

**Minutes
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

December 10, 2009

- I. **CALL TO ORDER** - The meeting was called to order at 1:34 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Frank Penn; Mike Owens; Mike Cravens; Carolyn Richardson; Lynn Roche-Phillips; William Wilson and Marie Copeland (arrived at 2:15 p.m.). Patrick Brewer, Ed Holmes, Derek Paulsen and Joan Whitman were absent.

Planning Staff Present – Chris King, Director; Bill Sallee, Barbara Rackers, Tom Martin, Chris Taylor, and Denice Bullock. Other staff members in attendance were: Steve Parker, Division of Engineering; Bob Carpenter, Division of Building Inspection; Rochelle Boland, Department of Law; Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Tim Queary, Division of Streets, Roads and Forestry, Paul Hockensmith, Addressing Office and Jeff Neal, Traffic Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Ms. Roch-Phillips and carried 6-0 (Copeland, Brewer, Holmes, Paulsen and Whitman absent) to approve the minutes of October 8, 2009.

- III. **POSTPONEMENTS OR WITHDRAWALS** – There were no requests for postponement or withdrawal.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, December 3, 2009, at 8:30 a.m. The meeting was attended by Commission members: Derek Paulsen, Mike Owens, Mike Cravens, 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: Chris Taylor, Tom Martin, Denice Bullock, Cheryl Gallt and Jimmy Emmons, as well as Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Paul Hockensmith, 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, Chairman Penn 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 their regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of most of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. **PLAN 2009-132F: BEAUMONT FARM, UNIT 1, SECTION 5, LOT 1 (2/11/10)*** - located at 940 Midnight Pass. (Council District 10) **(EA Partners)**

Note: The purpose of this amendment is to subdivide one lot into two lots and create an access easement.

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 protection area(s).

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

6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote: This property shall be developed in accordance with the approved final development plan.
 8. Correct owner's certification.
 9. Correct engineer's and surveyor's certifications.
 10. Correct private access easement note.
 11. Denote: Required zone-to-zone screening shall be denoted on final development plan.
 12. Denote: No access shall be allowed to Beaumont Centre Circle from Lot 1A.
2. PLAN 2009-133F: PRALLTOWN (OKESON PROPERTY) (2/11/10)* - located at 174-176 Prall Street.
(Council District 3) **(2020 Land Surveying)**
- 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. Addition of alley cross-section (pavement width).
 7. Addition of developer or builder information.
 8. Addition of graphic scale.
 9. Addition of private utilities listing per Article 5-4(e) of the Land Subdivision Regulations.
 10. Correct plan title.
 11. Document compliance with maximum parking limitations (I/R).
 12. Correct Urban County Engineer's certification.
 13. Addition of 10' building line along alley.
 14. Denote: Only one single family dwelling unit per lot shall be allowed.
3. PLAN 2005-277F: GESS PROPERTY, UNIT 4-G (2/21/10)* - located on portions of 4040 and 4044 Todds Road (off of Jouett Creek Drive). (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 13, 2005, and then reapproved this plan on February 8, 2007 and March 13, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Approval of street addresses by e911 staff.
6. Urban Forester's approval of tree preservation plan.
7. Greenspace Planner's approval of the treatment of greenways/bike trails.
8. Addition of exaction information.
9. Show 30' access easement as per PC "L," SLD "361".
10. Denote: No dwelling units are to be located on the property.

Note: The applicant now requests reapproval of this plan.

The Subdivision Committee Recommended: Reapproval, subject to the previous conditions.

4. PLAN 2005-283F: GESS PROPERTY, UNIT 5-F (2/21/10)* - located on portions of 4040 and 4044 Todds Road (off of Jouett Creek Drive). **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 13, 2005; and reapproved this plan on February 8, 2007 and May 8, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Approval of street addresses by e911 staff.
6. Urban Forester's approval of tree preservation plan.
7. Greenspace Planner's approval of the treatment of greenways/bike trails.
8. Addition of exaction information.
9. Correct street cross-sections.
10. Correct adjacent property information.
11. Show 30' access easement as per PC "L," SLD "361".

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12. Demonstrate compliance with Article 23A-2(f) of the Zoning Ordinance.
13. Applicant shall document either evidence of a Section 404 Water Quality Permit and relief from the Corps. of Engineers' "Cease and Desist" Order for this Unit or sufficient evidence that this Unit does not require a Section 404 Water Quality Permit prior to certification.
14. The applicant shall document either evidence of a State Section 401 Permit or sufficient evidence that this Unit does not require a Section 401 Permit prior to certification.

Note: The applicant now requests reapproval of this plan.

The Subdivision Committee Recommended: Reapproval, subject to the previous conditions.

