

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

April 22, 2010

- I. **CALL TO ORDER** – The meeting was called to order at 1:34 p.m. in the Council Chamber, 2nd Floor LFUCG Government Center, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present: Patrick Brewer; Marie Copeland; Ed Holmes; Mike Owens; Derek Paulsen; Frank Penn, Chair; Carolyn Richardson; Lynn Roche-Phillips; Joan Whitman; and William Wilson. Absent was Mike Cravens.

Planning staff members present: Chris King, Director; Bill Sallee; Barbara Rackers; Jimmy Emmons; Traci Wade; Tom Martin; Cheryl Gallt; Chris Taylor; and Stephanie Cunningham. Other staff members present were Rochelle Boland, Department of Law; Firefighter Allen Case, Division of Fire and Emergency Services; Bob Carpenter, Division of Building Inspection; Steve Parker, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Cravens absent) to approve the minutes of the April 8, 2010, Planning Commission meeting.

- III. **POSTPONEMENTS AND WITHDRAWALS** – No such items were presented.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 1, 2010, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Carolyn Richardson, Derek Paulsen and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Chris King, Director; Bill Sallee, Tom Martin, Chris Taylor, Cheryl Gallt, Jimmy Emmons, Traci Wade, Denice Bullock and Barbara Rackers, as well as Captain Charles Bowen, Division of Fire & Emergency Services; Rochelle Boland, Law Department and Paul Hockensmith, Addressing Office. 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. DEVELOPMENT PLANS

1. **DP 2010-8: PROVIDENCE PLACE, TRACT 3, LOTS 4 & 5 (6/1/10)*** - located at 2200 Newtown Pike.
(Council District 12) **(Vision Engineering)**

Note: This development plan requires the posting of a sign, and an affidavit of such. The Planning Commission postponed this plan at its March 11, 2010, and April 8, 2010, meetings.

The Subdivision Committee Recommended: Postponement. There were questions regarding conformance with the minimum requirements of the ED zone.

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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and/or tree canopy information.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Denote Final Record Plat designation for lots 4 & 5.
10. Denote the sanitary sewer temporary construction easement on lot 4.
11. Resolve the minimum off-street parking required on lot 5.
12. Resolve proposed access easement location and turning radius proposed (for trucks).
13. Denote: Mary Fay Place shall be completed prior to the issuance of a Certificate of Occupancy.
14. Discuss exactions due at the time of building permits (Note #14).
15. Discuss the landscape berm's relationship to the proposed easements and parking along the northern property lines of lots 4 and 5.
16. Discuss boundary fencing and/or screening along the northern property lines of lots 4 and 5.

Staff Presentation: Mr. Martin oriented the Commission to the location and surrounding area of the subject property and presented a rendering of the development plan for Providence Place, Tract 3, Lots 4 & 5. He stated that the

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subject property is located off of Providence Parkway, which is planned to eventually connect to Russell Cave Road. There have been several development plans submitted for the southern portion of the subject property recently, the most recent of which detailed the construction of the proposed motel, along with Hackney Place, which now intersects with Providence Parkway.

Mr. Martin said that the applicant proposes to construct a 10,000 square-foot office building, and a 106,000 square-foot manufacturing and distribution facility, as well as the associated parking. This portion of the subject property adjoins the proposed Mary Fay Place, which is planned to provide a local street connection to the property to the north, which is zoned ED. Mr. Martin noted the location of a proposed access easement, which is intended to provide access to the new regional sewer pump station to be located just off of the subject property near the Urban Service Area boundary.

Mr. Martin stated that the Subdivision Committee recommended postponement of this plan, due to concerns about the plan meeting the minimum requirements of the ED zone. In the alternative, the Subdivision Committee recommended standard conditions for approval of the plan, including the basic sign-offs and several "clean-up" conditions. Mr. Martin noted that condition #13 denotes the requirement that Mary Fay Place be completed prior to the issuance of a certificate of occupancy, which matches the prior waiver granted to the applicant by the Planning Commission for that street. Condition #10 also refers to a waiver that was granted by the Planning Commission, with regard to the sanitary sewer temporary construction easement.

Mr. Martin said that there was some discussion about the amount of exactions due on the subject property, which resulted in condition #14. As of the morning of this meeting, it has been determined that the prior discrepancy identified in the amount of exactions due can be transferred to the remainder of the ED property. The applicant has agreed with that determination, and the staff now considers item #14 resolved. With regard to condition #15, Mr. Martin said that, initially, the landscape berm was not included on the plan, and the staff was concerned that the very large berm could inhibit the appropriate development of the subject property. The applicant has acknowledged the staff's concerns about the berm, and agreed that it will need to be removed prior to the development of the property; so the staff believes that that condition has been adequately addressed, as well. Condition #16 relates directly to the Subdivision Committee's concern about the appropriate buffer between the existing veterinary operation to the north, and the subject property. The Zoning Ordinance requires only vehicular use area screening between the two properties, since they are zoned the same. There is a large utility easement in the area, which could also assist in the separation of the two properties.

Mr. Martin stated that the staff had received a letter from Dr. Barbara Poole, the adjoining property owner, on the morning of this meeting. That letter, copies of which were distributed to the Commission members prior to this meeting, outlined Dr. Poole's concerns and included her proposal for buffering her property. At this time, those issues have not been resolved.

With regard to the required EAMP compliance report, Mr. Martin said that copies of the report had been distributed to the Commission members prior to the beginning of this meeting. He noted that, when this report was drafted, the exaction issues on the property had not been resolved. Following their review of the plan for EAMP compliance, the staff determined that it meets the future land use and community design recommendations of the plan. In addition, the orientation of the buildings to the streets, the location of parking to the rear of the buildings, and the use of the property's topography are all consistent with the recommendations of the EAMP. When the report was drafted, the staff had some concerns about the compliance of the plan with the infrastructure elements of the EAMP. One of the areas of concern was Providence Parkway, which has been constructed; the other was the regional pump station and trunk line, which have been proposed to serve the subject property but have not yet been constructed. The staff is not aware of the intended schedule for that construction. Several other properties in the area are currently using the existing sanitary sewer system to the south of the subject property. The staff has discussed the issue with representatives of the Division of Engineering, and determined that they are not aware of any problems with that system. Since an agreement was reached with the applicant regarding the exaction issue, the staff now believes that this plan is in significant compliance with the infrastructure element of the EAMP, although no property in the area can be in full compliance until the new pump station is constructed. Mr. Martin noted that construction of that pump station is not under the applicant's control, as it is off-site.

