approval final development plan. He then said that the street system will include the proposed New River Place to intersect McConnell Trace, and there will be small greenway areas within the subject site, some of which will be fronting the access easement. He noted that out of 42 lots, 22 will be fronting the access easements. He said that the reason this item is in front of the Planning Commission, at this time, is due to note #12 on the approved development plan. He then said that this note states that all of the lots that are served by the access easement must be created by the final record plat prior to the issuance of a building permit.

Mr. Taylor stated that the Subdivision Committee reviewed the applicant's request and recommended approval, subject to the conditions listed on the agenda. He said that with those conditions of approval, the Planning Commission must grant a finding to Article 6-8(m) of the Land Subdivision Regulations for the access easement. He noted that the staff is in agreement with approving the finding, for the following reasons:

1. The plan as proposed is consistent with the approved Preliminary Subdivision/Final Development Plan.
2. The application of the requirements and standards for a public or private street would be excessive within the plan context and design.
3. The access easement, as proposed, meets the intent of the Land Subdivision Regulations to provide access to the proposed lots.

Planning Commission Questions – Ms. Roche-Phillips said that the developer wants to maximize the number of lots on this odd piece of land and asked, in order to enhance those lots if an access easement is being created. Mr. Taylor said that the staff is unaware of the developers reasoning behind this type of design, but the staff does not believe more lots are being created as a result of creating the access easement. Ms. Roche-Phillips asked if the units will front onto the greenway. Mr. Taylor pointed out the LFUCG greenway, and said that only two units will be fronting the greenway. He then said that the design that was chosen had the units fronting the access easement. He noted that the development plan is not changing, and the purpose of this request is to create these lots. In order for the applicant to acquire the building permits, a final record plat had to be submitted that showed the access easement being created to serve these lots, as well as showing the lots fronting along this easement.

Ms. Copeland asked if that the units will be backing up to the road and the frontage will be toward a greenway. Mr. Taylor replied that the units will be backing toward the access easement. He said that there will not be any public streets, only access easements that will serve these units.

Ms. Roche-Phillips asked if this is a final record plat. Mr. Taylor replied affirmatively. Ms. Roche-Phillips then asked if there is a maintenance agreement for the greenway areas. Mr. Taylor said that the Homeowners' Association will be responsible for maintaining the easement. Ms. Roche-Phillips asked if the access easements are improved. Mr. Taylor said that the access easements will be constructed to public standards.

Ms. Copeland asked if there is a difference between homes sharing a common driveway and an access easement. Mr. Taylor replied no, and said that the property owners will still be responsible for the maintenance of the driveway, not the City.

Mr. Owens asked if the final record plat will allow the applicant to lot the area for the purpose of selling the lots; and if the access easement has not been constructed, if it would hinder the process. Mr. Taylor said that it is not uncommon for a development, such as townhouses, to build the units, then subdivide those units through the common wall area. He said that since the applicant chose not to have this development submitted as a group residential project, they had to document that these units will be subdivided. A note was placed on the development plan that required the applicant to submit a final record plat in order to create the proposed lots that do not have street frontage. He said that the applicant will need to build the access easements and have it approved by the Division of Engineering prior to it coming to Division of Planning. Mr. Owens asked then why this item is in front of the Planning Commission if there are steps missing. Mr. Taylor said that it is not uncommon for a final record plat to come into the office for review ahead of the infrastructure being completed. He said that the Division of Engineering must receive and accept the applicant's document, then certify that everything is alright, at which time the final record plat process starts.

Ms. Roche-Phillips said that the staff had mentioned that the asphalt has not been completed; and if that was the case, if a performance guarantee could be requested. Mr. Sallee said that prior to the certification of this plat, there will be two warranties, the first being for the final surface of asphalt, and the second for the work that has already been done on the street. Mr. Taylor noted that this method is on all record plats, regardless of at what stage the development is. Mr. Sallee said that the note previously mentioned pertains to the maintenance of the access easement, which is private, whereas the paved surfaces are covered through the warranty and sureties.

Ms. Roche-Phillips asked if it is customary to have the performance guarantees prior to certification or at the final development plan stage. Mr. Sallee said that that is normally done prior to the Division of Engineering approving a request, which is done before the Division of Planning reviews the applicant's request.

Staff Comments – Mr. Martin clarified that, under normal circumstances, access easements are approved within a Group Residential project and under Article 6-8(m) of the Land Subdivision Regulations, the Planning Commission is required to make a finding for the access easement. He said that if the Planning Commission chooses to approve this request, the Commission has the authority to require a higher standard.

Ms. Copeland asked if this has been done. Mr. Martin replied affirmatively.

Ms. Roche-Phillips asked if this request is a group residential development; and if so, if these lots will be acceptable for single family detached if the market were to fail for townhouse developments. Mr. Martin said that this area will be built subject to the approved development plan(s), which are attached townhouses.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2009-83F. He noted that there have been two other development plans, as well as one record plat, presented to the Commission that showed the access easements and the townhouse units. He said that this is a continuation of what has been done in the past.