5. DP 2009-84: HOMESTEAD NURSING HOME PROPERTY (2/11/10)* - located at 1612 Versailles Road.
(Council District 11) **(Roberts Group)**

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 landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan.
 6. Division of Fire's approval of emergency access and fire hydrant locations.
 7. Division of Waste Management's approval of refuse collection.
6. DP 2009-72: CHEVY CHASE SUBDIVISION, UNIT 19, LOT 7 (2/22/10)* - located at 310 Romany Road. (Council District 5)
(EA Partners)

Note: The Planning Commission originally approved this plan on November 12, 2009, 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. Addition of dimensions for buildings and open space.
7. Addition of building heights.
8. Addition of storm drainage and detention information.
9. Addition of easement information.
10. Revise side yard labeling and lines (8' adjacent to R-1C zone) per Article 15-2(b)(6) of the Zoning Ordinance.
11. Denote: Courtyard areas/building connections as breezeways for sewer easements.

Note: The applicant now wishes to add basements to some of the six townhouses approved for this site. As a result, Commission authorization of the increased floor area is required.

The Subdivision Committee Recommended: Approval, subject to the original conditions, and adding two additional conditions:

12. Clarify site statistics to indicate additional floor area.
 13. Label townhouse units containing basements.
7. DP 2009-88: NEWPAST (AMD) (2/22/10)* - located at 620-628 West Main Street.
(Council District 3) **(Barrett Partners)**

Note: The purpose of this amendment is to change the use of two buildings and to include commercial uses.

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

1. Building Inspection's approval of landscaping and landscape buffers.
2. Addressing Office's approval of street names and addresses.
3. Division of Fire's approval of emergency access and fire hydrant locations.
4. Division of Waste Management's approval of refuse collection.
5. Remove reference to temporary parking space.

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

Planning Commission Comment – Chairman Penn asked if anyone in the audience or on the Commission wished to discuss any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Ms. Richardson, seconded by Mr. Cravens, and carried 6-0 (Copeland, Brewer, Holmes, Paulsen and Whitman absent) to approve the items listed on the Consent Agenda.

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- 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**

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

Note: The Planning Commission originally approved this plan on August 13, 2009, 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. 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.

Note: The applicant now requests a waiver to Article 4-7(d)(9) of the Land Subdivision Regulations.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the previous final record plat submitted for this property located on Georgetown Road. He oriented the Commission to the surrounding street system, and noted that the subject property is located just south of New Circle Road. He said that the subject property is adjacent to Douglas Park and is directly across Georgetown Street from the Community Action Office and local businesses. He then said that the purpose of this final record plat is to create 17 lots, 16 of which are buildable. He noted that this single family subdivision is a portion of the Hope VI project that is being constructed by the Lexington Housing Authority. He said that the applicant is proposing to have a new loop street off Georgetown Road, and within the center of the loop street, the applicant is proposing an open space area and a rain garden. He then said that the applicant is also proposing a greenway on the non-buildable lot at the end of the street that is next to Douglass Park. He noted that there will be a drainage connection from the open space area to a proposed drainage system that will be located in the greenway.

Mr. Martin then directed the Commission's attention to the staff's waiver report, and said that this property is owned by the Lexington-Fayette Urban County Government (LFUCG). He said that, as part of the participation in the Hope VI project, the LFUCG is constructing the infrastructure for this new subdivision. He then said that a request has been made to waive Article 4-7(d)(9) of the Land Subdivision Regulations, which relates to Performance and Warranty Sureties. He noted that both a performance and warranty surety are required for the bonding of infrastructure for all public improvements. In association with the waiver request to Article 4-7(d)(9), a request has also been made to waive Article 5-4(h)(3) of the Land Subdivision Regulations, which relates to the Urban County Engineer's Certification. He said that the applicant is requesting to change the language to reflect that the required posting of the performance and warranty surety will not be required for this development, since it is owned, and has been constructed by the LFUCG.

In conclusion, Mr. Martin said that the Staff recommended approval of these requested waivers, for the following reasons:

1. The granting of the waiver will not negatively impact public health and safety because the infrastructure is being constructed by the government in conformance with the intent of Subdivision Regulations
2. The posting of a surety by the applicant to the LFUCG when the government is constructing the infrastructure subject to the surety, would constitute a hardship for the applicant and an unnecessary delay in this project.

Planning Commission Questions – Mr. Penn asked if there is a development plan associated with this request. Mr. Martin replied no, and said that there is only a final record plat.

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Mr. Penn then asked if the waiver should be considered under a separate motion. Ms. Boland said that waivers are usual acted upon separately. Mr. Sallee noted that since the final record plat has already been approved by the Commission, the only item to take action upon is the waiver request itself.