Commission Questions: Mr. Penn asked if it would be appropriate for the Commission to include in their motion the deletion of conditions #14 and 15. Mr. Martin agreed that it would be appropriate to delete those conditions.

Ms. Roche-Phillips asked if the applicant had provided any specific information as to the proposed use of the manufacturing facility. Mr. Martin answered that he had not provided any such information.

Applicant Representation: Matt Carter, Vision Engineering, was present representing the applicant. He submitted into the record of the meeting an affidavit and photographs of the required sign posting on the subject property. Mr. Carter stated, with regard to the conditions for approval of this plan, that the applicant is in agreement with the

staff's recommendations for conditions #1-13, and the deletion of #14 and #15. With regard to condition #16, which concerns boundary fencing along the northern property lines, the applicant met with the adjoining property owner after the last meeting and agreed that the applicant would plant trees along the property line, spaced 40' on center, and furnish a diamond-mesh fence to work in conjunction with a fence that will be constructed by the adjoining property owner. Following that conversation, the applicant drafted an agreement and sent it to that property owner, but it has not been signed to date. Since the drafting of that agreement, the adjoining property owner has requested a third fence and a continuous hedge with trees planted 7' on center, which the applicant is not willing to provide. The applicant would be willing to provide a continuous hedge rather than the diamond-mesh fence that was originally proposed.

Commission Questions: Mr. Owens asked if the applicant is agreeable to putting up a second fence, if the adjoining property owner constructs one fence. Mr. Carter answered that the adjoining property owner intends to construct a fence on the property line, as well as a paddock fence a few feet in from the property line. The adjoining property owner had requested that the applicant construct another fence, although the Zoning Ordinance only requires vehicular use area screening in this area, which does not include a fence. The applicant has agreed to plant a hedge along the property line. Mr. Owens asked if the applicant would be agreeable to splitting the cost of the second fence. Mr. Carter responded that the applicant had originally agreed to add diamond-mesh fencing to the initial fence constructed by the adjoining property owner.

Citizen Opposition: Dr. Barbara Poole, 2300 Newtown Pike, stated that she has owned that property since 1991, and has had an existing agricultural use there since that time. In 2008, she opened an equine layover facility that was in existence prior to the development plan for the subject property. Dr. Poole said that she had met with the applicant after the last Planning Commission meeting and had reached some agreements, but the applicant indicated during a phone conversation with her husband that he might not be able to adhere to those agreements after all. The applicant indicated during that conversation that he might not be able to remove the trees from the berm or bear the cost of the fencing at this time. He asked that Dr. Poole construct the fence now, for which he would reimburse her at a later date. Dr. Poole stated that she is not willing to agree to that suggestion, preferring that the applicant add diamond-mesh fencing to her existing slat fence.

Dr. Poole said that she understands that the existing berm needs to be removed, but would like to note for the record that, once it is removed, her business will be under increased liability from people, traffic, noise, wind, and flying debris. Her layover facility accommodates "high-dollar Thoroughbreds" which are often unfamiliar with people and tend to be flighty. The loss of the visual barrier of the berm could increase the likelihood of the horses becoming nervous, or could allow the people from the nearby hotels and restaurants access to the horses. Dr. Poole said that the location of the large berm on the property provides added security for her facility, and she believes that her business will be negatively impacted by its removal. She noted that the horses themselves could also be a danger to anyone who tries to feed or pet them, which could increase her liability. This possibility of increased liability led Dr. Poole to request additional protection for her property. Her proposal takes into consideration the expense of diamond-mesh fencing, and asks that the applicant install a four-plank fence along the property line, which is consistent with the typical horse farm appearance in the vicinity of the subject property. She is also requesting that a visual barrier be constructed or planted along her side of the fence, and proposing that the fence be located closer to the proposed parking lot in order to minimize the likelihood of people approaching the horses from the parking lot. Dr. Poole proposes planting Leland Pine trees as a visual buffer, because they grow quickly and would be easy to navigate around with lawn mowers. The applicant has proposed planting White Pine trees, but Dr. Poole is concerned that they might grow through the fence, where the horses could damage them.

Applicant Rebuttal: John Rasnick, managing partner of New Providence Place, the developer which owns the subject property, stated that he agrees with most of Dr. Poole's stated concerns. He said that the estimate received for the diamond-mesh fencing was more expensive than expected, but the applicant was still willing to pay for it if Dr. Poole would like to have it installed on her fence posts. With regard to the berm, Mr. Rasnick stated that it must be removed in order to provide for the required number of parking spaces on their development. If Dr. Poole would like to have those trees, she could remove them and plant them on her side of the fence. The applicant would also be willing to plant a hedgerow with trees 10 feet from the inside of the property line in order to prevent the trees from growing onto Dr. Poole's property. He agreed to allow Dr. Poole to assist in the choosing of the tree species.

Citizen Rebuttal: Dr. Poole noted her understanding that the hedgerow cannot be planted until the parking for Lot 5 is constructed. She does not believe that a third fence is necessary, but she would like to have a fence constructed on the subject property in order to prevent people from climbing over a single fence into her paddocks.

Mr. Rasnick stated that the applicant is agreeable to assisting with the cost of the fence construction, and is willing to plant a hedge along their common property line. However, he said that they are not willing to construct a second horse fence inside their property line, since they believe that would be redundant.

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Commission Questions: Mr. Penn asked what type of screening will be required along the parking area. Mr. Martin responded that vehicular use area screening is required, which consists of a tree every 40 feet and a low hedge, fence, wall or berm. Mr. Penn asked if the screening proposed by the applicant would meet that requirement, to which Mr. Martin answered that it should exceed the minimum requirement.

Dr. Poole stated that the current plan depicts clusters of trees, rather than a hedge as the applicant has proposed. She is concerned that clusters of trees will not protect her horses as well as a hedge would. Mr. Rasnick stated that he would agree to plant a hedge.

Mr. Penn asked if Dr. Poole would be agreeable to the applicant adding diamond-mesh wire to the fence she will construct, as well as planting a hedge. Dr. Poole said that she would be agreeable to those conditions.

Dr. Poole stated, for the record, that there is an existing muck pile along the shared property line with the applicant. The muck is used for compost, which is then used for landscaping on the farm. Dr. Poole is concerned that, once the visual barrier of the berm is removed, someone will complain about the appearance of the compost pile. She said that disposing of the muck straw by other means would add a considerable expense to her operation. Since the horses only stay at her facility for short periods of time, the straw is lightly used and does not emit an odor. Dr. Poole would like for the record to note that the muck and compost piles existed prior to the development of the subject property, and she intends to continue those operations.

