Minutes
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

March 10, 2011

I. CALL TO ORDER - The meeting was called to order at 1:31 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Carolyn Richardson, Chair; Mike Cravens; Marie Copeland; Mike Owens; William Wilson (departed at 3:27 p.m.); Carla Blanton (arrived at 3:18 p.m.) and Ed Holmes. Patrick Brewer, Derek Paulsen, Lynn Roche-Phillips and Eunice Beatty were absent.

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

II. APPROVAL OF MINUTES – The Chair reminded the members that the Planning Commission meeting minutes of February 10, 2011, had been previously distributed to the Commission, and were ready to be considered at this time.

Action - A motion was made by Mr. Wilson, seconded by Mr. Owens and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to approve the minutes of the February 10, 2011, meeting.

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

a. PLAN 2005-196F: SHARKEY PROPERTY, UNIT 2-B (5/24/11)* - located at 1700 Leestown Road (a portion of). (Council District 2) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2005-196F to the March 24, 2011, Planning Commission meeting.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to postpone PLAN 2005-196F to the March 24, 2011, Planning Commission meeting.

b. DP 2010-23: SHARKEY PROPERTY, UNIT 2-B (AMD) (7/4/10)* - located at 1758 Hatter Lane. (Council District 2) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2010-23 to the March 24, 2011, Planning Commission meeting.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to postpone DP 2010-23 to the March 24, 2011, Planning Commission meeting.

c. DP 2011-18: JAMES MOTOR CO. & KATHRYN M. MCBRAYER PROP. (AMD) (5/1/11)* - located at 2440 Richmond Road. (Council District 5) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2011-18 to the March 24, 2011, Planning Commission meeting.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to postpone DP 2011-18 to the March 24, 2011, Planning Commission meeting.

d. DP 2006-65: BLACKFORD PROPERTY, PHASES 1 & 2 (AMD.) (3/10/11)* – located at 6600 Man O' War Boulevard (a portion of). (Council District 12) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant. He requested that DP 2006-65 be withdrawn from the Planning Commission's consideration.

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

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for withdrawal. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to accept the withdrawal of DP 2006-65.

e. PLAN 2011-22F: DENTON FARMS, INC., UNIT 1-F (AMD) (5/1/11)* - located at 3936-3985 Tatton Park.
(Council District 7) **(Foster-Roland, Inc.)**

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of PLAN 2011-22F to the April 14, 2010, Planning Commission meeting.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to postpone PLAN 2011-22F to the April 14, 2011, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, March 3, 2011, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Marie Copeland, Eunice Beatty and Derek Paulsen. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Barbara Rackers, Traci Wade, Jimmy Emmons and Denice Bullock, as well as Captain Charles Bowen, and Firefighter Allen Case, Division of Fire & Emergency Services; Rochelle Boland, Law Department; Lutcher Sinclair, General Services 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, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of all of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2011-23F: SHARKEY PROPERTY, UNIT 1, LOT 9 (AMD) (5/1/11)* - located at 125 Louie Place.
(Council District 2) **(EA Partners)**

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

The Subdivision Committee Recommended: **Approval**, 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. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

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7. Denote number and location of trees to be planted to meet canopy requirements.
8. Addition of applicable portion of note #3 from parent plat.

2. PLAN 2011-24F: LFUCG PROPERTY & THE JOYCE FIELDS PROPERTY (AMD) (5/1/11)* - located at 115 Cisco Road. (Council District 11) **(Hall-Harmon Engineers)**

Note: The purpose of this amendment is to subdivide one lot into three lots as shown on the plan.

The Subdivision Committee Recommended: **Approval**, 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. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Correct plan title (property names and amended final).
10. Addition of name and address of developer.
11. Addition of all easements from previous plan.
12. Addition of building line setbacks.
13. Addition of maintenance note for access easements.
14. Addition of sinkhole information (non-buildable area) and pump station easement, as necessary.
15. Correct site statistics (length of street frontage).
16. Addition of street tree information.
17. Addition of easement for Addison Park/Day Treatment Trail to the approval of Parks and Recreation.

3. PLAN 2011-25F: HAMBURG PLACE OFFICE PARK, LOT 12 (AMD) (5/1/11)* - located on Pink Pigeon Parkway and Vendor Way. (Council District 6) **(Vision Engineering)**

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

The Subdivision Committee Recommended: **Approval**, subject to the following 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. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Revise plan to remove all consolidation information.
8. Correct plan title.
9. Addition of maintenance note per Article 5-4(g) of the Subdivision Regulations.
10. Provide inset of lot line between lots 12B and 8 (due to scale).
11. Revise purpose of amendment note.
12. Title "Owner's Certification."
13. Delete lines in Vendor Way to clarify it is not being dedicated by this plat.

4. PLAN 2011-26F: FOREST PARK ADDITION (AMD) (5/1/11)* - located at 201 Forest Park Road. (Council District 3) **(Wes Witt, Inc.)**

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

The Subdivision Committee Recommended: **Approval**, 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. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote proposed and existing easements.
8. Denote private utility providers as per Article 5-4(e) of the Subdivision Regulations.

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9. Add maintenance note per Article 5-4(g) of the Subdivision Regulations.
10. Denote public passage way easement for utility strip and sidewalk adjacent to Forest Park Road right-of-way.

5. PLAN 2011-33F: BRIGHTON EAST TOWNHOMES LOTS 1-12 (AMD) (5/24/11)* - located at 3704 – 3725 St. Andrews Walk. (Council District 6) **(Foster - Roland)**

Note: The purpose of this amendment is to revise a garage setback note on Lot 3.

The Subdivision Committee Recommended: **Approval**, 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. Approval of street addresses as per e911 staff.
5. Addition of metes and bounds along McFarland Lane.
6. Addition of monument information from previous plat.
7. Delete the duplicate "Purpose of amendment note."
8. Delete blanket open space utility easement note.
9. Correct Land Surveyor's certification.
10. Correct Planning Commission certification.
11. Revise the purpose of amendment note to read: "To revise note #10."
12. Review by the Technical Committee prior to certification.

6. DP 2011-17: HAMBURG PLACE MALL, UNIT 1, PARCEL 3 (AMD #8) (5/1/11)* - located at 2309 Sir Barton Way. (Council District 6) **(Allen Engineering)**

Note: The purpose of this amendment is to add 800 square feet of buildable area to a restaurant and to revise the parking and dumpster location.