Representation – Steve Garland, Sherman/Carter/Barnhart, was present representing the applicant, and requested approval of the waivers.

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

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Richardson, and carried 6-0 (Copeland, Brewer, Holmes, Paulsen and Whitman absent) to grant the waiver to Article 4-7(d)(9) and Article 5-4(h)(3) of the Land Subdivision Regulations, for the following reasons:

1. The granting of the waiver will not negatively impact public health and safety because the infrastructure is being constructed by the government in conformance with the intent of Subdivision Regulations
2. The posting of a surety by the applicant to the LFUCG when the government is constructing the infrastructure subject to the surety, would constitute a hardship for the applicant and an unnecessary delay in this project.

2. DEVELOPMENT PLANS

- a. DP 2009-27: RAMSEY/SULLIVAN PROPERTY (AMD) (12/20/09)* - located at 2663 and 2671 Kearney Ridge Boulevard. (Council District 12) **(Barrett Partners)**

Note: The Planning Commission postponed this plan at their November 12, 2009, meeting. The applicant has revised their submission, and now requests that this item be reconsidered. The purpose of this amendment is to add 198 apartment units to the northwest corner of the property.

The Subdivision Committee Recommended: Postponement. There were questions regarding the timing of Spurr Road improvements, given the proposed density increase; the need for noise abatement; and the existing conditional zoning restrictions.

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

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. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Solid Waste's approval of refuse collection.
9. Addressing Office's approval of street names and addresses.
10. Addition of conditional zoning restrictions.
11. Addition of notes # 2, 4, 5 and 9 through 25 from prior preliminary subdivision plan.
12. Addition of all graphic information from prior preliminary subdivision plan.
13. Addition of typical building information and parking dimensions.
14. Correct building coverage, floor area, and floor area ratio statistics.
15. Denote construction access location(s).
16. Discuss the need for noise abatement.
17. Discuss the conditional zoning restrictions related to the required park area.
18. Discuss the improvements proposed in proximity to the existing cemetery.
19. Discuss single family lots being proposed.
20. Discuss the balconies and building line conflict.
21. Discuss the geometrics of street extensions/stream crossing proposed.
22. Discuss the plan status.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of an amended preliminary development plan submitted for the Ramsey/Sullivan Property. He oriented the Commission to the surrounding street systems, and noted that the subject property is located on Georgetown Road. He noted that I-75 and I-64 is located to the north of this property, the Northfork Southern Railway is immediately to the west and Spurr Road is to the south of the site.

Mr. Martin stated that the Commission had previously held a public hearing for a zone changes for the nearby Budweiser Beer Distribution Center, and recently approved a development plan for the Big Ass Fans facility on Innovation Drive. He indicated on the rendering, the area to the rear of the subject property that will be developed as a multifamily residential area, and pointed out the areas that are currently zoned as single family residential, professional office and neighborhood businesses.

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Mr. Martin then stated that the purpose of this amendment is to depict the density increase on the new development layout. He said that the applicant will be adding an additional 196 multi-family units, as well as revise the parking and access to this site. He noted that with these changes, it will permit a total of 1,049 dwelling units for the entire Ramsey/Sullivan property.

Mr. Martin said that the Subdivision Committee had reviewed the original preliminary development plan submission, and recommended postponement due to the lack of information being provided by the applicant's original plan preparer. Subsequently, over the past three months, the staff and the applicant have met to discuss these issues, and now with the applicant's revised submission, the staff can now recommend approval of this amended development plan, subject to the following revised conditions offered by the staff:

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. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Solid Waste's approval of refuse collection.
9. Addressing Office's approval of street names and addresses.
- ~~10. Addition of conditional zoning restrictions.~~
- ~~11. Addition of notes # 2, 4, 5 and 9 through 25 from prior preliminary subdivision plan.~~
- ~~12. Addition of all graphic information from prior preliminary subdivision plan.~~
- ~~13. Addition of typical building information, and parking dimensions.~~
10. ~~14. Correct Provide~~ building coverage, floor area, and floor area ratio statistics.
- ~~15. Denote construction access location(s).~~
11. ~~16. Discuss Resolve~~ the need for noise abatement at the time of the Final Development Plan.
- ~~17. Discuss the conditional zoning restrictions related to the required park area.~~
12. ~~18. Discuss Resolve~~ the improvements proposed in proximity to the existing cemetery at the time of the Final Development Plan.
- ~~19. Discuss single family lots being proposed.~~
- ~~20. Discuss the balconies and building line conflict.~~
13. ~~21. Discuss Resolve~~ the geometrics of street extensions/stream crossing proposed at time of the Final Development Plan or Preliminary Subdivision Plan.
- ~~22. Discuss the plan status.~~
14. Denote: This development shall be limited to a total of 862 dwelling units consisting of both single family and multi family units until such time as
 - 1) a street connection is constructed from the proposed residential section of this plan to Spurr Road per an approved preliminary subdivision plan and;
 - 2) all half section improvements to Spurr Road have been completed to the approval of KYDOT and the Division of Traffic Engineering.