Commission Questions: Mr. Penn asked Ms. Boland how the boundary/fence agreement should be addressed by the Commission. Ms. Boland responded that, since both parties have indicated, on the record, that the developer will bear the expense of the diamond mesh on the existing fence and will construct a hedge, she believes that condition #16 could be adapted to acknowledge that. Mr. Sallee stated that condition #16 could be changed to read: "Resolve boundary fencing and/or screening along the northern property lines of lots 4 and 5 as discussed at the Planning Commission's April 22, 2010, meeting."

Ms. Copeland asked if trees planted 40' on center should still be required along the property boundary. Mr. Martin responded that the vehicular use screening requires such trees. Ms. Copeland asked if the screening would consist of a hedge, as agreed upon by the applicant and Dr. Poole, and trees as required by the Zoning Ordinance. Mr. Martin answered that that should be the case.

Action: A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Cravens absent) to approve DP 2010-8, subject to the first 13 conditions as listed on the agenda; deleting conditions 14 and 15; and modifying condition #16 to read: "Resolve boundary fencing and/or screening along the northern property lines of lots 4 and 5 as discussed at the Planning Commission's April 22, 2010, meeting."

2. DP 2010-13: MORNINGSIDE MARKET (ENGLE PROPERTY, FINANCE & REALTY COMPANY, PERRY LUMBER COMPANY PROPERTY) (5/30/10)* - located at National Avenue, Walton Avenue and Ashland Avenue.
(Council District 3) **(CRP & Associates, Inc.)**

Note: This development plan requires the posting of a sign, and an affidavit of such. The Planning Commission postponed this plan at its April 8, 2010, meeting.

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 inventory information or tree protection plan.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Denote storm water detention.
10. Denote typical dimensions for parking lots, spaces and access aisles.
11. Clarify parking statistics (retail number and proposed building).
12. Denote building dimensions.
13. Denote property boundary metes and bounds information along property perimeter (per Article 21-6(a)(2)).
14. Denote all adjacent property information (B-1 & B-4 zones).
15. Clarify dimensions for proposed art garden.
16. Denote the proposed and existing easements (per Article 21-6(a)(10)).
17. Denote 90° parking along North Ashland Avenue as existing.
18. Addition of standard note of no building permits until final development plan is approved (per Article 21-6(a)(17)).
19. Denote the required landscape buffer adjacent to residential zones.

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Staff Presentation: Mr. Martin presented the preliminary development plan, briefly orienting the Commission to the location of the subject property on National Avenue near the intersection of Walton Avenue and Winchester Road. He noted that the proposed plan is for an adaptive reuse project, and that the Subdivision Committee recommended approval of this development plan, subject to the standard conditions, as well as a number of basic "clean-up" conditions.

Mr. Martin stated that the applicant is proposing this adaptive reuse project in the B-4 area of the property in order to allow for greater flexibility with regard to possible tenants. The floor area for this project is just over 200,000 square feet in size. The preliminary development plan depicts the associated parking for the proposed development, for which the number of spaces required can be reduced by half, since this is an adaptive reuse project. The applicant proposes to construct one new building, approximately 60,000 square feet in size and two stories tall, along with additional associated off-street parking spaces.

Mr. Martin said that, prior to the meeting, the staff had distributed to the Commission members copies of a memorandum detailing this plan's compliance with three of the nine adaptive reuse requirements. He noted that subsequent final development plans are expected to address certain specific requirements with regard to pedestrian and street improvements and open space.

Mr. Martin stated that this plan was postponed at the Commission's last meeting since the applicant had not posted the required sign on the property in a timely manner. That sign has been re-posted, and the applicant intends to present the required affidavit and photograph to the Commission, documenting this notice requirement.

Applicant Representation: Harvey Johnson, CRP & Associates, was present representing the applicant. He submitted the photograph and affidavit of sign posting for the record. Mr. Johnson stated that the applicant is in agreement with the staff's recommendation and all of the conditions, and he requested approval of this plan.

Commission Questions: Ms. Copeland asked if the Perry Lumber Company building should be included on this plan. Mr. Johnson answered that that building is part of the applicant's property, but is zoned differently and is not part of the proposed adaptive re-use development.

Action: A motion was made by Ms. Richardson, seconded by Mr. Paulsen, and carried 10-0 (Cravens absent), to approve DP 2010-13, subject to the 19 conditions as listed on the agenda.

3. DP 2010-16: DENTON FARMS (ELLERSLIE AT DELONG) (AMD) (6/29/10)* - located at 3900 – 4070 Richmond Road.
(Council District 7) **(Strand Associates)**

Note: This development plan requires the posting of a sign, and an affidavit of such. The purpose of this amendment is to revise the townhouse layout, to revise the single family lotting, and to reduce the number of condominium units. The Planning Commission postponed this plan at their April 8, 2010, meeting.

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 Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
10. Label contour lines.
11. Denote construction access location.
12. Addition of existing and proposed easements.
13. Clarify townhouse patio note (as per previous plan).
14. Denote landscape detail location (as per previous plan).
15. Resolve the proposed increase in building envelope size in the townhouse area.
16. Correct condominium information on plan face (113 units).
17. Discuss the allowable grading within 50' of the existing cemetery.

Staff Presentation: Mr. Taylor oriented the Commission to the location of the subject property, which is between Old Richmond Road and Delong Road. He presented the revised staff report, and a rendering of the combination amended final development plan and preliminary subdivision plan.

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Mr. Taylor noted that the purpose of the amendment is to reduce the number of condominium units by 17, in order to increase the number of single-family lots accordingly. There is currently no final development plan for the condominium portion of the property located closer to Richmond Road. He stated that the overall plan for the property denotes that the maximum number of units allowed for the property, which was set by conditional zoning. The applicant is also proposing to reduce the size of some of the lots in the undeveloped single-family area, in order to allow for the addition of the 17 extra lots. Some changes to the building envelopes are also proposed in the townhouse area with this plan amendment.

Mr. Taylor stated that the Subdivision Committee recommended approval of this plan, subject to 17 conditions as listed on the agenda. The applicant requested postponement at the Commission's last meeting, primarily due to concerns about condition #17. Since that postponement, the staff has met with the applicant and many of the conditions have been successfully addressed. The applicant reduced the size of the townhouse building envelopes in order to satisfy condition #15, and the staff is now comfortable with those envelopes as depicted on the plan.