Dick Murphy, attorney, was also present representing the applicant. He said that this subdivision has been developing for the past 10 years, and everything that has been seen has been subject to a preliminary and final development plan, as well as a preliminary subdivision plan. He then said that nothing new is being presented to the Commission at this time; and as far as the infrastructure and improvements are concerned, the Division of Engineering must sign off that all public improvements are done or those improvements will be bonded. If for some reason this item were to be platted as single family lots, the applicant would need to come before the Planning Commission for approval of that request.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Comments – Mr. Owens said that this item was filed late, and for him that is often a "red flag." He then said that he does have concerns with several comments that were made, but the Commission must rely on the staff to assure that everything is correct and the appropriate signoffs will be obtained.

Action - A motion was made by Mr. Owens, seconded by Ms. Whitman, and carried 7-0 (Holmes and Penn absent) to approve PLAN 2009-83F, subject to the conditions listed on the agenda, and granting the findings for the following reasons:

1. The plan, as proposed, is consistent with the approved Preliminary Subdivision/Final Development Plan.
2. The application of the requirements and standards for a public or private street would be excessive within the plan context and design.
3. The access easement, as proposed, meet the intent of the Land Subdivision Regulations to provide access to the proposed lots.

e. PLAN 2009-87F: MAHAN PROPERTY, LOT 1 (AMD) (10/27/09)* - located at 4057 Mooncoin Way. (Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to remove the non-building restrictions.

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

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 required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.

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6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of building lines.
8. Resolve the timing of construction and dedication of Victoria Way prior to certification.
9. Review by Technical Committee prior to certification.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the final record plat, and oriented them to the surrounding street system. He noted that Mooncoin Way is just off of Man O' War Boulevard, which intersects with Osborne Way. He then noted that Bradford Colony Drive and Victoria Way currently stub into the subject property, as well. He said that this development has been platted and recorded down to the intersection of Victoria Way and Mooncoin Way. He then said that the subject property currently has a multifamily development on it; and on the opposite side of Osborne Way, it has been platted for single family lots.

Mr. Martin stated that the purpose of this amendment is to remove the non-building restrictions that were placed on Lot 1. He said that the reason for these restrictions was to make sure that both Bradford Colony and Victoria Way would be constructed and dedicated. He then said that the applicant was requesting that the non-building restrictions be shifted down toward Victoria Way, which would then enable them to proceed with the construction of the multifamily development. He noted that the non-building restrictions would remain on the last 4 units. He said that if the applicant were to plat this area, they would not comply with the Land Subdivision Regulations, requiring a waiver request for Victoria Way; however, they are not requesting a waiver, they only want to move forward with the construction, but in phases.

Mr. Martin then stated that the Subdivision Committee reviewed the applicant's request and recommended approval, subject to the conditions listed on the agenda. He said that since this item was filed late, it will need to be reviewed by the Technical Committee prior to certification.

Planning Commission Questions – Ms. Roche-Philips pointed out that Victoria Way runs along the southern boundary and it connects to the adjoining subdivision. She asked where Victoria Way will go and what its function will be. Mr. Martin said that Victoria Way will provide connectivity between the two adjacent subdivisions.

Ms. Copeland asked how much of Victoria Way will need to be constructed, to which Mr. Martin responded that it will require 500' of pavement.

Ms. Roche-Phillips asked if the construction of Victoria Way is considered to be a phase of the development. Mr. Martin replied that it is an integral part of the overall development. Ms. Roche-Phillips then asked if Victoria Way will continue on over for a different phase of the development. Mr. Martin said that as the area develops, so will the construction of Victoria Way. Ms. Roche-Phillips asked if this portion of Victoria Way is the first phase. Mr. Martin said that the applicant has built Osborne Way, Mooncoin Way and a small part of Victoria Way. Ms. Roche-Phillips confirmed that there is a 500' section of Victoria Way that has not been constructed. Mr. Martin replied affirmatively. Ms. Roche-Phillips then asked if the adjoining property has been built. Mr. Martin said that Victoria Way on the adjacent subdivision has been developed for some time.

Ms. Copeland asked if Victoria Way is developed on the other side of Mooncoin Way. Mr. Martin said that those improvements to Victoria Way have not been completed, and that portion will be in phases.

Mr. Owens said that Bradford Colony Drive stubs into the subject site, and asked if that portion of the land has been developed. Mr. Martin replied affirmatively, and said that there were building restrictions placed on two units in order to have the stub constructed; however, it has not been dedicated. Mr. Owens then asked when the cul-de-sac will be dedicated. Mr. Martin said that the stub could be dedicated with this plat; however, it will be up to the applicant to dedicate it.

Ms. Roche-Phillips asked if the Bradford Colony stub is designed as a hammer-head. Mr. Martin said that the stub is to be a hammer-head cul-de-sac, which can provide a turnaround area. Ms. Roche-Phillips then asked if there is connectivity between the subdivision and the multifamily development. Mr. Martin replied that there is not, but said that the connectivity will come from Victoria Way.