The Subdivision Committee Recommended: **Approval**, 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 landscaping 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.
8. Correct plan title (AMD #8) and remove reference to a "minor" amendment.
9. Correct existing parking shown on side and rear of restaurant.
10. Correct Planning Commission certification, and delete signature.
11. Remove building envelope conflict with rear dumpster location, and display existing dumpster location.
12. Correct building square footage and dimensions for "coolers."

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 purposes.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Ms. Copeland said that at the March 3rd Subdivision Committee meeting, the Committee had noted that PLAN 2011-33F had a number of "cleanup" conditions listed on its recommendation for approval. At that meeting, the Committee requested that the applicant address those conditions prior to today's meeting, and she asked if the applicant had done so. Mr. Martin indicated that the applicant had submitted a revised plan to the staff since last week's Subdivision Committee meeting, addressing a number of items. He said that the staff is comfortable with recommending approval, subject to the original conditions, but could also brief, should the Commission wish to discuss the revised submission. Ms. Richardson asked if PLAN 2011-33F should remain on the Consent Agenda. Ms. Copeland agreed that it should.

Mr. Harck Pickett, property owner of 228 Forest Park Road, requested that PLAN 2011-26F be removed from the Consent Agenda for further discussion by the Commission.

Action - A motion was made by Mr. Holmes, seconded by Mr. Owens, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to approve the remaining 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. PRELIMINARY SUBDIVISION PLANS

a. PLAN 2010-131P: HILLENMEYER PROPERTY & DWS PROPERTY (A PORTION OF) (AMD) (3/10/11)* - located at 2801 Sandersville Road, 803 Greendale Road and 2551 Leestown Road. (Council District 2) **(EA Partners)**

Note: The Planning Commission postponed this plan at its December 9, 2010; January 13, 2011 and February 10, 2011, meetings. The purpose of this amendment is to revise the single family lotting pattern and street system. The applicant has submitted a revised version of this Preliminary Subdivision Plan to the staff as of February 22, 2011. It addressed many of the issues previously identified by the Subdivision Committee. Thus, even though a waiver to the Land Subdivision Regulations is necessary, the Staff offered the following revised recommendations.

The Subdivision Committee Recommended: **Approval**, subject to the following revised conditions:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Urban Forester's approval of tree protection plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Denote existing easements and denote new easements as "proposed."
9. Addition of planting plan information from previous plan.
10. Kentucky Department of Transportation's approval of proposed access to Greendale Road.
11. Denote tree protection areas.
12. Denote location of construction access.
13. Label 20' building line on lots 91 & 92.
14. Clarify proposed development restrictions within 50' of cemetery.
15. Provided the Planning Commission grants a waiver to Article 6-8(a) of the Land Subdivisions Regulations.
16. Resolve applicability of note #18 on the previous plan.
17. Resolve buildable area on lot 22.

Staff Presentation – Mr. Sallee directed the Commission's attention to the amended Preliminary Subdivision Plan for Hillenmeyer Property & a portion of the DWS Property. He noted that this property is located at 2801 Sandersville Road, 803 Greendale Road and 2551 Leestown Road.

Mr. Sallee then directed the Commission's attention to three aerial photographs of the area, and said that the subject property is east of Greendale Road and north of Sandersville Road. To the south of the subject property there is a four-way intersection at Greendale Road and Sandersville Road. He said that the property is vacant, and had been part of the Hillenmeyer Nursery operations. He pointed out the location of the light industrial area, as well as the locations of the proposed and existing street systems. He noted that along with this request, the applicant has requested a waiver to the required street geometrics for a portion of Sandersville Road from Greendale Road to Citation Boulevard.

Mr. Sallee indicated on one of the aerial photographs of the subject property that Sandersville Road is proposed to stub into the property near the existing light industrial area. However, with the discovery of the cemetery within the planned Sandersville Road corridor, certain restrictions had been placed on the path of the future right-of-way. He said that in 2010, the Urban County Council adopted the Cemetery Ordinance (Ordinance 5-2010) that was previously initiated by the Planning Commission (ZOTA 2009-9). This Ordinance required that a minimum setback of 50' be maintained around the perimeter of a cemetery.

Mr. Sallee directed the Commission's attention to rendering of the Preliminary Subdivision Plan, and reoriented the Commission to the location of the subject property, as well as to the adjacent property. He then oriented the Commission to the street systems in the general vicinity and to the location of the cemetery. He said that the future extension of Citation Boulevard is proposed to run along the western side of the subject property, which will split the two portions (East and West) of the Hillenmeyer Property. He noted that in the previous months, the Commission had previously approved the section of the Hillenmeyer Property (DP 2011-1) on the western side of Citation Boulevard.

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Mr. Sallee then directed the Commission's attention to the location of the cemetery on the property and noted that there is a 50' area of "no disturbance" that must be maintained. He said that the need for a buffer near the cemetery and the planned alignment of Sandersville Road is what prompted this request to be postponed initially. He then said that the applicant had submitted a revised plan, which showed the construction of Sandersville Road while maintaining the required 50' setback requirement.

Mr. Sallee said that the subject property is zoned R-3 and is being proposed for 218 lots. The entire development of this area is proposed for single family detached housing, and that Sandersville Road is the only collector street being proposed to serve the development. He noted that there will be a new access point off Greendale Road, as well, and the other streets within this subdivision will be local streets. He then noted the location of three detention basins in the center of the property.

Mr. Sallee directed the Commission's attention to the revised staff recommendation previously distributed, and said that since the Subdivision Committee meeting, the applicant had submitted a revised Preliminary Development Plan to the staff that addresses many of the deficiencies previously identified. Mr. Sallee said that the staff is recommending approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Urban Forester's approval of tree protection plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.

~~8. Denote existing easements and denote new easements as "proposed."~~
~~9. Addition of planting plan information from previous plan.~~
8\. ~~10~~. Kentucky Department of Transportation's approval of proposed access to Greendale Road.
9\. ~~11~~. Denote tree protection areas.
~~12. Denote location of construction access.~~
~~13. Label 20' building line on lots 91 & 92.~~
10\. ~~14.~~ Clarify proposed ~~development~~ tree protection restrictions within 50' of cemetery.
11\. ~~15~~. Provided the Planning Commission grants a waiver to Article 6-8(a) of the Land Subdivisions Regulations.
~~16. Resolve applicability of note #18 on the previous plan.~~
12\. ~~17~~. Resolve buildable area on lot 22.