Mr. Taylor said that the staff's primary area of concern is the existing cemetery on the site, which is reflected in condition #17. The applicant agreed to a slight relocation of the single-family lots in order to accommodate staff's concerns regarding grading in the area of the cemetery. The Commission recently adopted cemetery protection measures, and, while this plan was approved prior to adoption of those measures, the staff believed that it was important, since the number of single-family lots was proposed to be increased near the cemetery, to address grading restrictions that are included in that ordinance. The applicant's original plan depicted a lot directly adjacent to the cemetery. Mr. Taylor displayed a diagram of the cemetery on the overhead projector. The staff made a site visit, and determined the location of the largest vault in the cemetery. Following that site visit, the staff met with the applicant, who agreed to relocate that lot in order to provide a greater buffer between the cemetery and the proposed single-family homes. The applicant has also agreed to denote a 50' "no grading restriction" that was previously discussed on this plan. As a result of those changes, condition #17 could now be changed to read: "Denote: No grading within 50 feet of the existing cemetery."

Commission Questions: Ms. Roche-Phillips asked if the conditional zoning restrictions were granted based on the proposed location of the condominiums, and if an amendment would need to be made to those restrictions. Mr. Taylor answered that the conditional zoning restrictions set forth the total density allowed for the entire property. That portion of the property has not had a final development plan filed yet, so the applicant has tweaked the density of the unbuilt condominium area in order to accommodate additional density in other areas of the development.

Mr. Holmes asked if there is only one way into the townhouse portion of the development via Ormesby Place. Mr. Taylor responded that the entrance to the townhouse area is via Ormesby Place, which then loops through the townhouse area. He noted that street layout portion of the townhouse development was previously approved, and was not proposed to be amended with this plan.

Applicant Representation: Sara Tuttle, Strand Associates, was present representing the petitioner. She submitted for the record the required affidavit and photograph of the prerequisite sign posting.

Ms. Tuttle stated that the applicant met with the staff the day before this meeting to discuss their concerns about the cemetery. There is not actually a vault located in the cemetery; rather, it is a large, flat gravestone, and there are two other possible graves located there. She has recently discovered that some of the very old graves which were originally on the property were relocated to the Lexington Cemetery in 1941. The applicant is proposing to physically survey the location of the evident graves, and relocate some lots in order to provide the 50' buffer around those graves. The applicant believes that that is a reasonable approach to address the staff's concerns.

Commission Questions: Ms. Roche-Phillips asked if the applicant had employed an expert to locate the graves. Ms. Tuttle responded that she had talked at great length with the manager of the Lexington Cemetery, and he indicated that the only way to be completely accurate about the number and location of graves is to excavate the site. The applicant believes that it would be more disruptive to excavate the site than to leave a reasonable buffer around the area. Ms. Tuttle noted that the applicant is committed to preserving the cemetery by using that buffer area.

Ms. Tuttle stated that the applicant is in agreement with the staff's recommendations, and requested approval.

Action: A motion was made by Ms. Richardson, seconded by Mr. Paulsen, and carried 10-0 (Cravens absent) to approve DP 2010-16, subject to the first 16 conditions as listed on the agenda, changing #17 to read: "Denote: No grading within 50 feet of the existing cemetery."

Note: Chairman Penn declared a brief recess at 2:28 p.m. The meeting reconvened at 2:38 p.m.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, April 1, 2010, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Ed Holmes, Frank Penn, Lynn Roche-Phillips, Joan Whitman, and William Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. PUBLIC HEARING ON ZONING ORDINANCE TEXT AMENDMENT REQUEST

1. **ZOTA 2010-1: AMENDMENTS TO ARTICLES 1, 7, AND 8 TO REDEFINE "FAMILY" AND OTHER DEFINITIONS; TO DEFINE AND REQUIRE CONDITIONAL USE PERMITS FOR A "FUNCTIONAL FAMILY;" AND TO ELIMINATE "THE KEEPING OF ROOMERS OR BOARDERS" IN SINGLE AND TWO-FAMILY RESIDENTIAL ZONES** (5/25/10)* – a petition for a Zoning Ordinance text amendment to Article 1-11 to modify the definitions of "boarding house," "lodging house," "family," "dwelling, single-family," and "dwelling, two-family;" to add definitions of "functional family" and "fraternity or sorority house;" to add a new section to Article 7 pertaining to the process before the Board of Adjustment to obtain a conditional use permit as a functional family; and to amend Article 8-5(c) to eliminate the keeping of boarders as an acceptable accessory use.

INITIATED BY: Urban County Council

PROPOSED TEXT: (Note: Text underlined is an addition, while text ~~dashed through~~ is a deletion to the current Zoning Ordinance.)

Article 1: General Provisions and Definitions**1. MODIFY THE FOLLOWING CURRENT DEFINITIONS in ARTICLE 1-11:**

BOARDING HOUSE – A residential building, or part thereof, with sleeping rooms available for hire with or without meals to five (5) or more persons, primarily not transients. ~~Where kitchen facilities, cooking equipment or provisions for the same are included in a sleeping room, such room shall be deemed a dwelling unit.~~

LODGING HOUSE – A residence for adults living together, not as a family, but in a congregate living arrangement, characterized by one or more of the following:

- ~~(a) meals and food costs are not shared;~~
- ~~(b) residents do not have unrestricted access to all parts of the residence;~~
- ~~(c) bedrooms comprise sixty percent (60%) or more of the space within the residence;~~
- ~~(d) bedroom doors have keyed locks or deadbolt locks; and~~
- ~~(e) rent is pooled by the residents and paid to the owner or owner's agent. (The owner or owner's agent may or may not be one of the residents.)~~

BOARDING OR LODGING HOUSE - A residential building or part thereof for five (5) or more adults living together, not as a family or housekeeping unit. In identifying this use, the following factors shall be considered:

- (a) meals and/or food costs are typically not shared;
- (b) rent is established by leases to individuals or rents are based on charges assessed to each individual;
- (c) individual mailboxes are provided;
- (d) multiple utility meters or connections are present.

DWELLING, SINGLE FAMILY - A building occupied exclusively for residential purposes by one family or one housekeeping unit. This definition also includes a building occupied by five (5) or more unrelated individuals at any time within five (5) years prior to January 1, 2010 subject to the following:

- (a) the occupancy is restricted to six (6) or less unrelated individuals;
- (b) the use of the building as a rental dwelling has not been abandoned;
- (c) the building shall not be enlarged or expanded beyond the existing square footage as of January 1, 2010:
 - (1) by more than twenty-five percent (25%) unless the building has been expanded by twenty-five percent (25%) or more under a building permit issued on or after January 1, 2005, in which case, then by no more than five percent (5%);
 - or,
 - (2) unless approved by the BOA as a conditional use after January 1, 2010.