Representation – Rena Wiseman, attorney, was present representing the applicant. She said that they are requesting the non-building restriction to be removed from a portion of the remaining property. She then said that there was a non-building plat created, which allowed the developers to acquire the land in pieces for financial reasons, while not completing the infrastructure. She noted that originally they were going to complete 8 buildings; but with the current economy, construction has become slower. She said that they are prepared to build 4 additional buildings at this time; but in order to obtain the building permit; the non-building restriction must be lifted.

Ms. Wiseman said that the note acts as a protection measure for Victoria Way, because the remaining lots cannot be built until the street is dedicated. She said that they are ready to begin the construction on the next portion, but due to time restriction there is not enough time to construct the street. This would mean that they will need to submit another final record plat to the Commission before the last remaining buildings can be completed; and at that time, the dedication of Bradford Colony Drive can be included.

Ms. Wiseman said that it is important to her clients that the street be completed, and it will be completed through the normal progression of the project. She said that this request is to merely request the construction of 4 additional buildings. With that being said, she stated that the applicant was in agreement with the staff's recommendations, and requested approval of PLAN 2009-87F.

Planning Commission Discussion – Mr. Brewer asked how much of the land in this area the applicant owns. Howard Cruse, Ball Homes, was present on behalf of RML Construction, said that they have the option to purchase the entire Mahan Property; and at this time, at least 1/3 has been obtained by Ball Homes. He then said that the property in question is approximately 8 acres, and with the original proposal they were to develop half of that 8 acres. Now they want to split this development into three phases. His client does own the right-of-way for Victoria Way and they do intend to complete Victoria Way; but, it is not feasible with the way the economy is at this time. Mr. Cruse illustrated to the Commission the areas that Ball Homes currently owns. Mr. Brewer confirmed that Ball Homes has obtained the properties at the southeast corner. Mr. Cruse said that this area has been developed with single family housing. Mr. Brewer asked if the connection of Victoria Way is critical to the development of this land. Mr. Cruse replied affirmatively, and said that Victoria Way is part of the collector system that will connect to Ridgewater Way in the Waterford Subdivision.

Ms. Copeland expressed her concern with this item being filed late, and said that seeing the overall plan and the individual plan helps her to understand what is going on. She then said that the last 4 units will not only have the expense of the unit, but the expense of Victoria Way. Mr. Cruse said that that was correct. Ms. Copeland asked what incentives are there for them to build the street. She said that the applicant does not need Victoria Way for the single family homes, and the applicant does not own the undeveloped land on the other side of Victoria Way. She asked what assurance is there to guarantee that the applicant will perform and complete the street. Mr. Cruse said that they have performed and they have made a significant investment in this land, which cannot be recovered until the area is fully developed. Ms. Copeland asked if there is a performance bond for Victoria Way. Mr. Cruse replied no, and said that Victoria Way is not a part of this development, but rather it is a part of the overall subdivision plan. He then said that originally they planned to make the connection with the second phase of development, but due to the current economy that is not possible. Ms. Copeland asked what kind of commitment the Commission can have to assure that Victoria Way will be built. She said that there is only 50 percent of the land already completed. Mr. Cruse said that they have 67 percent of the land developed. Ms. Wiseman said that there will be other units in this area that will need the access off of Victoria Way. Mr. Cruse then said that the land on the other side of Victoria Way will be utilizing the proposed street. Ms. Copeland responded that that is an option.

Ms. Wiseman said that Victoria Way has been listed on the Comprehensive Plan for many years; and if this land does not develop, then Victoria Way will not be built. She then said that they cannot guarantee to the Commission that there will not be a global meltdown and nothing is built; but if they intend to make a profit from this development, then Victoria Way will need to be built. They have given every possible commitment that the system allows, as well as restricting the building permits. She said that they could argue they are not responsible for the construction of Victoria Way, since their development has full access to another collector street. Ms. Wiseman said that they could bring in a final development plan to obtain the building permits since they have access to the apartment complex, but they are only requesting the note to be modified to allow them to build 4 more units. She noted that with the added condition, they cannot build the last 4 units until both Bradford Colony Drive and Victoria Way have been constructed and dedicated. She said that this is as much of a commitment as they can give. If there is no development in this area, then Victoria Way will not be needed.

Mr. Cravens asked if the proposed 4 buildings will need to use Victoria Way. Mr. Cruse replied no, and said that the parking area was already built during the first phase of development, and they are only adding a loop-around. He said that they are not afraid to make a commitment. Mr. Cravens then asked if they will be building Victoria Way in the spring or when the economy is better. Mr. Cruse replied affirmatively and said that if they could they would build the street today. Mr. Cravens commented that it is too late in the year to start the street. Mr. Cruse replied affirmatively.