Mr. Sallee gave a brief explanation of those conditions, and noted that conditions # 1 through 7 are typical "sign-offs" from the different government divisions. He noted that the applicant will need the approval of the Kentucky Department of Transportation for the proposed access to Greendale Road, as well (new condition # 8). He said that the applicant has addressed the original conditions # 8, 9, 12, 13 and 16; and those can be deleted.

Mr. Sallee said that, in reviewing the subject property, there are significant tree lines on the edge of the site, especially near the cemetery. Even though this request does not propose or require tree preservation, the staff believes it would be beneficial for these tree lines to be preserved especially within the "no disturbance" area near the cemetery. He said that there is another significant tree line to the south between the cemetery and the adjacent light industrial area. The staff believes that retaining the natural tree line between these two uses would provide better zone-to-zone screening versus cutting down and replanting trees. He indicated that the staff is requesting that the tree protection areas be denoted on the plan, which is reflected with the new conditions #9 and 10.

Mr. Sallee stated that the applicant has requested a waiver to the street geometrics for Sandersville Road. He said that this waiver would allow a 325' curve radius to be built instead of the 500' radius. This is necessary for Sandersville Road to be constructed properly around the cemetery. As part of this waiver request, the angle of the intersection of Greenspring Court and Sandersville Road will also need an adjustment.

Mr. Sallee directed the Commission's attention to Lot 22 on the rendering. He said that Lot 22 is very close to the future right-of-way of Citation Boulevard and there could possibly be a sinkhole within that area. He then said that the staff has a discussed with the applicant's representation the need to provide an exploratory study of the area as it is developed. Should a sinkhole be found, then the building lines would be adjusted appropriately (new condition #12).

Waiver Report – Mr. Martin directed the Commission's attention to the previously distributed waiver report, and said that the subject of this waiver request is the street geometrics for a portion of Sandersville Road right-of-way. He then said that the intersection of Greenspring Court and Sandersville Road will also need to be adjusted in order to allow Sandersville Road to connect to Citation Boulevard.

Mr. Martin said that in order to bypass the cemetery, the street radius of Sandersville Road would be constructed with a 325' curve radius instead of the 500' curve radius that is required by the Land Subdivision Regulations. He then said that the staff had spoken with the Division of Traffic Engineering, and they are agreeable with changing the street geometrics.

Mr. Martin said that the staff does have a concern with Lots 91 and 92 being proposed next to the cemetery. He then said that these lots do not meet the recommended lot depth to width ratio that Article 6-4(b) of the Land Subdivision Regulations requires. Furthermore, Article 6-4(c) of the Land Subdivision Regulations states that all lots shall be designed to provide safe and convenient pedestrian and vehicular access to the street. The staff is especially concerned with the vehicular access with this change since it will cause the sight distance to be reduced, which is unsafe for vehicular traffic. However, this issue can be resolved at the time of the Final Record Plat.

In conclusion, Mr. Martin said that the staff is comfortable in recommending approval of the requested waiver, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant, due to the location of the existing family cemetery, and its proximity to the current stub of Sandersville Road (at Greenspring Court).
2. The granting of the waiver will not negatively impact public health and safety relative to the overall design and function of the street system in this area, and might prove to provide a "traffic calming" feature to the extension of this collector street.

Planning Commission Questions – Mr. Owens asked if the staff believed the access to Lots 91 and 92 could be resolved at the time of the Final Record Plat. Mr. Sallee said that during the Final Record Plat stage, suggestions could be made as to how this access could be designed. He then said that one suggestion would be to have a shared driveway across the frontage of these two lots, which would still allow access onto Sandersville Road.

Representation – Rory Kahly, EA Partners, and Howard Cruse, Ball Homes, were present representing the applicant. Mr. Kahly said that they are in agreement with the revised recommendations and requested approval.

Planning Commission Questions – Mr. Owens thanked the applicant for making the necessary changes to circumvent the cemetery. He asked if any grading or excavation has been done on this property. Mr. Kahly said that this request must be approved prior to submitting construction plans, and no grading or exploration had taken place.

Mr. Owens submitted a series of photographs of the cemetery, and gave a brief explanation of each. He said that during the site visit, he had located several existing headstones, one of which dates back as far as 1834. He then said that, within the cemetery, it appeared that the top layer of soil had been removed, exposing several indentions of grave plots. He noted that some of these depressions had a yard stick marking their depth. He said that there are pin flags showing the area where excavation had occurred, and what was most disturbing to him were the depressions in the ground. He asked for an explanation of what had taken place in the cemetery area, if there had been no excavation. Mr. Cruse clarified that the excavation in the area was for roadway construction. Mr. Owens said that he had previously asked if any grading or excavation has been done on this property. Mr. Cruse said that the cemetery grounds were explored not excavated. Exploration is done to denote the outer limits of the cemetery grounds. He then said that when a cemetery is explored it is done so under the direct supervision of a licensed professional, and in this case Troy Thompson was present. He noted that everything that they have done is within the purview of the law.

Mr. Owens then asked for clarification of the depressions in the ground because they are very similar to coffin sites. Mr. Cruse agreed, and said that in order to determine the location and orientation of the graves, the site had to be explored. He said that the stakes or pin flags are the areas that were actually surveyed. Mr. Owens then asked for clarification regarding the depression areas. Mr. Cruse said that the depressions in the ground are the areas that were excavated, which is how the grave locations were determined. Mr. Owens clarified that the depressions are graves and asked what has happened to those graves. Mr. Cruse said that the locations of the grave site were only determined, and nothing was done further to disturb them. What was done was only an apart of the normal investigation process.

Mr. Owens asked if those are actual gravesites, then where the actual limits of the cemetery would be with regard to the 50' buffer. Mr. Cruse said that the actual burials in the cemetery will determine the limits as to how far out the 50' restriction needs to be. Mr. Owens clarified that the 50' boundary will be determined from the edge of the actual boundary of the burial area. Mr. Cruse replied affirmatively. Mr. Owens asked what happened to the grave site. Mr. Cruse said that the bodies were not excavated from the land. The top layer of soil was removed to determine the location of those burials. Mr. Owens said that there are depressions in the cemetery and asked what happened to the coffins and bodies that would be located there; and if this area was not excavated, how those depressions occurred. Mr. Cruse said that as part of the normal process of surveying a cemetery, the land was disturbed to determine where those bodies are. Mr. Owens then asked how they determined the limits of the cemetery, and how they determined where to dig. Mr. Cruse said that an expert made those determinations by reviewing the locations of the headstones, as well as looking for soft soils. He said that once a burial is confirmed, probing the land is done to determine the limits of each gravesite.