Mr. Martin said that there are several conditions listed that are to be resolved at the time of the final development plan or preliminary subdivision plan. He then said that by having these conditions as a "resolve issue" until later stages, it would allow the applicant to 1) articulate the final design and layout for this property; 2) verify the cemetery information and location on the subject property; and 3) to determine if a waiver should be needed for the street geometrics proposed. He noted that there is a conditional zoning requirements placed on this portion of the property for a 2-acre park that will be later dedicated to the LFUCG, as required at the time of the Council's approval of the R-3 zoning.

Mr. Martin stated that the staff felt with the proposed increase in residential density, an additional access point would be needed off Spurr Road. He said that there was considerable amount of discussion among the Staff to provide the access off Spurr Road onto Sullivan's Trace should a portion of Spurr Road or Georgetown Road be blocked for a time by emergency response vehicles. He said that in working with the applicant, an acceptable cross-section for Spurr Road was determined that includes turning lanes, widening of the road, a bike lane, and a sidewalk. He noted that these improvements should be built in a timely manner; therefore, with this subdivision; the staff recommends the following new condition:

14. Denote: This development shall be limited to a total of 862 dwelling units consisting of both single family and multi family units until such time as
 - 1) a street connection is constructed from the proposed residential section of this plan to Spurr Road per an approved preliminary subdivision plan and;
 - 2) all half section improvements to Spurr Road have been completed to the approval of KYDOT and the Division of Traffic Engineering.

Mr. Martin said that when 75 percent of the residential development has been completed, the improvements to Spurr Road will be required prior to any more building permits being issued. With that being said, he noted that the staff is now recommending approval of the applicant's amended preliminary development plan, subject to the revised conditions previously mentioned.

Planning Commission Questions – Mr. Owens asked if the street improvements will be provided by the developer. Mr. Martin replied affirmatively. Mr. Owens asked how many swelling units are now completed. Mr. Martin said that the staff is unsure as to how many units have been built, but a considerable portion of the single family area has been developed. He then said that there are no apartment units constructed on the property at this time, although some of the townhouse units have been constructed.

Mr. Owens then asked what would the percentage of the development be when the multifamily portion begins to develop. Mr. Martin said that conditions number 14 includes both single family and multifamily units.

Ms. Roche-Phillips said that condition number 11 refers to the need for noise abatement, and asked for clarification to the source location and whether or not this was an ordinary zoning requirement. Mr. Martin said that it was determined that the berm originally required would not serve its purpose for the noise abatement; therefore, the Planning Commission had removed that conditional zoning requirements at a previous zone change hearing. He then said that a way to help with the noise from the interstate is to orient the building a certain direction; however, this must be carefully done otherwise the noise could be amplified.

Ms. Roche-Phillips asked if there will be noise abatement for the railroad tracks or the interstate side. Mr. Martin said that the noise abatement would need to be properly engineered for both.

Ms. Roche-Phillips then asked if the subject property is a different elevation than the interstate side. Mr. Martin said that the interstate is at a lower elevation and the railroad is at a higher elevation than the subject property, which is the reason the berm along the railroad tracks would be ineffective.

Mr. Owens asked if there will be some type of noise abatement along the railroad tracks. Mr. Martin said that prior to the final development plan being approved; the staff would encourage the applicant to resolve that issue with them.

Mr. Penn asked if the staff knew the history of the cemetery shown on the property. Mr. Martin said that this cemetery was found when KDOT had completed the interstate improvements, and to the staffs knowledge there has been no research as to the size or the exact location of the cemetery.

Representation – Tony Barrett, Barrett Partners, was present representing the applicant. He noted that the condominium apartments have not been built out at this time, but there is a final record plat that has been recorded. In reference to the 75:25 percent ratios proposed regarding street connections and improvements, he said that the applicant is considering the condominium apartments as a part of the buildable units, along with the single family lots that have seen developed, but are not completely built out.

Mr. Barrett then said that, as for Spurr Road connecting to Kearney Ridge Road, it was designed to work as a Boulevard, which will provide some maneuverability should a lane closure be needed for emergency services.

Mr. Barrett said on the parent deed, a cemetery was referenced, so the State surveyor tagged the cemetery only to make a reference that it is in the general vicinity, but it was never found. He then said that at the final development plan stage, a more accurate search would be completed.

In conclusion, Mr. Barrett thanked the staff for their help in resolving many of these issues and coming to an agreeable development plan for this property.