Mr. Brewer said that prior to this request there was no assurance that the street would be built. Mr. Cruse replied no, and said that there was no requirement on this or any other plat to build Victoria Way. Ms. Wiseman said that that was shown on the overall development plan at the time the zone change was granted. Mr. Brewer said that prior to this change, there was no assurance other than the developing market that Victoria Way would be built, and now the applicant was agreeing to build Victoria Way prior to the 4 buildings being constructed. Mr. Cruse said that they did make a commitment to build the Bradford Colony Drive cul-de-sac.

Ms. Copeland commented that it would have been better if the overall design was used as a reference point. Ms. Wiseman agreed and said that if the overall development plan was present, it would had been clear.

Mr. Owens said that 7 of the 8 units had been built, and for whatever reason the 8th was not being built. Ms. Wiseman replied that first phase included 7 out of 15 apartment buildings being built, as well as the clubhouse.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Cravens, and carried 7-0 (Holmes and Penn absent) to approve PLAN 2009-87F, subject to the conditions listed on the agenda.

A recess was declared at 2:51 p.m. and the meeting re-convened at 2:56 p.m.

2. Development Plans

a. DP 2009-51: ANGLIANA AVE. ADAPTIVE REUSE/SHOWPROP LEXINGTON, LLC (10/8/09)* - located at 474, 475, 497 & 498 Angliana Avenue & 701 South Broadway. (Council District 2) **(Strand Associates)**

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

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. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities, including increased pedestrian connectivity from Angliana Avenue near the building entrances.
5. Department of Environmental Quality's approval of any identified environmentally sensitive areas.
6. Addressing Office's approval of street names and addresses.
7. Clarify dumpster location to the approval of the Division of Solid Waste.
8. Complete or correct all items pertaining to Article 21 required content and format.
9. Denote: This property is anticipated to be constructed in phases. As this is an adaptive reuse project, the following issues associated with the project shall be further studied in detail at the time of the final development plan:
   a. Timing of development relative to the adaptive reuse building renovation;
   b. Timing of development relative to any TIF public improvement;
   c. Pedestrian safety, especially at street crossing(s);
   d. Provisions for deliveries and other truck traffic considerations;
   e. Traffic movement and the possible need for turn lanes; and
   f. Overall landscaping plan and its phases.
10. Discuss Curry Avenue improvements or other road alternatives relative to a future connection to the Red Mile area.

Staff Presentation – Mr. Emmons noted that this property is located at 474, 475, 497 & 498 Angliana Avenue and a small portion of 701 South Broadway. He directed the Commission's attention to several exhibits that were previously distributed, and noted that these exhibits include a memorandum dated August 13, 2009 that reflects note numbers 17 and 18 being revised; the applicant's Comprehensive Plan compliance statement; a letter explaining the vision for the adaptive reuse project; and a schematic showing the building that will be adaptively reused. He then noted that the staff had received a letter of support from the Fayette Alliance, as well as a rendering of the applicant's artistic design for this property.

Mr. Emmons oriented the Commission's attention to a rendering of the development plan, and identified the surrounding street system. He said that Angliana Avenue is located off of South Broadway, and it intersects with Curry Avenue. He then said that the subject property is about 20 acres in size, and is split into several zones that include Light Industrial (I-1) and Wholesale and Warehouse Business (B-4); a portion of the subject property is railroad property, which the applicant intends to lease. He noted that the applicant is proposing to develop about 350,000 square feet of this area for commercial uses, as well as up to 60 residential units, which does not include the proposed parking structures.

Mr. Emmons directed the Commission's attention to a PowerPoint presentation, and briefly oriented them to the overall area, illustrating the location of the adaptive reuse site, the proposed 12-plex theater, the pedestrian bridge and the parking structure. He said that Building C will be about 80,000 square feet, and it will be used for commercial and mixed uses, but is not to be used for residential uses at this time. He then said that Building B will be used for the adaptive reuse project, Building D and Building E will be for mixed use and residential uses, and Building A will be used for the 12-plex theater. He noted that the pedestrian bridge is being proposed to cross over the railroad tracks and connect to the Scott Street connector, which is part of the Newtown Pike Extension project.

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

Mr. Emmons then stated that the building that will be used for the adaptive reuse project was originally used to store and house tobacco. He said that the applicant is proposing to tear down a portion of this building to construct the new entrance. He then said that, under normal circumstances, in order to preserve the tobacco warehouse, a new building will need to be built inside of that building. However, for this case, the overall structure is in fair condition, and the original structure is intact; therefore, the applicant is planning to utilize the existing materials, as well as the different levels within this building to help tie it into the pedestrian plaza.

Mr. Emmons said that when this request was originally submitted, it was filed as a final development plan; but after the Technical Committee review, the applicant chose to bring this forward to the Subdivision Committee as a preliminary development plan. He then said that this is important because the rendering shown today is purely conceptual, and one of the major items for this proposal is the approval for TIF financing through the State of Kentucky. At the final development plan stage, it is expected that there will be minor changes to the design layout, but the overall concept should hold true.