Mr. Owens asked if documentation on this cemetery could be provided from their expert. Mr. Cruse agreed that that could be done.

Ms. Copeland asked if testimony could be given to the Commission regarding the probing method. Mr. Cruse replied affirmatively, and said that probing is the first phase of excavation. He said that the probe can find the soft spots in the land and then the top layer of soil is removed 18 to 24 inches to further evaluate the area.

Mr. Holmes asked if the Preliminary Development Plan is proposing to restore the cemetery. Mr. Cruse said that there is no proposal to restore the cemetery, but they are required to fence the cemetery boundary. He then said that there have been discussions to make the cemetery part of the greenway area or make it a HOA parcel, which would make someone responsible for its maintenance. Mr. Holmes then asked if once the excavation is completed, the soil will be placed back. Mr. Cruse said that they have no problem in making that commitment, but they would not be allowed to move any headstones. Mr. Holmes asked if the headstones were moved during the excavation. Mr. Cruse replied negatively.

Ms. Copeland asked if the names listed on the headstone were readable. Mr. Cruse replied affirmatively, noting that they have been communicating with the Payne family regarding the cemetery history. He said that this is why they are trying not to disturb the area. Ms. Copeland then asked how many graves are in the cemetery. Mr. Cruse indicated that he did not have that information. Ms. Copeland asked if the cemetery expert is local; and if so, could they report back to the Commission if this item was postponed. Mr. Cruse replied affirmatively.

Mr. Owens thanked Mr. Cruse for his testimony, and said that this information should be forthright. He then said that if Mr. Cruse was agreeable to the postponement, it would make the Commission more comfortable in their decision. Mr. Cruse said that a 2-week postponement would be acceptable.

<u>Audience Comment</u> – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

<u>Action</u> - A motion was made by Mr. Owens, seconded by Mr. Wilson, and carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent) to postpone PLAN 2010-13P to the March 24, 2011, Planning Commission meeting.

<u>Discussion of Motion</u> – Mr. Holmes confirmed that the reason this item being postponed is for the cemetery expert to be present to provide information to the Commission. Mr. Cruse asked what type of information the Commission would like to hear. Mr. Owens said that whoever was present at the site exploration should be present to provide information to the Commission, as well as submit a report.

Ms. Copeland requested that condition #12 be resolved prior to the March 24th meeting, as well as provide site photographs at that time. Mr. Cruse said that prior to the purchase of this land, a sinkhole study was performed, and that data was submitted to the staff. He then said that those reports are 6 years old, but could be submitted to the Commission, as well.

2. <u>FINAL SUBDIVISION PLANS</u>

a. <u>PLAN 2011-26F: FOREST PARK ADDITION (AMD)</u> (5/1/11)* - located at 201 Forest Park Road.
(Council District 3) **(Wes Witt, Inc.)**

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

<u>The Subdivision Committee Recommended:</u> **<u>Approval</u>**, 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. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote proposed and existing easements.
8. Denote private utility providers as per Article 5-4(e) of the Subdivision Regulations.
9. Add maintenance note per Article 5-4(g) of the Subdivision Regulations.

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

10. Denote public passage way easement for utility strip and sidewalk adjacent to Forest Park Road right-of-way.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the amended Final Record Plat for Forest Park Addition, which is located at 201 Forest Park Road. He distributed several email correspondences from the nearby property owners who have concerns with this request.

Mr. Martin oriented the Commission to the location of the surrounding streets, and said that the subject property is located at the corner of Forest Park Road and Elizabeth Street, south of Waller Avenue. He indicated that the purpose of this amendment is to subdivide this one lot into two lots.

Mr. Martin directed the Commission's attention to the aerial photograph, and said that there is an existing house on the lot, as well as a garage and a driveway to the rear. He noted that this request proposes to subdivide the lot toward the rear to create an additional lot. He then said that the subject property is zoned R-1C, and should this lot be subdivided, both lots will conform to the minimum size requirement of 8,000 sq. ft., as well as the 60-foot minimum frontage requirement. He explained that the proposed plat does denote the square footage and building lines for each lot.

Mr. Martin said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. Since the Subdivision Committee meeting, the applicant had submitted a revised plan to the staff that addressed a few of the "cleanup" type of deficiencies previously identified. With that revision, the staff can offer the following revised recommendations:

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. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote proposed and existing easements.
8. ~~Denote private utility providers as per Article 5-4(e) of the Subdivision Regulations.~~
9. ~~Add maintenance note per Article 5-4(g) of the Subdivision Regulations.~~
10. ~~Denote public passage way easement for utility strip and sidewalk adjacent to Forest Park Road right-of-way.~~

Mr. Martin noted that condition #7 is related to the proposed and existing easements on the subject property. He said that the sanitary sewer connection for this area is located along Forest Park Road. In order to make a connection to this line, it will be necessary to establish a new lateral sewer line for Lot 63. That connection will cross Lot 62 and connect to the main line under Forest Park Road.

Mr. Martin said that there is an existing median on Forest Park Road; and when reviewing the history of this property, it was confirmed that the sidewalk and the utility strip are outside the Forest Park Road right-of-way. When the sidewalk and utility strip are outside the right-of-way, a "passage way" easement is created, which will then allow the Lexington-Fayette Urban County Government to have primacy. He said that the revised submission had addressed this issue by denoting the passage way easement on the plat. He also noted that the necessary language has been added to the plan, as well (condition #10).

Mr. Martin then said that normally on a final record plat, the building layout and setbacks are not required to be shown on the plan. However, the required setbacks do need to be verified due to the existing R-1C zoning. In reviewing the rendering, there is an 18-foot rear yard setback from the property line of Lot 63 to the existing structure on Lot 62. This amount exceeds the minimum 10' rear yard requirement.

In conclusion, Mr. Martin said that based upon the newest revision, the staff can recommend approval, subject to the revised conditions as previously noted.

Planning Commission Questions – Mr. Owens asked if there is a front yard setback for the existing house on Forest Park Road. Mr. Martin said that Lot 62 will have two setback requirements, one on Forest Park Road and the second on Elizabeth Street. Mr. Owens asked if the rendering is correct in showing how close the structure is to Elizabeth Street. Mr. Martin replied affirmatively, and said that this is an existing non-conforming structure that predates the regulations.

Ms. Copeland asked if the two structures to the rear of Lot 63 will be removed. Mr. Martin replied affirmatively. He said that, should this request be approved, a single family residence would be allowed as long as it conforms to the requirements of the R-1C zone.