DWELLING, TWO-FAMILY - A building occupied exclusively for residential purposes by two families or two housekeeping units, commonly known as a duplex. Townhouses are not included in this definition. This definition also includes a building occupied by five (5) or more unrelated individuals in a unit at any time within five (5) years prior to January 1, 2010, subject to the following:

- (a) the occupancy of each unit is restricted to six (6) or less unrelated individuals;
- (b) the use of the building as rental dwellings has not been abandoned;
- (c) the building shall not be enlarged or expanded beyond the existing square footage as of January 1, 2010:
 - (1) by more than twenty-five percent (25%) unless the building has been expanded by twenty-five percent (25%) or more under a building permit issued on or after January 1, 2005, in which case, then by no more than five percent (5%);
 - or,

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- (2) unless approved by the BOA as a conditional use after January 1, 2010.
- (d) the limitation on enlargement of the building set forth in (c) above shall not apply in the case of the addition of a second unit in a two-family (R-2) zone, provided that both units thereafter conform to the limitation of four (4) unrelated persons per dwelling unit.

~~**FAMILY** - A person living alone, or two or more persons customarily living together as a single housekeeping unit and using common kitchen facilities, but not including a group occupying a hotel; club; boarding, lodging, fraternity or sorority house; nursing home; rest home; orphanage; community residence; rehabilitation home or other similar building.~~

FAMILY or HOUSEKEEPING UNIT - A person living alone, or any of the following groups living together and sharing common living and kitchen facilities:

- (a) Any number of persons related by blood, marriage, adoption, guardianship, or other duly authorized custodial relationship;
- (b) Four (4) or fewer unrelated persons;
- (c) Two (2) unrelated persons and any children related to either of them or under their care through a duly authorized custodial relationship;
- (d) Not more than eight (8) persons who are:
 - (1) Residents of a "home-like" residence as defined in KRS 216B.450
 - (2) "Handicapped" as defined in the Fair Housing Act, 42 U.S.C. Section 3602(h). This definition does not include those currently illegally using or addicted to a "controlled substance" as defined in the Controlled Substances Act, 21 U.S.C. Section 802(6).
- (e) Not more than six (6) unrelated individuals when in compliance with the provisions of the definitions of "dwelling, single family" or "dwelling, two-family" as contained in this Article.
- (f) A functional family as defined and regulated herein.

2. ADD THE FOLLOWING NEW TERMS AND DEFINITIONS to ARTICLE 1-11:

FAMILY, FUNCTIONAL - A group of five (5) or more persons not otherwise meeting the definition of "family" who desire to live as a stable and permanent single housekeeping unit and who have received a conditional use permit from the Board of Adjustment. "Functional family" does not include:

- (a) residents of a boarding or lodging house;
- (b) fraternity, sorority or dormitory;
- (c) any lodge, combine, federation, coterie or like organization;
- (d) any group of individuals whose association is temporary or seasonal in nature;
- (e) any group of individuals who are in a group living arrangement as a result of criminal offenses.

FRATERNITY OR SORORITY HOUSE - A building used as a living and/or gathering quarters for students of a college, university, or seminary (not living in a "dormitory" as defined herein) who are members of a fraternity or sorority that has been or is seeking to be officially recognized by the college, university or seminary; or their guests. In identifying such use, the following factors shall be among those considered, regardless of number of occupants:

- (a) signage or other indications that the building is used by a fraternity or sorority;
- (b) fraternity or sorority sponsored social activities such as meetings, parties, dances, or other gatherings; and,
- (c) events to which fraternity or sorority alumni or prospective members are invited.

A "Family or Housekeeping Unit" or "Boarding or Lodging House" as defined herein are excluded unless the use demonstrates specific characteristics of use as set forth above.

Article 7: Board of Adjustment

ADD A NEW SECTION PERTAINING TO THE BOARD OF ADJUSTMENT (ARTICLE 7-6(a)(8)):

- (8) The granting of a conditional use permit for a "functional family" shall be based upon application of the following considerations by the Board:
- (a) Members of the functional family will share a strong bond or commitment to a single purpose (e.g., religious orders);
 - (b) Members of the functional family are not legally dependent on others not part of the functional family;
 - (c) Members can establish a legal domicile as defined by Kentucky law;
 - (d) Members share a single household budget;
 - (e) Members prepare food and eat together regularly;
 - (f) Members share in the work to maintain the premises;
 - (g) Members legally share in the ownership or possession of the premises;
 - (h) Members demonstrate stability in the arrangement as opposed to transient living arrangements.

Article 8: Schedule of Zones

ELIMINATE "THE KEEPING OF ROOMERS OR BOARDERS" BY A RESIDENT FAMILY AS A PERMITTED ACCESSORY USE IN THE SINGLE FAMILY AND TWO-FAMILY ZONES (REVISE ARTICLE 8-5(c)):

8-5(c) Accessory Uses (Uses and structures which are customarily accessory, clearly incidental and subordinate to permitted uses.)

1. Private garages, storage sheds, and parking areas.
2. Living quarters, without cooking facilities and not rented, for guests and employees of the premises.
3. Swimming pools and tennis courts.
- ~~4. Keeping of not more than two roomers or boarders by a resident family, except where a bed and breakfast facility is provided; then no roomers or boarders shall be permitted.~~
- ~~5- 4.~~ Agricultural uses, excluding commercial stock raising.
- ~~6- 5.~~ Private, non-commercial parks and open space.
- ~~7- 6.~~ Home office.
- ~~8- 7.~~ A ground mounted satellite dish antenna, as regulated by Article 15-8.
- ~~9- 8.~~ Family child care for up to six (6) children, provided that the total number of children living or being cared for on the premises shall not exceed six (6).

The Zoning Committee Recommended: **Referral to the full Commission**, for the reasons provided by staff.

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

1. The Zoning Ordinance's definition of "family" has remained virtually unchanged since 1953; thus this proposed amendment is a timely and necessary update. Amendments to the definition of "family" and other related terms, as well as adding definitions for "functional family" and "fraternity or sorority house," will help to clarify the distinctions between single-family and higher density land uses, will recognize changes in typical living arrangements in the 21st Century, and will be consistent with the Kentucky Building Code's regulation of "congregate living facilities."
2. The elimination of the "keeping of roomers or boarders by a resident family" as a permissible accessory use in Article 8-5(c) of the Zoning Ordinance is necessary for consistency and enforcement clarity in the Single Family and Two-Family Residential zones. Through the amended definition of "family," the ability for four or more unrelated persons to occupy any dwelling unit will remain. To leave Article 8-5(c) intact would then permit another two unrelated individuals to rent part of the space occupied by a resident family, which could result in up to six unrelated persons in any dwelling unit. This situation would circumvent the efforts to address the existing density issue.
3. The proposed amendments are compliant with the federal Fair Housing Act, which prohibits discrimination in housing based on race, color, national origin, religion, gender, disability or familial status. Providing an avenue for a group of individuals to be recognized as the functional equivalent of a family by the Board of Adjustment will allow for case-by-case evaluation of individual circumstances, as necessary.