Mr. Emmons said that some of the items that will be included in the TIF financing are the 5-story parking structure near the area where commercial uses are proposed along Angliana Avenue, and the pedestrian bridge that will connect to Scott Street leading to the University of Kentucky. He then said that the applicant is also proposing a two-story restaurant and a theater near the bridge. He noted that a tower will be constructed on the subject site that will not have any other function other than to be an iconic feature to this area, such as public art.

Mr. Emmons stated that since the Subdivision Committee meeting, the applicant has revised the development plan to show an increase in the leasable area near the railroad tracks to allow an adequate amount of space for the detention basin. He said that the applicant has also denoted on the development plan through a note [#18] that this property will be constructed in phases, as well as noting that there is a timing issue related to the TIR improvements with this adaptive reuse project; therefore, condition #9 can be deleted from the recommendations. He then said that there was a considerable amount of discussion concerning the improvements to Curry Avenue (condition #10); and since the Subdivision Committee meeting, the applicant has added note #17 to read: "Curry Avenue improvements, if any, will be resolved at the time of the Final Development Plan for that area."

With that being said, Mr. Emmons said that the staff now recommends the following changes to occur:

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. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities, including increased pedestrian connectivity from Angliana Avenue near the building entrances.
5. Department of Environmental Quality's approval of any identified environmentally sensitive areas.
6. Addressing Office's approval of street names and addresses.
7. Clarify dumpster location to the approval of the Division of Solid Waste.
8. ~~Complete or correct all items pertaining to Article 21 required content and format.~~
9. ~~Denote: This property is anticipated to be constructed in phases. As this is an adaptive reuse project, the following issues associated with the project shall be further studied in detail at the time of the final development plan:~~
    a. ~~Timing of development relative to the adaptive reuse building renovation;~~
    b. ~~Timing of development relative to any TIF public improvement;~~
    c. ~~Pedestrian safety, especially at street crossing(s);~~
    d. ~~Provisions for deliveries and other truck traffic considerations;~~
    e. ~~Traffic movement and the possible need for turn lanes; and~~
    f. ~~Overall landscaping plan and its phases.~~
10. Discuss Curry Avenue improvements or other road alternatives relative to a future connection to the Red Mile area.

Mr. Emmons noted that condition #10 could possibly be deleted after the Commission further discusses the improvements to Curry Avenue.

Mr. Emmons showed an overall view of the subject property using Google Earth software. He described the location of the street system in this area, as well as the major landmarks, such as the Red Mile track and the Stable of Memories. He said that, in reviewing this area, the subject site is very close to the Red Mile property, which could offer a connection between these two projects. He further said that at the recent Red Mile meeting, the committee had voiced their concern with providing that connection, particularly, with regards to the interruption of the working group daily functions at Red Mile; however, they were open to the discussion if the City felt it was important. Mr. Emmons then illustrated the location of the new apartment buildings and said that that developer had made street improvements to that access, which connects to Curry Avenue and Angliana Avenue. He said that there was a discussion regarding the small access road, and whether or not the improvements would be further made or if there would be an access directly from the Red Mile site. He then said that there are exiting businesses in the general area, and most of the area between Curry Avenue and Angliana Avenue has been developed. The important thing to remember is that the Red

Mile Project, as well as the applicant project are both conceptual plans; and it is important to not prevent the road improvements or connectivity between these two entertainment areas as development progresses.

In closing, Mr. Emmons said that the staff is very satisfied with the applicant's conceptual plan, as well as the proposed notes that were added to the development plan. He said that under normal conditions, the Commission would review a preliminary development plan when a zone change request is submitted, but this request does not involve a zone change; this is only the applicant utilizing the adaptive reuse provisions within the B-4 and I-1 zones. Mr. Emmons said that the staff is recommending approval of the applicant's development plan, subject to the following conditions:

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. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities, including increased pedestrian connectivity from Angliana Avenue near the building entrances.
5. Department of Environmental Quality's approval of any identified environmentally sensitive areas.
6. Addressing Office's approval of street names and addresses.
7. Clarify dumpster location to the approval of the Division of Solid Waste.

<u>Representation</u> – Chris Westover, attorney, was present representing the applicant, George Krikorian. She said that her client has several movie theaters in southern California under the name of Krikorian Premier Theaters, and noted that the Lexington entity will be under the name of ShowProp Lexington, LLC. She submitted the required affidavit to the staff, and stated that they are very appreciative of the staff working with them and working out the details of this project. She said that Mike Woolum and Sara Tuttle of Strand Associates were present, should the Commission have any questions for the engineering team. She then said that they are in agreement with the staffs recommendation, and request approval from the Planning Commission.

Ms. Westover stated that they believe that this project meets all the requirements of an adaptive reuse project; and most of the land in this area is zoned I-2, and not I-1, as previously mentioned by staff. She said that the Comprehensive Plan recommends that the area be redeveloped and revitalized, and the public art display will be a substantial component of the development. She then said that they are in the process of the TIF application, and this application will be submitted to the Urban County Government as early as next week.