Planning Commission Questions – Mr. Penn asked if the connection now shown on the development plan will be completed at the same time Spurr Road improvements are completed. Mr. Barrett said that that could happen, but there is only a limited amount of building permits that can be issued before the connection or improvements to Spurr Road is to be made. Mr. Penn said that the entrance into Spurr Road is critical to this development and it should be shown on the development plan. Mr. Barrett said that due to the topography of the area, the connection to Spurr Road will be done concurrent with the other improvements, which involve extensive grading necessary to the southwest portion of the subdivision that will impact the development of the southeast corner of the Ramsey/Sullivan property as well.

Audience Comment – Mr. Penn 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. Richardson, and carried 6-0 (Copeland, Brewer, Holmes, Paulsen and Whitman absent) to approve DP 2009-27, subject to the fourteen conditions recommended by the staff.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 6-0 (Copeland, Brewer, Holmes, Paulsen and Whitman absent) to approve the release and call of bonds as detailed in the memorandum dated December 10, 2009, from Ron St. Clair, Division of Engineering.

- V. **COMMISSION ITEMS** - The Chairman will announce that any item a Commission member would like to present will be heard at this time.

A. **LAND SUBDIVISION REGULATION AMENDMENT**

1. **SRA 2009-4: AMENDMENT TO ARTICLE 1-5 OF THE LAND SUBDIVISION REGULATIONS** – a petition to add definitions for “low impact development” and “green infrastructure;” and to permit alternative designs for development using low impact development and/or green infrastructure techniques.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text underlined indicates an addition to the existing Land Subdivision Regulations.)

1-5 (d) ALTERNATE DESIGNS FOR ENVIRONMENTAL WATER QUALITY CONSIDERATIONS - The Commission may approve alternative development designs and/or development infrastructure intended to minimize or offset the environmental water quality impacts of land development through green infrastructure and low impact development techniques where such designs are consistent with the basic intent of these Regulations. For any such approval request, the applicant shall provide a written report to the Commission outlining the environmental benefits to be obtained through the alternate design being proposed and the consistency of the alternate designs with low impact development guidance endorsed by the United States Environmental Protection Agency, including an analysis and justification of the merits of the proposal. The report shall be prepared by an engineer licensed to practice in the Commonwealth of Kentucky. For any such request, the Planning Commission shall seek input from the Department of Environmental Quality in its review of the proposal prior to taking action.

(ADD THE FOLLOWING DEFINITIONS TO ARTICLE 1-14):

GREEN INFRASTRUCTURE - infrastructure and stormwater control design approaches and technologies that mimic the natural hydrologic cycle processes of rainfall infiltration, evapotranspiration, and reuse.

LOW IMPACT DEVELOPMENT - a stormwater management design approach for commercial and residential developments that has a goal of achieving a hydrologically functioning development that approaches pre-development natural site conditions using green infrastructure and other design features in lieu of large scale stormwater collection and conveyance structures.

The Subdivision Committee made no recommendations.

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

1. The proposed change will protect and enhance public health and safety in conformance with the intent of the Subdivision Regulations, by encouraging community-wide efforts to improve water quality.
2. The level of review required in the proposed language will ensure that these alternatives are consistent with the intent of the Subdivision Regulations in requiring adequate stormwater infrastructure and stormwater management.

Staff Presentation – Mr. Martin directed the Commission's attention to SRA 2009-4 on the agenda, which is a request from the Urban County Council to amend Article 1-5(d) of the Land Subdivision Regulations to include alternate designs for environmental water quality consideration.

Mr. Martin stated that this petition would allow the Planning Commission the opportunity to evaluate each waiver request by a developer who wanted to construct green infrastructure elements within a development. He said that the current Land Subdivision Regulations often lack the flexibility to address innovative or new designs that could resolve environmental issues, as well as help the community's water quality problems.

Mr. Martin pointed out if a developer wanted to pursue this new waiver, they will be required to submit a written report to the Commission outlining the environmental benefits of their design alternatives. He said that, within the report, the developer will need to show specific reasons why their alternate design meets the applicable water quality requirements, as well as the new green infrastructure component. He then said that this Subdivision Regulation amendment will not encourage “cheap” development or inadequate designs, but rather, it should help resolve water quality issues within the community.

Mr. Martin said that the level of review that will be required with such waiver requests is within the intent of the Land Subdivision Regulations. With that being said, the staff is recommending approval of this amendment, for the following reasons:

1. The proposed change will protect and enhance public health and safety in conformance with the intent of the Subdivision Regulations, by encouraging community-wide efforts to improve water quality.
2. The level of review required in the proposed language will ensure that these alternatives are consistent with the intent of the Subdivision Regulations in requiring adequate stormwater infrastructure and stormwater management.