Chairman Comments: Mr. Penn stated that the Planning Commission had discussed this proposed text amendment at one of their work sessions, and had some questions and concerns about these changes to the Zoning Ordinance. He said that the Commission's purpose at this meeting was to hear public comments and perhaps have some of their questions answered by the staff. At the end of the public comment portion of the hearing, the Commission will have the option to continue this item to their May 13th meeting, if they feel that further discussion is needed.

Staff Presentation: Ms. Wade began the staff's presentation by submitting, for the record of the meeting, a statement from the Hollywood/Mt. Vernon Neighborhood Association indicating their support for the proposed text amendment, as well as a memorandum from the Department of Law that was distributed the day prior to this meeting for review by the Planning Commission members. Ms. Wade and Mr. Sallee presented the revised staff report on this request.

Ms. Wade stated that the Urban County Council initiated this text amendment to Article 1-11 of the Zoning Ordinance, which includes definitions; Article 7-6, which involves the Board of Adjustment; and Article 8-5, which deals with particular zones in the community. This text amendment was proposed to address density issues in single-family and two-family residential neighborhoods.

Ms. Wade said that the changes proposed to Article 1-11 involve modifying five definitions in the current Ordinance for "boarding house," "lodging house," "family," "dwelling, single-family," and "dwelling, two-family," as well as adding definitions for "functional family" and "fraternity or sorority house." The proposed change to Article 7-6 would provide guidance to the Board of Adjustment in determining when a functional family may occupy a single- or two-family dwelling. The proposed change to Article 8-5 would eliminate the keeping of roomers or boarders in an R-1 or R-2 residential zone as an accessory use. Ms. Wade noted that, under KRS100, the Planning Commission has 60 days to review this text amendment; they must take action by May 25th.

Ms. Wade stated that the Council has considered changes to the definition of "family" in the past, but this is the first time that text has been forwarded to the Planning Commission for consideration. One of the Council's reasons for initiating this text amendment

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was concern about the density in single-family and two-family residential zones; particularly, the occupancy of those residences by four or more unrelated individuals in a manner that more closely resembles a boarding house, and the effect of that higher density on the residential neighborhoods. The second issue of concern to the Council was the proliferation of large additions to single-family residences in order to accommodate increased density. Over the past two years, the Urban County Government has made a concerted effort to more diligently enforce the Zoning Ordinance with regard to boarding houses and single-family residences, in order to help protect the residents in the surrounding areas. As part of that process, LFUCG has issued many violations in situations where more than five individuals are residing in a single-family residence. That enforcement action has spurred concerns among residents, lessees, and landlords with regard to what is actually permitted in single-family residential zones by the Zoning Ordinance. In response to these concerns, the Council passed a six-month moratorium last October. That moratorium expired one week prior to this meeting, but it allowed government representatives the opportunity to work with interested parties and stakeholders to develop the proposed text changes to the Zoning Ordinance. The Council created a moratorium workgroup, which forwarded a memo to the Council and the Mayor in January, identifying some of the major issues and proposing changes to the text. That proposed Zoning Ordinance text amendment package was presented to the Council Planning Committee in mid-February. There was a great deal of concern at that meeting about the proposed changes, but they chose to forward the text changes to the full Council. In late February, the Mayor formed a larger group of citizens, attorneys, and neighborhood leaders to review the proposed text amendment. Following several meetings of that large group, it was determined that their consideration of the issue was at an impasse, and they could not come to an agreement about the changes to the Zoning Ordinance. The administration encouraged the formation of a smaller group to consider the changes. That group was comprised of representatives for the neighborhoods and landlords, as well as representatives from the Department of Law and the Division of Planning. This proposed text amendment now before the Commission is the result of the efforts of that smaller group.

Ms. Wade directed the Commission's attention to a staff exhibit designed to further explain some of the proposed changes to the definitions in Article 1-11. She noted that the current definition of "family" in the Zoning Ordinance has been virtually unchanged since 1953. That definition has a direct connection to many of the other definitions in Article 1, so the staff prepared a diagram to show how those definitions are interconnected. According to the proposed changes to the text, any household can only fall into one of the categories of living arrangements. Most families or housekeeping units reside in a single-family dwelling, two-family dwelling, or a community residence. Also included in that category would be townhouses and multi-family dwelling unit structures. The proposed text amendment would also create a definition for a "functional family," which could also reside in a single-family dwelling, two-family dwelling, or a community residence. The other proposed category would include congregate living arrangements, in which residents typically share some amenities, such as a kitchen, but are considered as a group living together in a structure rather than as a family. Fraternity and sorority houses, boarding or lodging houses, nursing or rehabilitation homes, and hospitality houses would all fall into this category. There is some confusion in the current text of the Zoning Ordinance that could allow for a possible "overlap" of those categories; the proposed definitions would make those distinctions much more clear. Ms. Wade said that the proposed definition of "family" adds the term "housekeeping unit," and it is intended for those two terms to be interchangeable in the Zoning Ordinance. This definition sets out six different ways in which a group of residents could be identified as a family: first, any number of individuals living together related by blood, marriage, adoption, guardianship, or another duly authorized custodial relationship; four or fewer unrelated individuals; two unrelated individuals plus their children; groups recognized and protected by the Federal and State Fair Housing Act; or a "functional family" as defined by the Zoning Ordinance.

Ms. Wade stated that the next proposed change is to combine "boarding house" and "lodging house," which are currently defined separately, into one definition. These two definitions have been different since 1998; but, prior to that, were very similar in their wording. The proposed text amendment pulls the numerical information from the definition of "boarding house," and the factors to be considered from the definition of "lodging house," and combines the two. The important distinction in the proposed text is that four or fewer individuals may be considered a family if they are unrelated; if there are five or more unrelated individuals, the dwelling would be categorized as a boarding or lodging house.