Representation – Wesley Witt, Wes Witt, Inc., was present representing the applicant, and said that they are in agreement with the revised recommendations and requested approval.

Planning Commission Questions – Ms. Copeland asked for estimation as to where the lot would be subdivided, using the aerial photograph. Mr. Witt indicated the location of the new lot lines, using the aerial photograph of the property. Ms. Copeland asked if the second lot will be smaller than the main lot. Mr. Witt replied affirmatively, and said that the proposed lot will be smaller, but it meets the requirements of the R-1C zone.

Mr. Owens asked what will be built on this lot. Mr. Witt said that the property owner is unsure at this point, but it will be some type of residential structure.

Audience Comment – Harck Pickett, residing at 228 Forest Park Road, was present to comment on this proposed subdivision. He said that this lot may conform to the requirements to the R-1C zone, but over time this area has exceeded its density limits. He then said that should this lot be subdivided, it would cause additional strain on this neighborhood. He noted that Elizabeth Street currently has flooding problems; and if this lot is subdivided, there would be a loss of greenspace, and an increase in runoff into the sewer system. He then said that should this property be developed, there would be an increase in traffic volumes in this portion of the community. Mr. Pickett said that another concern is the possibility of this site being rezoned to match the adjacent lot that is currently in an R-3 zone. He noted that an R-3 zone allows more density, which would cause an additional impact on this area. In conclusion, Mr. Pickett concluded by saying that the Commission received several email correspondences from the residents of the area opposing this development.

Planning Commission Questions – Ms. Copeland asked if Mr. Pickett's residence floods; and if so, how often. Mr. Pickett replied affirmatively, and noted that his basement floods all the time. He said that even with the recent sanitary sewer improvements there is still flooding. He said that even with the downspouts being directed away from the house, there is still no relief with the amount of flooding on his property. Ms. Copeland asked if Mr. Pickett owned or rented the property. Mr. Pickett indicated that he is the property owner.

Audience Comment (cont.) – Kiristen Bright, residing at 226 Forest Park Road, was also present. She said that there is a real concern with the degradation of their community through cheap student housing. She then said that single family homes can accommodate up to six individuals, which includes their vehicles and pets. She believed that this request will pose a strain on an already dense community. She also said that her residence has flooded with the recent rainfalls.

Planning Commission Questions – Mr. Wilson asked if the neighborhood association for this area had an official position on this request. Mr. Pickett explained the boundary of this community, and said that there are 40 active members in the homeowners' association, as well as the student housing population. Mr. Wilson asked if Mr. Pickett was present on behalf of the homeowners' association or himself. Mr. Pickett said that he had relayed the information to the members of the homeowners' association.

Mr. Holmes asked if the property to the north is zoned R-3. Mr. Sallee said that in the general vicinity there is R-3 zoning, but he was unsure about the property in question. Mr. Holmes said that if this property is subdivided into two lots, the smaller lot could be consolidated with the adjacent property, at which time an applicant would need to submit an application for a zone change. Otherwise, they would need to conform to the requirements of the existing zone. Mr. Sallee said that that was correct. He noted that if the applicant wanted anything more than a single family detached house on the new lot, they would need to seek the approval of a zone change through the Planning Commission.

Ms. Copeland asked if the current property owner is listed as Smart Properties, LLC. Mr. Witt replied affirmatively, noting that the principal property owner is Brian Richler. Ms. Copeland asked if the property owner specialized in student housing. Mr. Witt indicated that he did not have that information. Ms. Copeland noted that this request concerns her, and referenced Malcolm Gladwell, author of The Tipping Point. This book discusses change and how little things can make a big difference. She said that as long as Forest Park is holding on as a neighborhood, given that one of the goals of the Comprehensive Plan is to uphold and support neighborhoods, she has concern with this proposal. With regard to the neighborhood as a whole; and considering the big picture over the long term, it concerns her that this proposal is going in the wrong direction with regard to a "tipping point."

Mr. Owens said that he does not have a concern with the lot being subdivided; but recognized the neighborhood's perspective that they do have a concern with this request. He asked if the applicant would be in favor of postponing this request to resubmit the house design and layout. Mr. Witt replied affirmatively. He said that the layout of the site is normally done through Code Enforcement, but with the neighborhood's concern, such a plan could be submitted. Mr. Owens confirmed that Mr. Witt was agreeable to a postponement. Mr. Witt replied affirmatively.

Mr. Cravens said that the Planning Commission does not have a legal right to request the applicant to postpone this request in order for a design to be submitted. He then said that this lot would be considered an estate lot and there is plenty of room to comply with the setback regulations. There is no reason to request postponement or disapprove this request.

Mr. Owens said that the applicant is in agreement with postponing this request. Mr. Witt commented that this lot does conform to the R-1C zoning requirements. Mr. Owens said that he understood. Mr. Witt then commented that if postponing this request would be beneficial, then he was agreeable to do so.

Action - A motion was made by Mr. Owens, seconded by Mr. Wilson, to postpone PLAN 2011-26F to the March 24, 2011, Planning Commission meeting.

Law Department Comments – Ms. Boland made the Commission aware that the only thing that is allowed on this lot is a single family residence, which is a legal use, as long as there are no more than four unrelated people living in that residence. She said that the Commission can not place conditions on the splitting of a lot to reflect the number of people living in the house. She then said that the Commission can not dictate the design of the house and the Commission needs to be cautious of what an ministerial act is and what is being requested.

Discussion of Motion - Mr. Holmes said that the number of people living in a residence, the number of vehicles and the trash in the area are enforcement issues. He respects the property owner's right in wanting to subdivide the property, but there is also a concern with the direction of where the neighborhood is headed. He then said that the Planning Commission is limited with what can be or can not be imposed on the applicant.

Ms. Copeland said that regardless of what is built on this lot, there will be more storm water runoff in this area. She then said that once the soil is disturbed there will be an increase in flooding, and this area is already inundated.

Action – The vote on the motion failed 3-3 (Richardson, Cravens and Holmes opposed; Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent).

Discussion of Motion - Mr. Cravens said that the Planning Commission can not ask for the design layout, nor can they request the design criterion for a single family lot.

Action - A motion was made by Mr. Cravens, seconded by Mr. Holmes, and failed 3-3 (Copeland, Owens and Wilson opposed; Beatty, Blanton, Brewer, Paulsen and Roche-Phillips were absent) to approve PLAN 2011-26F, subject to the revised conditions listed by the staff.