Mr. Martin noted that Fayette Alliance has submitted a letter of support for this proposal to the staff, and they specifically state in the letter that this proposal is a “progressive and accountable measure,” to which the staff agrees.

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Director's Comments - Mr. King clarified that the Urban County Council did not initiate this amendment, but rather the Planning Commission had initiated this request due to the Consent Decree. He said that within the 2007 Comprehensive Plan, there is a chapter that lists a broad definition for green infrastructure, and with these proposed definitions to the Land Subdivision Regulations, this section may be reviewed at a later time in the future. With that being said, the staff is pleased that this will open the door to more innovative designs for our area.

Audience Comment – Mr. Penn asked if anyone in the audience wished to discuss this proposal. There was no response.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 6-0 (Copeland, Brewer, Holmes, Paulsen and Whitman absent) to approve SRA 2009-4, as recommended by the staff.

- B. APPOINTMENT OF NOMINATING COMMITTEE FOR COMMISSION OFFICERS** – Mr. Penn stated that he would like to appoint Lynn Roche-Phillips, Mike Cravens and Ed Holmes to the nominating committee for Commission officers. He asked that they be prepared to present a slate of officers at the first Planning Commission meeting in January.

Note: Ms. Copeland arrived at this time.

- C. T.I.F APPLICATION – RED MILE MIXED-USE DEVELOPMENT** – a review of a Tax Increment Financing application for property located at 780, 790 and a portion of 1200 Red Mile Road.

Staff Presentation – Ms. Rackers stated that TIF application for the Red Mile Mixed-Use Development had been submitted that, if approved, would create a "Blighted Urban Mixed-Use Redevelopment Area" Tax Increment Financing (TIF) District. She noted that the District will extend from the intersection of Versailles Road and Red Mile Road to the intersection of South Broadway and Red Mile Road. She said that the TIF District will not include the harness racing track, the Tattersalls facility or the Stable of Memories near South Broadway.

Ms. Rackers stated that the development plan was submitted showing 83 acres; however, after a detailed survey was done had been estimated that it was closer to 77 acres. She said that the Commission had approved a zone change for this area at a recent public hearing; and at that time, the area being proposed for the zone change and the area of the TIF District were the same. The difference in acreage is due to the addition of the right-of-way. She then said that the Stable of Memories will not be a part of the TIF District, but it will be a part of the overall redevelopment and will share parking with the Red Mile.

Ms. Rackers then stated that the proposed eligible improvements for funding through the TIF District are listed in the staff report. She said that many of these items are the same type of improvements that were requested in previous TIF applications; and, in addition, as part of this application, the widening of Red Mile Road from Horseman's Lane to Versailles Road intersection is being included. Another improvement will be a connection between the Angliana Avenue area, particularly the Showprop development, and the Red Mile Mixed-Use Development. She said that the Urban County Council will make the final decision as to which improvements will be a part of this TIF application, then it will be forwarded to the State for their consideration. She then said that private improvements include: residential units (condos and apartments), mixed-use office and retail, mixed-use residential and retail and hotel and entertainment venues.

Ms. Rackers said that the 2007 Comprehensive Plan was reviewed in relation to the development plan, and many elements of the Comprehensive Plan speak directly to the types of improvements in the area that are within the scope of this TIF District. She noted that these elements are either in support of or are supported by the development plan.

Ms. Rackers stated that the Mission Statement of the Comprehensive Plan, as well as the Vision for Lexington, supply the basis for land use decisions and development, to include urban design. She said that the intent is to provide a vision for physical development that will allow Lexington to grow, while maintaining its elements that make it a desirable place to live and work. As part of its Vision, the Comprehensive Plan lays out 8 themes, 6 of which are particularly applicable to the Red Mile TIF Development Plan. These are also listed in the staff report.

Ms. Rackers then stated that the 2007 Comprehensive Plan contains 21 Goals, 16 each of which have Objectives that are applicable to the Red Mile TIF Development Plan. She noted that the Land Use Element of the Plan also supports many of the aspects of this project. She then said that the Downtown Master Planning project was conducted as a part of the Comprehensive Plan update; and although the Red Mile project is not within the downtown limits, it is just beyond the area that is designated as the Downtown Master Plan Area. Once this project and the Showprop project are developed and connected, it can be considered as an extension of the downtown area. She said that a pedestrian connection is being considered as part of a "Safe By Design" study that extends from the downtown area to the Red Mile area. If constructed, it will also extend downtown to the Red Mile area, which will then be a logical boundary for downtown uses.