With regard to the definitions of "dwelling, single-family" and "dwelling, two-family," Ms. Wade said that the proposed changes would allow a single-family dwelling to be occupied by a family, a functional family, or a group of up to six unrelated individuals under an allowable exception. That exception would allow for residential structures being occupied within the past five years by five or more unrelated individuals to continue, but hereafter be limited to a maximum of six individuals. This proposed exception would recognize past rental situations, and would allow them to continue in a limited fashion. If this proposed change is enacted, landlords would need to document their compliance with these regulations in order to avoid possible enforcement action in the future. Ms. Wade stated that, in order to address concerns about large additions that are out of scale with existing residential neighborhoods, this text proposes to limit additions to a maximum of 25% the gross floor area of a single-family structure, if that structure is occupied by five or more individuals living as a family. If a building addition has already been made in this situation, then any future expansion would be limited to 5% of the gross floor area. Any expansion beyond that which would be allowed under the proposed text would require the approval of the Board of Adjustment. These restrictions would also apply to two-family dwelling units, with the exception of situations wherein a single dwelling unit is located on a property in the R-2 zone; a second unit would be permitted in those situations, and the 25% restriction would not apply. That unit would, however, then be required to adhere to the new definition of family. These addition restrictions, for single-family and two-family dwelling units, would only apply in cases where five or more individuals were living as a family. For dwelling units where individuals were residing as either a traditional family or a functional family, those restrictions would not apply.

Mr. Sallee stated that the proposed text amendment includes a new definition for "functional family," which was created to distinguish between a family or housekeeping unit of four or fewer unrelated persons or any number of related persons, and a boarding or lodging house. "Functional family" is proposed to be defined primarily by what it is not: it would not be a fraternity, sorority, lodging, or boarding house; a group that is living together as a result of criminal offenses; or a lodge or federation of any type. Under this definition, a functional family would be the equivalent of a family or housekeeping unit; and, under the proposed changes to Article 7-6, could be reviewed by the Board of Adjustment on a case-by-case basis. The Board of Adjustment could then consider approving those individuals as a functional family, which would then allow them to reside in single- and two-family residential zones. The section proposed for change in Article 7-6 would also provide direction and instruction to the Board of Adjustment in considering these uses as a conditional use. The Board would be empowered to impose reasonable conditions and limitations on the use of single- and two-family zoned properties.

Mr. Sallee stated that the final new definition proposed with this text amendment is "fraternity or sorority house." These uses have been listed in the Zoning Ordinance for decades, and are conditional uses in the R-3 and R-4 zones. As such, they are subject to review and approval by the Board of Adjustment. This definition is the result of a recommendation last year by the Student Housing Task Force which, after consultation with the Urban County Council and the University of Kentucky, sought to have this use defined in the Zoning Ordinance. The staff did extensive research on how other communities define fraternity and sorority house uses, which also includes regulations on signage and sponsored social activities and events.

Mr. Sallee stated that the final change proposed with this text amendment package is to Article 8, which currently allows the keeping of not more than two roomers or boarders by a resident family. The proposed text would remove that ability in most R-1 and R-2 zones. There is no proposed change to the R-1T and PUD zones, since the keeping of roomers and boarders was not already permitted in those zones. There is no corollary change proposed to the R-3 and R-4 zones, because, in those zones, a boarding house of up to eight people is a by-right use. This change to Article 8 has been proposed in order to ensure consistency with all of the other proposed changes to the Zoning Ordinance text.

Mr. Sallee said that the proposed text amendment has been reviewed by the staff, the Zoning Committee, and the full Commission at a work session. When the Zoning Committee met three weeks ago, they recommended referral to the full Commission, which was also the staff's recommendation at that time. Last week at the Commission's work session, the staff submitted a revised staff report, and the staff is now recommending approval of the proposed text amendment, for the reasons as listed in the revised staff report, as listed on the agenda of this meeting.

Chairman Comment: Mr. Penn stated that the proposed text amendments are the result of a great deal of work by neighborhood representatives, attorneys representing landlords, and staff from the Division of Planning and the Law Department. Mr. Penn said that he would like to recognize the following individuals specifically for their contributions to the process: Mike Meuser, Ted Cowen, Dick Murphy, Bill Lear, Logan Askew, Mr. King, and Ms. Boland.

Citizen Support: Mike Meuser, 336 Linden Walk, stated that attempts to address these issues have been ongoing for at least the past 20 years. He stated that he had chaired the Student Housing Task Force in the past, but that group reached an impasse. The sequestered small group of attorneys and staff from the Division of Planning and the Department of Law realized that a compromise could be reached in order to give landlords the security of knowing they have a lawful use, while providing residents a precise definition for density in houses in and around the University campus.

Mr. Meuser said that increased density in neighborhoods around campus can cause problems not only for residents who own homes in the area, but also for students who rent there. The recent increase in density in the Elizabeth Street area has made that neighborhood less safe for students. The proposed text amendment will stop that destruction, as well as address existing issues. He noted that the definition of fraternity and sorority house is very important, as it will provide landlords with the means to rent to five students who happen to be members of the same fraternity, without having the property labeled as a fraternity house. It also provides residents with the security that there will be no further encroachment of institutional uses into residential areas.

With regard to the concerns about the "vinyl box" issue, Mr. Meuser stated that he believes that the proposed text amendments will be the best means to address the issue of large additions to existing homes. He asked the Planning Commission to support the proposed text amendment, and recommend approval of it to the Council.

Commission Question: Mr. Owens asked if Mr. Meuser was present as a resident of Linden Walk, or as an attorney representing other residents. Mr. Meuser answered that he had not been compensated for any of the work he had done on the proposed text amendment.

Ms. Roche-Phillips asked why the Task Force proposed definitional changes rather than overlay zoning or some other, similar planning technique. Mr. Meuser responded that the Task Force was almost equally divided between university representatives, neighborhood representatives, landlords, and government officials. Given such a diverse group, it was difficult to achieve consensus about how to proceed with recommendations and prioritization for text changes. The group's report did recommend other types of density controls in areas around the university, but there was not enough support on the Council to add those proposals to the text

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amendment package. The work group had not originally intended to address the “vinyl box” issue, but realized, once they began meeting, that they could recommend a solution for that problem, as well.

Citizen Support (cont.) - Richard Murphy, attorney, stated that he appreciated the opportunity to represent the Greater Lexington Apartment Association and the University Housing Association to address housing issues around the university. He said that one of the keys to the success of the work group was the number of members who have extensive experience in dealing with such issues in Lexington.