Ms. Westover then stated that the linchpin of this project will be the adaptive reuse of the tobacco warehouse building, and one of the aspects of this project is the high degree for pedestrian and bicycle connectivity. She noted that there will be a pedestrian plaza located in the center that will promote walking, or biking. She then noted that there will also be a LexTran stop, as well as bike racks to help accommodate the pedestrian connectivity. She said that this project will be able to link up with the downtown area and the University of Kentucky campus within minutes.

At this time, Ms. Westover provided a series of photographs to the Commission, and gave a brief summary of each. (A copy of these photographs is attached as an appendix to these minutes).

1. a view of the outside area of the tobacco warehouse, showing a stepped roof;
2. a view of the outside area showing the front of the tobacco warehouse along Angliana Avenue, noting that this area will be an open space with the use of pillars;
3. a view of the conceptual plan for the front area of the tobacco warehouse. This area is proposed to have a seating area, galleries, and restaurants;
4. a view of the interior structure, showing the drive aisles between the exterior wall and the interior walls.
5. another view of the interior area;
6. a view of the wooden ceiling that will be preserved;
7. another view of the wooden ceiling that will be reused;

Ms. Westover noted that the next series of photographs are views from the site as it exists today.

8. a view of the northern side, which is the future site for the restaurant and the pedestrian bridge. She noted that directly on the other side of the railroad tracks will be the Newtown Pike Extension. She then noted that the pedestrian bridge will connect the subject site to the sidewalk on the Newtown Pike Extension.
9. a view looking toward the South Broadway right-of-way;
10. another view looking toward the University of Kentucky Reynolds Building across South Broadway;
11. a closer view of the Scott Street connector of the Newtown Pike Extension that will be constructed on the other side of the railroad tracks;
12. a view of the Scott Street connector of the Newtown Pike Extension looking over the South Broadway right-of-way on the other side of the railroad tracks;
13. a view from the north side of the railroad tracks facing the University of Kentucky Reynolds Building across South Broadway;
14. a view of the Patterson Office Tower in the background;
15. a similar view of the Patterson Office Tower;

16. a view from Scott Street facing the project site. She noted that this will be where the pedestrian bridge and amphitheater will be constructed.
17. another view of the project site that looks toward Scott Street, depicting the general location of the Scott Street connector of the Newtown Pike Extension over South Broadway;
18. a view from Scott Street, noting that the project site is in the location of the parked cars;
19. a view of the subject site behind the train that is being proposed for the theater. She noted that her client is a collector of antique train cars, and he is proposing to display some of those cars on the subject site.
20. a view of the underutilized railroad tracks that will be leased out.

Ms. Westover stated that Mr. Krikorian has a successful history in developing similar projects on lands that were vacant and underutilized. She said that with the help of the TIF application, the power lines in this area will be placed underground, along with the construction of the pedestrian bridge.

At this time, Ms. Westover provided a PowerPoint presentation to the Commission that illustrates Mr. Krikorian's past developments. (A copy of this presentation is attached as an appendix to these minutes). She noted that Mr. Krikorian is known for his unique architecture and high quality features, such as custom made furniture and fixtures. She said that her client provides high ceilings, state of the art technology, wraparound screens and a digital projection system, as well as satellite feeds that will provide a distinctive environment and viewing experience for visitors

In conclusion, Ms. Westover requested approval of DP 2009-51, subject to the recommendations outlined by the staff.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request. Ms. Van Nagell was present on behalf of the Fayette Alliance, and read the following sections into the record. (A copy of the letter in its entirety is attached as an appendix to these minutes).

> "The Fayette Alliance joins the Planning Staff in supporting the preliminary development plan of DP 2009-51: Angliana Adaptive Reuse/Showprop Lexington, LLC. They believe this project will transform a tired and economically depressed industrial corridor into a dynamic urban space, strengthening the Town and Gown relationship between UK and the City, while complementing the Newtown Pike Extension, the new student housing development and other improvements currently underway in the area.
>
> With over 8,000 acres of blighted, underutilized and vacant land inside the Urban Service Area, the Fayette Alliance conceptually endorses DP 2009-51. It aims to responsibly accommodate our future growth needs without needlessly consuming our finite and threatened farmland, a strategy that expressly furthers the intent of the recently adopted Adaptive Reuse ZOTA for the B-4 and I-2 zones; Goals 5, 7, 8, 11 and 12 of the 2007 Comprehensive Plan; the spirit of the LFUCG Downtown Master Plan; and countless public visioning surveys.
>
> Therefore, the Fayette Alliance requests that the Commission approve the applicant's request in the interest of moving the development and TIF process forward. We look forward to remaining engaged in the process to ensure that the infrastructure, transportation and any other development issues are resolved prior to construction."