Ms. Rackers said that there are several key principles of the Downtown Plan Element that embody the proposed project. Those elements include: increase residential development, invest in a pedestrian network, maximize density in vacant sites, celebrate urban entrances and change land use. She then said that the 2007 Comprehensive Plan recommends Semi-Public Facilities land use for this property, which is defined as land that will benefit the community, but is not owned by the public.

Ms. Rackers then said that the 2007 Comprehensive Plan recommends that a Small Area Plan for the Red Mile area be done; as a result of that recommendation, a working group was formed and met during the Spring and Summer to discuss issues related to this area, as well as provide ideas as to what uses might be desirable or undesirable for this property. She said that those meetings fleshed out concerns and issues, such as traffic and stormwater that need to be addressed as part of the redevelopment of the property. She commented that the level of work and involvement put into this process was unbelievable.

Ms. Rackers stated that the Commission already reviewed a development plan for the Red Mile area with a recently approved zone change as an alternative to a more formalized Small Area Plan, the *Red Mile Development Plan* was created. She said that a Small Area Plan proposes land use options to determine the best use of the land in order to best serve the community, which is what the *Red Mile Development Plan* does. She then said that one of the recommendations for this area was the recent zone change to MU-3, which will accommodate the proposed uses. The uses that would be allowed include high density residential and mixed use, which is what the 2007 Comprehensive Plan recommended for the property should it cease to be a racing facility.

Ms. Rackers then stated that the submitted TIF development plan is in compliance with the 2007 Comprehensive Plan, and it supports several Goals and Objectives, as well as the text of the Plan. She said that it is consistent with previous Plans, such as the 1990 South Broadway Corridor Plan that was adopted as a part of the 1988 Comprehensive Plan and then again with the 2001 Comprehensive Plan.

Ms. Rackers recapped the history of this area, and said that the Commission had granted a zone change for this area that was forwarded to the Council, who had given this item its first reading. She then said that the Council also approved a text amendment for the MU-3 zone, which is now a part of the Zoning Ordinance. She noted that the Commission has also recommended approval for the preliminary development plan that was associated with the recently granted zone change.

Ms. Rackers said that there are two known environmental issues related to the land within the TIF area, one of which is a cave and the other possible sinkhole. She then said that should it be determined that there are sinkholes on the property, then Best Management Practices will be utilized and the area or areas of sinkholes will be delineated as a "no development area" on the development plan.

Ms. Rackers stated that this TIF application embodies several Goals and Objectives, as well as the text of the 2007 Comprehensive Plan; and once it is developed, the Red Mile Property will function as an extension of the downtown area. She then said that the following two statements from the 2007 Comprehensive Plan embody the full scope and vision of the project:

"The need for a vibrant, dynamic, and growing downtown area continues to be one of the most important elements of the overall growth management strategy of the 2007 Comprehensive Plan. Since the adoption of the 2001 Plan Update, extensive efforts have been undertaken to enhance recent trends and development activity that bode well for a major renaissance of Lexington's downtown area.

Recent trends in development activity have shown that downtown is an attractive place to live. This residential component of downtown is viewed as key to downtown's future, as downtown and the immediate vicinity are inherently attractive to both younger and older residents due to diversity, walkability, entertainment, proximity to major universities and many other factors. A number of recent projects are underway, which will add additional living space to downtown, often in a mixed-use development."

In closing, Ms. Rackers said that the creation of this TIF District and the implementation of the proposed project will help implement the Goals and Objectives of the 2007 Comprehensive Plan. She requested that the Planning Commission approve this application, and certify its compliance with the Comprehensive Plan to the Urban County Council. She noted that Mr. Harvey, Urban Collage; and Mr. Duncan, attorney for the Red Mile, were present, should the Commission have any questions.

Planning Commission Questions – Mr. Penn asked what happens once the Commission certifies that the TIF application is in compliance with the 2007 Comprehensive Plan. Ms. Rackers said that once the Commission certifies the TIF application, it will be forwarded to the Urban County Council for a public hearing, at which time a recommendation will be made and forwarded to the State for review. Assuming the TIF application is approved by the State, then a formal agreement between the City and State will be implemented, at which time the TIF District is created.

Mr. Penn asked if the Council will determine which improvements are needed, which Mr. Rackers verified affirmatively. She said that since improvements cannot be added to the application once it is submitted, more improvements are included than what might be approved by the Council.

Mr. Roche-Phillips asked what will happen with the bonding of a project 30 years from now. Mr. King said that he could not give specifics; but to his understanding, there are general obligations for the improvements. Ms. Roche-Phillips said that it is not imperative, but she would like to know that answer. Ms. Rackers noted that the staff could have that information for the next TIF application. Ms. Roche-Phillips said that there are so many pending TIF Districts, that if they are not completed, it could cause a hardship. Mr. King said that in reviewing the full development plan, the financial analysis is something that the Urban County Council studies intensely prior to sending the TIF application to the State. He said that the Planning Commission's role is to comment on the application and to verify whether or not the TIF application is in compliance with the

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2007 Comprehensive Plan, which will then become a part of the development plan that is forwarded on to Council. He then said that the staff could present a report at an upcoming Work Session should the Commission desire. Mr. Penn agreed.