Discussion of Motion - Mr. Wilson commented that the applicant has volunteered to postpone this request for two weeks. He said that he understood the Law Department's testimony, but at least three Commission members are in agreement with a postponement. He then said that postponing this item may be beneficial in the long run. Mr. Witt said that the applicant could notify the neighborhood association of what is being proposed, but there are too many factors in a project that could change. He then said that this could be postponed, but the design being shown to the Commission is only conceptual, and that it could change in the future.

The Chair said that two different motions have failed, and asked for guidance from the Law Department. Ms. Boland said that each of the motions failed because each motion ended in a tie vote. She explained that when a motion fails, it is due to the majority of the members voting against that item. That same proposal can not be brought back to the floor unless the prevailing side makes a motion. She said that in this case, there was a tie vote, which means a Commission member could make a new motion; and if that motion is seconded, it could be placed on the floor. She then said that as of now, both motions had failed and the request was not approved.

Mr. Wilson confirmed that a third motion requesting postponement could be brought to the floor. Ms. Boland said that since the Commission has been able to further discuss this issue, it would not be unreasonable for a third motion to be made, as long as there is a second to that motion. Should the motion end in a tie vote, then at some point the Chair will need to intervene.

Action - A motion was made by Mr. Owens to postpone PLAN 2011-26F to the March 24, 2011, Planning Commission meeting to provide additional information on this request.

Discussion of Motion – The Chair clarified that this is a similar motion to the previous motion for postponement. Ms. Boland said that if the motion on the floor is seconded, and should there be another tie vote, then the Chair has discretion as how to proceed.

The motion was seconded by Mr. Holmes to allow this proposal to move forward to the next meeting, adding that he believes the applicant does have the right to subdivide the property.

Discussion of Motion - Mr. Cravens asked the purpose of the postponement. Mr. Owens said that, with the willingness of Mr. Witt, this is an attempt to review a plan to provide clarity to a situation of what will take place. Mr. Cravens asked for further clarification as to what the applicant will need to bring to the Commission. Mr. Owens said that the applicant will need to submit something that resembles a site plan for the property. Mr. Cravens confirmed that the applicant will need to bring in a site plan. He said that if the Commission is only requesting a site plan to show the footprint of the building, then he is agreeable with postponement.

Mr. Holmes said that since the applicant is willing to postpone this request for two weeks, he is also agreeable. Mr. Owens suggested that the applicant bring as much information as possible to the Commission in two weeks. Mr. Witt explained that a site plan could be submitted to the Commission, but in six months that design could change; this proposed design is only conceptual.

Mr. Cravens said that since this is a single family lot, the Division of Building Inspection would approve the change in the site plan. Mr. Witt confirmed that the Commission was only requesting an exhibit to show what could be done on this property. Mr. Cravens confirmed that Mr. Owens only wanted a site plan to be shown to the Commission - no details of elevations or design. Mr. Owens said that at this point in time, a site plan is only being requested.

Action - The vote on the motion carried 6-0 (Blanton, Beatty, Brewer, Paulsen and Roche-Phillips were absent).

3. DEVELOPMENT PLANS

Note: Mr. Sallee stated that DP 2011-16: Mark Acre Properties is related to NPE 2011-1: Jeff Morgan. He said that this request does require several staff reports to be presented to the Commission with the first report concerning the development plan and two additional staff reports concerning the Newtown Pike Design Guidelines Ordinance. He suggested that these items be heard simultaneously, then action can be taken separately on each item.

The Chair asked if the Commission had any objection to the staff's request. There was no response.

a. DP 2011-16: MARK ACRE PROPERTIES, LLC (AMD) (4/27/11)* - located on South Broadway, Pine Street and Cedar Street. (Council District 3) **(CMW, Inc.)**

Note: The purpose of this amendment is to completely revise the development on the property.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding the availability of on-street and off-street parking for the proposed 8,400 square-foot restaurant, the lack of circulation proposed in the townhouse area, and the loss of building design information from the previous development plan.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Bike & 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 floor area and lot coverage proposed.
10. Clarify proposed square footage of restaurant building.
11. Denote the size of bedrooms in each townhome.
12. Resolve South Broadway cross-section (differing sidewalk dimensions).
13. Discuss townhouse design standards.
14. Discuss 20' access aisle and access through to Cedar Street.
15. Discuss open space utility for all units.
16. Discuss compliance with Newtown Pike Design Guidelines & Ordinance.

Development Plan Presentation – Mr. Martin directed the Commission's attention to the amended Final Development Plan for Mark Acres Property, LLC. This property is located within the block of South Broadway, Cedar Street, Pine Street and Plunkett Street, across from the Shelbourne Plaza property. He noted that the subject property was formerly occupied by the Popeye Sign Company. He said that across from the subject site is the Shelbourne Plaza property, which is zoned MU-3. There is an existing apartment complex, as well as some commercial uses, located there.

Mr. Martin said that the purpose of this amendment is to completely revise the development on the subject property. He then said that there will be a restaurant on Lot 1 that will be a little over 9,500 square feet with 16 associated parking

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

spaces. He noted that the site statistics referenced 19 sparking spaces, but the dumpster will occupy at least two of these spaces. He said that the restaurant development is proposing a 3-story building with a basement, with two upper levels being used for the restaurant. Mr. Martin then said that the townhouses on Lot 2 will consist of 20 units; 10 of these units will front on South Broadway and the other 10 will front on Plunkett Street. The townhouses will be 3 stories in height, and will contain a little over 2,100 square feet; and each unit will have a 2-car garage on the lower level. He said that the access into this townhouse development will be from Pine Street.

Mr. Martin gave a brief explanation to the list of conditions on today's agenda. He noted that conditions #1 through 8 are standard conditions that are associated with this request. He said that the subject property is currently zoned B-2A, and this zoning category does not require a limit on the floor area and lot coverage. It is the staff's recommendation that those numbers are to be listed in the site statistics (condition #9). He said that since this is a final development plan, the proposed square footage of the restaurant on Lot 1 should also be clarified on the plan (condition #10). He then said that since the townhouse development is proposing to have units with up to 3 bedrooms, it is recommended that the number and size of the bedrooms be denoted in the site statistics (condition #11).