Mr. Murphy noted that the two organizations he represents involve between 18,000 and 22,000 residential dwelling units in Lexington. The landlords of those properties wanted to achieve some certainty as to what is allowed by the Zoning Ordinance, as well as permanence so that this issue will not continue to come up every couple of years.

Mr. Murphy said that the work group realized that the proposed text amendments do not address all of the issues that relate to housing around the University, and that those concerns will need to be addressed at some point in the near future. Those issues include: parking requirements in the neighborhoods; use of ND-1 overlay zoning; and increasing the density of some of the zoning around UK. Many of the properties that were formerly zoned for higher densities nearest UK have been downzoned, which pushed those higher-density uses out nearer to the single-family residences in the neighborhoods around the University.

Commission Questions: Mr. Owens asked Mr. Murphy to provide more information about the University Area Housing Association. Mr. Murphy responded that that group was formed approximately 12 years ago, when some of the issues being discussed today initially arose. At that time, there was one landlords' group who was representing all of the landlords around the university. Some other landlords in the area did not agree with the confrontational approach of the original group, and asked Mr. Murphy to represent them. These landlords wanted to open the lines of communication between their group, the city government, and their student tenants. The University Area Housing Association is currently being combined with the Greater Lexington Apartment Association, and will become a sub-group within that association.

Mr. Owens asked how many landlords are members of that association. Mr. Murphy answered that there are approximately 135 members at present.

Citizen Support (cont.) - Janet Cowen, 612 Columbia Avenue, stated that she has been involved in housing issues around UK for many years. She said that she “does not care what you call the people living across the street,” but they must be aware that they reside in a single-family residential zone. Overlay zoning does not address how many people can reside in a house in a single-family residential zone, or how many cars can park there. For that reason, residents around UK, including the Board of the Columbia Heights Neighborhood Association, are requesting that the Planning Commission recommend approval of this text amendment.

Ted Cowen, 612 Columbia Avenue, said, with regard to Mr. Owens' question about Mr. Meuser's role in this process, that the mayor made a decision to form a smaller group to address housing issues after the original large work group reached an impasse. It was decided that a smaller number of people, who were chosen not as representatives of any particular group, but rather as long-term residents of the area who understand the issues, might be able to create a proposal with broad support. The group received emails from many individuals in the community recommending various solutions. Near the end of the process, the group convened a meeting with many neighborhood representatives, and presented the proposed text amendments. It was determined, at that meeting, that the proposed text amendments could provide an acceptable compromise solution. Not all of the residents are completely satisfied with the proposed changes and would favor something more restrictive, but they believe that they are reasonable and will work.

Craig Hardin, president, Greater Lexington Apartment Association, stated that he was a founding member of the University Area Housing Association, which initially formed as an attempt by the landlords to be more responsible property owners. He said that the proposed text amendments do not have total support among members of the association, as many are still upset about the possible restrictions on their property rights. However, there is majority support for the proposed text amendments. The property owners want to be a positive force in the community, and to have the proposed text changes last so that they can be assured that they are operating within the law.

Mr. Hardin stated that the work group might need to address some of the other longstanding issues around the University in the future, including the need for additional parking and the possible upzoning of some of the residential areas directly adjacent to UK.

Commission Question: Mr. Penn asked what Mr. Hardin hopes the University will accomplish with its creation of an off-campus housing office. Mr. Hardin answered that the Council has endorsed the Student Housing & Partnership Plan, which was based on the Ohio State Plan. The program is designed to help control the behavior of students and property owners near the University. Property owners would agree to participate in voluntary inspections based on incentives, rather than being forced by the government. The Greater Lexington Apartment Association will not be in charge of the program; but its members are hoping to participate in an effective coalition, which would allow their properties to be placed on a list of off-campus residences that are approved by the University of Kentucky. Inclusion on that list would require that the properties meet certain criteria, and that contact

information be provided in order to allow for quick responses to complaints, and would offer incentives to property owners who are willing to meet the more stringent criteria.

Chairman Comment: Mr. Penn thanked all of the participants for attending today's meeting, noting that the Commission needed to hear their information in order to make an appropriate decision about the proposed text amendment. He asked Mr. King to explain the Commission's options for action on the text amendment at this meeting.

Director Comment: Mr. King stated that the Council had sent the Commission a specific set of text amendments; and it is the Commission's duty, under State statute, to hold a public hearing, solicit public comment, and take action to make a recommendation within 60 days. The Commission could choose to recommend approval of the text amendments as they were forwarded by Council; to recommend disapproval of the text as forwarded; to suggest alternative language; or take no action at all.

Commission Comments: Mr. Holmes stated that he understands that some of the Commission members still have concerns about the proposed text amendments, and asked if the Commission must vote on this issue today. Mr. King responded that the Commission could choose to close the public comment portion of this hearing, continue the public hearing to another date, and conduct further discussion of the issues at their work session on April 29th. He noted that it would be a good idea, should the Commission choose that option, for the members to develop an "issue list" that they would like the staff to address at that work session.

Mr. Brewer stated that he believes that the Commission does need to further discuss some of the issues with this proposal.

Action: A motion was made by Mr. Brewer, seconded by Mr. Holmes, and carried 10-0 (Cravens absent) to close the public comment portion of this hearing, and continue it to the May 13th Planning Commission meeting.

Discussion: Mr. King asked if there were any issues in addition to those discussed at the previous work session which the Commission would like to address at their work session on the 29th. Mr. Penn answered that discussion of the previously documented issues should be sufficient. Ms. Roche-Phillips asked staff to provide more information on student housing overlay zones which could be used to address this issue.

V. COMMISSION ITEMS – No such items were presented.

VI. STAFF ITEMS

- A. SUBDIVISION REGULATIONS TEXT AMENDMENT INITIATION** – The staff will request Commission initiation of a text amendment to Article 5-4(h)(2) of the Subdivision Regulations with regard to Engineers' and Surveyors' certifications. The proposed changes to Article 5 were presented and discussed at the Commission work session on January 21, 2010. If initiated, the required public hearing could be held as early as May 13, 2009.

Action: A motion was made by Ms. Richardson, seconded by Ms. Whitman, and carried 10-0 (Cravens absent) to initiate a text amendment to Article 5-4(h)(2) with regard to Engineers' and Surveyors' certifications.

VII. AUDIENCE ITEMS – No such items were presented.

VIII. MEETING DATES FOR MAY, 2010

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	May 6, 2010
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	May 6, 2010
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 13, 2010
Work Session , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 20, 2010
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	May 26, 2010
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	May 27, 2010

IX. ADJOURNMENT – There being no further business, Chairman Penn declared the meeting adjourned at 3:36 p.m.