Citizen Comment – Bob Duncan, attorney, was present representing the Red Mile Mixed-Use Development. In reference to Ms. Roche-Phillips' question, he said that the Urban County Council has no obligation to post a bond for this project, even if the TIF application is approved. He then said the financial forecasting for this project will show the Council that the amount from the expected TIF outweighs the cost of the public improvements. He said that whether or not the Urban County Council should bond this project is a separate determination from their review of the TIF application.

Ms. Roche-Phillips thought if the Council approved the TIF application and forwards it to the State, then that signified an unofficial willingness to post a bond. Mr. King said that for a recent TIF application, the State had authorized an estimated \$55 million for the Distillery District project; however, the Urban County Council only bonded an estimated \$2 million. He said that each decision is a separate issue as the project moves forward.

Planning Commission Comment – Mr. Penn noted that a request has been made for the Commission to approve the TIF application for Red Mile Mixed-Use Development. He said that the Chair of the Planning Commission is being asked to certify that this application is in compliance by signing the Certificate of Compliance with the 2007 Comprehensive Plan Goals and Objectives.

Action - A motion was made by Ms. Richardson, seconded by Ms. Roche-Phillips, and carried 7-0 (Brewer, Holmes, Paulsen and Whitman absent) to adopt the findings listed in the staff report, and to certify the TIF development plan's compliance with the 2007 Comprehensive Plan.

Mr. Penn thanked Mr. Duncan and Mr. Harvey for their time and participation in bringing this TIF application forward. He said that the public meetings that were held for this project were informative and it shows how this type of development and process can work.

- D. AMENDING THE ADOPTED OFFICIAL MEETING & FILING SCHEDULE FOR 2010** – Mr. King said that while reviewing the previously adopted Official Meeting and Filing Schedule for 2010, the staff realized that some dates listed needed to be changed to reflect the recent implementation of the Management Partners Audit. Mr. Sallee further commented that after reviewing the schedule, the staff noticed that April dates listed need to be pushed back by one week. With those changes, the staff requested that the Commission consider this amendment to the Official Meeting and Filing Schedule for 2010.

Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 7-0 (Brewer, Holmes, Paulsen and Whitman absent) to amending the Official Meeting and Filing Schedule for 2010, as presented by staff.

- E. COMMUNICATION FROM THE DEPARTMENT OF LAW** – Edward Gardner, Department of Law, requested that the Planning Commission enter into a closed session in order to receive information on a matter of pending litigation between the Lexington-Fayette Urban County Government and John Barlow.

Motion: A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 7-0 (Brewer, Holmes, Paulsen and Whitman absent) for the Planning Commission to go into closed session at 2:40 p.m., pursuant to KRS 61.810, Section 1-C, to discuss a matter of pending litigation between the Lexington-Fayette Urban County Government and John Barlow.

Motion: A motion was made by Ms. Roche-Phillips, seconded by Ms. Richardson, and carried 7-0 (Brewer, Holmes, Paulsen and Whitman absent) to re-open the meeting at 2:50 p.m.

Motion: A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 7-0 (Brewer, Holmes, Paulsen and Whitman absent) that the Planning Commission authorize the Department of Law to pursue legal action against John Barlow and Commonwealth Development, LLC, to enforce Section 6-3(b) of the Land Subdivision Regulations related to fencing along the agricultural land adjoining Unit 1; Unit 1, Section 2; and Unit 1, Section 3 of the Tucker Property Development.

- F. WORK SESSION** – Mr. King said that the staff had planned to present a work session item to the Commission; however, the parties involved could not be present. Therefore, there are no work items to present to the Commission at this time. He then said that the staff will be presenting these items at the conclusion of the Zoning Hearing on December 17, 2009.

VI. STAFF ITEMS – There were none to consider.

VII. AUDIENCE ITEMS – There were none to consider.

VIII. NEXT MEETING DATES -

Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 16, 2009
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 17, 2009
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	January 7, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	January 7 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	January 14, 2010
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	January 21, 2010

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Planning Committee/Planning Commission Joint meeting, Tuesday, 9:00 a.m., Lexington Public LibraryJanuary 26, 2010
Zoning Items Public Hearing/Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....January 28, 2010

IX. **ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 2:54 p.m.

Frank Penn, Chair

Mike Owens, Secretary

CT/CG/TM/WLS/SDB