Harold Tate was present on the behalf of the Downtown Development Authority (DDA). He said that Mr. Krikorian had contacted the DDA about five years ago; and since that time, the DDA has been researching various locations to promote this type of project. He then said that once this site came about they had contacted Mr. Krikorian, and he was very excited about purchasing this land for development. In conclusion, Mr. Tate said that the DDA believes that this project will add another layer of excitement to the downtown area, and they hope that the Commission will support this project as well.

Jon Sterling, property owner of land within the Angliana Avenue and Curry Avenue area, was present. He wanted to express that he is in support of Mr. Krikorian's vision, and requested approval.

Commission Questions – Mr. Owens asked for clarification on whether or not the applicant will be responsible for part or all of the pedestrian bridge construction. Ms. Westover said that as part of the TIF application, the pedestrian bridge will be included in that financing. Mr. Owens then asked if there is an idea of what the design will look like on the other side of South Broadway. Ms. Westover said that there has been a preliminary discussion concerning the design; and since timing could be an issue, it would be ideal to construct the bridge in conjunction with the Newtown Pike Extension. Ms. Tuttle clarified that they are proposing to build a U-shape structure with elevators in each pillar that will lead to a pedestrian bridge that crosses the South Broadway right-of-way. She said that that connection of South Broadway will be a part of the Scott Street connector and the Newtown Pike Extension. Referencing a photograph that shows a pedestrian bridge, she illustrated what the scale of the bridge might be. Ms. Westover said that they cannot guarantee that the pedestrian bridge will look like the bridge in the photograph, but it will incorporate some of the same features.

Ms. Richardson confirmed that the staff is recommending the deletion of conditions #8, 9, and 10. Mr. Emmons replied affirmatively. He said that this is a conceptual plan and the staff is positive that when the final plan comes in, there will be slight changes made. He noted that if the Planning Commission approves the applicant's request as an adaptive reuse project, then it will open this project up to those provisions within the Zoning Ordinance. He said that this is important for the TIF application, which the applicant is preparing to submit to the City and to the State. He then said that the Commission will have another chance to review the proposed development to see what relation it has with the 2007 Comprehensive Plan as per previous TIF applications.

Commission Comments - Mr. Brewer commented that this is a great plan and he applauds the team that has been working on this idea.

Mr. Owens thanked the staff for providing the graphic visuals in their presentation, and said that using the Google Earth software gave the Commissioners a better visual of the overall area. Mr. Emmons noted that due to the synergy with the Red Mile in this area, the staff felt it was appropriate to use for the presentation for this request.

Ms. Copeland asked if the applicant has ties with the Bluegrass area. Ms. Westover said that Mr. Krikorian has always been affiliated with the horse industry. She said that her client had purchased a farm that lies within Jessamine and Woodford Counties; and his farm currently has brood mares, as well as race horses. Mr. Krikorian is a local resident of this area, even though his main home is in California.

Action - A motion was made by Ms. Whitman, seconded by Mr. Cravens, and carried 7-0 (Holmes and Penn absent) to approve DP 2009-51, subject to the conditions listed on the agenda, deleting conditions # 8, 9, and 10.

Note: The next two items were heard simultaneously.

3. Minor Plans

a. PLAN 2009-90PA: CLARK PROPERTY (RAILROAD ROW) (11/1/09)* - located at Deer Haven Lane.
(Council District 12) **(2020 Land Surveying)**

The Staff Recommended: Approval, subject to the following requirements:
1. Correct labeling of "County Clerk" to "Council Clerk."
2. Provided the Urban County Council approves a resolution to acquire the property prior to certification.
3. Provided the Planning Commission grants a waiver to Article 3-4(f)(1) of the Land Subdivision Regulations.

b. PLAN 2009-91PA: CLARK PROPERTY, UNIT 1-E (RAILROAD R-O-W) (11/1/09)* - located at Polo Club Boulevard.
(Council District 12) **(2020 Land Surveying)**

The Staff Recommended: Approval, subject to the following requirements:
1. Correct labeling of "County Clerk" to "Council Clerk."
2. Correct land surveyor's certification.
3. Clarify vicinity map.
4. Provided the Urban County Council approves a resolution to acquire the property prior to certification.
5. Provided the Planning Commission grants a requested waiver to Article 3-4(f)(1) of the Land Subdivision Regulations.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of two Public Acquisition record plats for properties located on Deer Haven Lane and Polo Club Boulevard. He said that these record plats consist of two abandoned railroad right-of-way sections that the Lexington-Fayette Urban County Government will be acquiring for the Rails-to-Trails Program.

Mr. Martin directed the Commission's attention to both plats, and said that PLAN 2009-91PA is broken into two sections, separated by Polo Club Boulevard, noting that this portion of the Clark Property extends west toward Bryant Road, Hamburg Pavilion and Man O' War Boulevard. He then said that PLAN 2009-90PA extends further east, noting that this portion of the Clark Property is near the interdiction on Deer Haven Lane and the Lexington-Fayette Urban County Government park land.