Mr. Martin directed the Commission's attention to the floor plans for the townhouse units. He made note that recently the term "family" was clearly defined to state that there shall be no more than four unrelated people within a residential structure. The staff wanted to make sure that this proposal would comply with the Code of Ordinances regarding the occupancy number. Mr. Martin continued by stating that in reviewing the plan, there was some discussion concerning the townhouse design standards (condition #13). He said that when the original zone change (<u>MARV 2006-32</u> and <u>ZDP 2006-97</u>) was approved, the applicant had submitted a rendering for a multi-story building with a mixture of uses, to include residential. He said that the architectural details for that proposal were ornate and heavily designed with different scales and materials. The staff felt at that time these design standards should be revisited at the final development plan stage. He then said that there is a provision in Article 21 of the Zoning of Ordnance that allows the Commission to modify or disapprove an amended plan if it finds that the original intent of that development has been adversely changed or significantly modified in some way. He noted that the scope of this request is significantly different from what was originally approved by the Commission. He said that the original proposal was approved for a multi-use development with commercial on the first floor and residential on the upper floors. The amended proposal is now separate the commercial building from the residential development. The staff felt that the design change was significant enough to inform the Commission. He said that with this development being so close to the Newtown Pike Extension (Oliver Lewis Way), the townhouse design standards are tied to the Newtown Pike Design Guidelines and Ordinance (condition #13). This is the reason for the staff requesting the Commission to hear <u>DP 2011-16</u> and <u>NPE 2011-1</u> simultaneously. He noted that the Council does preside over the design guidelines of the development.

Mr. Martin directed the Commission's attention the rendering of the final development plan, and said that when this plan was originally submitted, the vehicular access was being shown to enter and exit from Pine Street. This type of access concerned the staff relative to how emergency vehicles would be able to respond. He said that the staff was also concerned with the width of the access aisles between the townhouse units. The proposed width for a 20' access is the minimum with the design standard (condition #14).

Mr. Martin said that in reviewing Lot 1, there was a tremendous amount of discussion concerning the location of the dumpsters and how this lot would be serviced by Solid Waste. He then said that the dumpsters will be located near the commercial building, and a pedestrian access will be provided leading into the townhouse development. In speaking with the Division's of Traffic Engineering and Public Safety, they are in agreement with the proposed access.

Mr. Martin then said that the B-2A zone requires open space to be provided to all the residential units within that development. He noted that with the first submittal, the open space areas were lacking in this requirement; but with the revised submittal, the issue of the open space areas has been resolved through the addition of decks on the second level of the townhouse units (condition #15).

Mr. Martin then turned the hearing over to Mr. Emmons for a presentation of the Newtown Pike Design Guidelines & Ordinance (condition #16). He said that once Mr. Emmons concluded his presentation, he (Mr. Martin) would return to resume his closing comments on the development plan. At the request of Mr. Emmons, Mr. Martin submitted a letter of support from the adjoining South Hill Neighborhood Association.

<u>Newtown Pike Design Guidelines – Commercial Design Standards</u> – Mr. Emmons directed the Commission's attention to the Newtown Pike Extension Commercial Design and Property Access Standards report. He noted that within this report is the adopted Ordinance #105-2009 that dictates the language of those standards.

Mr. Emmons stated that at the Technical Committee meeting, the applicant first learned that this property would be subject to the Newtown Pike Extension Commercial Design and Property Access Standards. He then said that the applicant attempted to comply with these standards prior to this request being heard by the Subdivision Committee; however, that recommendation resulted in a postponement. Since the Subdivision Committee meeting, the staff had met with the applicant; and from those meetings, the applicant had submitted a revised development plan to the staff. He noted that in order to fully explain this request, the staff had separated each use into its own, where the first presentation is the commercial design and the second presentation is for the townhouse design.

Mr. Emmons directed the Commission's attention to the Newtown Pike Design Guidelines for the commercial development. He said that the commercial property will be located at the corner of South Broadway and Cedar Street. He then said that within the staff report, there is a schematic for the South Broadway elevation and the Cedar Street elevations that are being proposed. Mr. Emmons noted that prior to the Subdivision Committee meeting; the applicant submitted two renderings - one being the proposed building design and the other their conceptual idea. He said that the revised staff report was created based upon on the latest submitted elevation for the proposed building and not the rendering of the project.

Mr. Emmons said that there are some significant design differences between the picture and the new elevation schematic. The elevation of the commercial building does not have the same height ratio per floor as the original submittal. He said that in looking at the existing building, there is better proportionality to the area. He then said that with the original submittal, there was enough space to allow signage over the first floor window area, which was one of the requirements of the Newtown Pike Design Guidelines & Ordinance. He noted that the applicant is proposing rooftop utilities and equipment to serve this building. He said that one of the things that is different between the existing elevations and the proposed building is that the original roof line had more architectural detail. The staff believed that it would be a good thing to allow additional height based on the proposed elevation. This would increase the latitude to make the necessary revisions to better balance the structure.

Mr. Emmons gave a brief explanation of the Newtown Pike Design Guidelines, and said that one of the first requirements in the guidelines is to have a street entrance. He said that the primary entrance for a corner building should be directed at both streets (South Broadway and Cedar Street). He said that the applicant is proposing a 45 degree angle on the building to allow the corner entrance, as well as to provide a larger intersection at South Broadway and Cedar Street.

Mr. Emmons stated that for this development, the standards require this building to have a building to street setback with minimum frontages. This is interpreted as the buildings along South Broadway, Cedar Street and Plunkett Street are to be built at the property line. He said that there is an adopted guideline for this standard that would allow the Planning Commission to approve an increased setback for pedestrian friendly elements. He then said that the commercial building already has a 6-foot setback, and the applicant is proposing an outdoor patio for the restaurant. He noted that since this property is zoned B-2A, an outdoor café is permitted with the approval of Building Inspection. He said that with the proper permitting, the outdoor café could be extended into the right-of-way. He then said that the setback does have the potential to meet the design guideline, and the staff is requesting additional information as to how the 6' wide area would be used to enhance the pedestrian friendly area. Mr. Emmons then stated that a bulk plane setback requires that any building that is over 2 stories or 35' in height shall have a minimum 15' setback. He said that this would require the first and second floors to be at the zero lot line, and the remaining floors would need to be set back 15'. The applicant's proposed plan does not meet this standard, which is the reason the applicant is seeking relief from this requirement. He noted that this will be reviewed in detail with the <u>NPE 2011-1: Jeff Morgan</u> report. The staff believes this relief is justified; and should the Commission approve this request; it would be conditioned upon the Urban County Council granting such relief.

Mr. Emmons said that there are two areas being proposed for the off-street parking. The first area is designed to be used by the commercial building at the corner of Cedar Street and Plunkett Street. He said that there will be 16 parking spaces that will only serve the commercial building, and the access into this area will be from Cedar Street and Plunkett Street. The second access is located off of Pine Street, and is designed between the residential townhomes. He said that the proposed commercial parking lot does not meet the locational or screening requirements of the Zoning Ordinance (Article 18). He then said that in reviewing the requirements needed for off-street parking, the staff is in agreement with the applicant's justification for relief. Should the Commission approve this request; it would be conditioned upon the Urban County Council granting such relief, as well.