Mr. Martin stated that these record plats are being referred to the Planning Commission due to a waiver request for Article 3-4(f)(1) of the Land Subdivision Regulations. (A copy of the report is attached as an appendix to these minutes). He said that the applicant's attorney is requesting that the owner's certification be changed due to the unique situation that these properties have, which is the abandoned railroad right-of-way. The Lexington-Fayette Urban County Government Department of Law agrees that it would be in the best interest to change the owner's certification in order to allow transfer of these properties to the City. With that being said, Mr. Martin said that the staff is recommending approval of the requested waiver, for the following reasons:

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

3. Granting the waiver will not adversely affect public health and safety, and will otherwise maintain compliance with the Land Subdivision Regulations.
4. Strict compliance with this requirement of the Land Subdivision Regulations would constitute a hardship for the applicant by requiring an Owner's Certification inconsistent with the unique legal and physical character of the property.

This recommendation is made subject to the following additional requirement:
a. This certification shall read as follows:
"The undersigned hereby dedicates all of its interest in Parcel __________ (which is part of an abandoned rail line), without warranty of title, to the LFUCG. If the undersigned receives, at a future time, a deed from the railroad for or including all or part of this parcel, the undersigned shall convey any and all such interests in said parcel that it subsequently receives to the Lexington-Fayette Urban County Government."

Petitioner's Presentation – Richard Murphy, attorney, was present representing the applicant. He said that they were previously working with Andrea Weddle, the former LFUCG attorney, assigned to the Commission, and the sole purpose of this request is to dedicate these areas to the Rails-to-Trails Program. He then said that the owner's certification needs to be changed to reflect the accurate ownership of these properties and to facilitate the acquisition of these properties by the City.

Audience Comment – Ms. Richardson asked if anyone in the audience wished to discuss this request for approval. There was no response.

Planning Commission Comment – Ms. Richardson asked if any Commission member wished to discuss this request for approval. There was no response.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Whitman, and carried 7-0 (Penn and Holmes absent) to approve PLAN 2009-90PA and PLAN 2009-91PA, granting the waiver for the reasons provided by the staff.

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Ms. Roche-Phillips, seconded by Ms. Whitman, and carried 7-0 (Penn and Holmes absent) to approve the release and call of bonds as detailed in the memorandum dated August 13, 2009, from Ron St. Clair, Division of Engineering.

V. COMMISSION ITEMS – Ms. Richardson asked if any Commission member wished to discuss any issues at this time. There was no response.

VI. STAFF ITEMS – Staff items, if any, will be considered at this time.

A. SUBDIVISION REGULATION TEXT AMENDMENT INITIATION – ARTICLE 1-5 FOR WAIVERS REGARDING LOW IMPACT DEVELOPMENT – The staff will request Commission initiation of an amendment to this Article of the Land Subdivision Regulations to allow the Planning Commission to consider formal waiver requests to allow low impact development, as has been recommended by the Federal E.P.A. If initiated today, this request could be considered by the Commission at a regular meeting in the next few months.

Director's Comments – Mr. King requested the Commission to consider the initiation of a text amendment to the Land Subdivision Regulations. He said that this text amendment will be an offshoot of the Consent Decree that has not yet been finalized, but is actively being implemented. He said that one of the features of the Consent Decree is to have a long-term commitment to green infrastructure and to demonstrate the LFUCG's support. He then said that this text amendment will establish language for waivers to the Land Subdivision Regulations that will ensure there will be no undue impediments to placing green infrastructure in the low impact development areas.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 7-0 (Penn and Holmes absent) to initiate a text amendment to Article 1-5 of the Land Subdivision Regulations, as previously presented.

B. UPCOMING WORK SESSION – Mr. King reminded the Commission members of the upcoming work session on August 20, 2009. He said that this meeting will consist of a second presentation regarding the touch screen monitor at each of the Commission seats, as well the opportunity for additional training in using the voting machines. He then said that the staff will also be presenting the final report from the Red Mile Working Group; and in this report, there will be information that will help with the process of the text amendment with regard to the Red Mile project.

VII. AUDIENCE ITEMS – Ms. Richardson asked if anyone in the audience wished to discuss any issues at this time. There was no response.

VIII. <u>NEXT MEETING DATES</u> -

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... August 20, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... August 26, 2009
Zoning Items Public Hearing, 2nd Floor Council Chambers.. **August 27, 2009**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... September 3, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... September 3, 2009
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **September 10, 2009**
Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... September 17, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... September 23, 2009
Zoning Items Public Hearing, 2nd Floor Council Chambers.. **September 24, 2009**
Planning Committee/Planning Commission Joint meeting, Tuesday, 9:00 a.m., Lexington Public Library........ September 29, 2009

X. <u>ADJOURNMENT</u> - There being no further business, Ms. Richardson adjourned the meeting at 3:55 p.m.

____
Frank Penn, Chair

____
Mike Owens, Secretary
CT/CG/TM/JE/BR/BS/DB/T

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