Mr. Emmons stated that the applicant is not proposing a parking structure for this site; therefore, this requirement is not applicable. He said that as for the bicycle parking, this development can easily meet those requirements, and the bicycle parking spaces should be denoted on the development plan.

Mr. Emmons then stated that with the exception of the dumpster area, this development is not proposing any accessory structures. He said that the dumpster area should be screened from public view, and the applicant has made a verbal agreement to provide masonry walls to enclose those dumpsters. He noted that the two dumpsters will serve both the commercial and the residential uses, with access being provided in the back of the enclosure. He said that there is a retaining wall between the commercial and residential uses that will function as additional screening. He noted again that the applicant verbally committed to comply with the necessary standard and guidelines.

Mr. Emmons said that this development will have the same standards for the site lighting as a mixed-use zone. He then said that the applicant has stated that he will comply with the same restrictions, and has agreed to add a note to the development plan.

Mr. Emmons then said that with regards to the building façade articulation requirements, these requirements include the minimum and maximum depth of the setback, as well as maximum length of the building. He said that when the applicant had submitted an elevation schematic, it did not clearly show the scaled elevations. He said that the staff is requesting the applicant to provide a scaled elevation drawing to confirm compliance with this standard. He noted that since the applicant has not requested relief for this standard, he will need to comply with the building façade articulation requirement.

Mr. Emmons stated that the applicant is proposing that these structures be brick and masonry, which meets the durable building material requirement. He then said that the applicant is proposing rooftop equipment; and with the proposed height of the building, it will help screen that equipment. He noted that there is a design guideline that allows extra screening to be used should the rooftop be lower, allowing public view. The applicant had agreed that the rooftop equipment for this commercial building would meet the standard and a note would be added to the development plan. He noted that the utility meters will also be screened from public view.

Mr. Emmons said that the landscaping for this development should be a mix of deciduous and coniferous vegetation, and it is being recommended that additional landscaping be required, especially around the parking area. He noted that the landscape plan will be submitted prior to certification of this plan.

Mr. Emmons concluded this portion of his presentation by saying that if relief is not granted for the bulk plane setback and the parking locational standards, then a major revision to the current development plan would be needed. He said that should the Urban County Council grant this relief, the staff believes this proposal can meet the design guidelines. The staff is aware that there may be slight revisions to the development plan and to the elevations in order to comply with these standards, but ultimately the staff is recommending approval of this request. He said that the applicant has complied with the design standards and guidelines of the Newtown Pike Extension Design Ordinance. He then said that the justification in seeking relief from the Urban County Council is valid, and the recommendation for approval is for the following reasons:

1. The applicant has demonstrated significant compliance with the NPE Standards.
2. The applicant has provided a reasonable justification with their request seeking relief of the two standards (B.2 and C.1) that are not met on their proposed development plan. The staff is recommending approval of this relief in a separate report (<u>NPE 2011-1: Jeff Morgan</u>). The Commission may grant approval of this plan subject to a condition that the Council grant relief, similar to a zoning development plan.

<u>This approval recommendation is subject to the following conditions</u>:

A. Provided the Urban County Council grants relief of the standards required in B.2 and C.1 of the NPE Standards, otherwise, any Commission action of approval is null and void.
B. Provided the Planning Commission grants the applicant latitude to make minor modifications to the development plan, architectural details of the elevations, and landscaping details to further compliance with these standards.
C. The height of the commercial building may be modified by up to 10 feet (about 25% of the total height) to accommodate revisions that would better balance the structure, used to screen rooftop equipment, or to add more architectural detailing to the rooftop design. This allowance does not allow the building to add a fourth floor without approval of the Planning Commission.
D. The following notes shall be added to the development plan:
    1. All screening walls shown on the development plan shall be constructed or faced with brick or other type of masonry.
    2. Site lighting shall comply with Article 28-6(g) of the Zoning Ordinance, the same as required in the Mixed Use zones.
    3. Rooftop equipment shall be screened to meet the requirements of the NPE Standards.
    4. Utilities shall be screened to meet the requirements of the NPE Standards.
    5. Signage shall comply with Article 17 of the Zoning Ordinance and the NPE Standards.
E. The location of the following features be shown on the development plan:
    1. Bicycle parking and access.
    2. Additional landscape areas needed to comply with these standards.
    3. Street tree information and locations.

<u>Planning Commission Questions</u> – Ms. Copeland asked how the parking was determined for the townhouse development. Mr. Emmons said that the area inside the garage determined the number of parking spaces. He then said that the commercial development will have 16 parking spaces.

Mr. Holmes said that this project is substantially compliant, and allowing the standards to be amended may set a precedent with future developments. He said that a lot of work was done in creating these standards, and caution should be taken when changing the commercial design standards. Mr. Emmons said that the applicant would only be making minor modifications to or clarifying information on the development plan. He then said that the overall development is in agreement with the standards, with the exception of the two items previously discussed. The applicant would need to seek relief through the appropriate channels to move forward.

Mr. Holmes asked for an explanation to the patio and sidewalk area. Mr. Emmons said that along the South Broadway right-of-way, there will be a private patio area utilized by the commercial restaurant. He said that the 6' patio area would be an extension of the restaurant out onto the sidewalk. He then said that a permit request can be made to extend the outdoor seating in the B-2B zone.

Mr. Owens asked if the 6' patio area is privately owned, and if there is additional sidewalk beyond the patio area. Mr. Emmons said that the development plan is proposing a 6' patio area, and the staff is requesting additional information as to how the tables would be arranged within this area. He then said that the staff is unaware as to whether or not the applicant will request an extension of the 6' area into the right-of-way. The staff is also unaware if the space inside the building will be utilized as part of the patio area. He said that if the reasons for moving the building setback are to provide pedestrian friendly amenities, the staff wants to be assured that it would be a functional use. Mr. Owens asked if the 6' patio area is from the building to the property line. Mr. Emmons replied affirmatively, and said that the patio area would total 12' from building to curb.

Note: A recess was declared by the Chair at 3:22 p.m. and the meeting re-convened at 3:32 p.m.; Ms. Blanton arrived at this time and Mr. Wilson departed at this time.

<u>Newtown Pike Design Guidelines – Townhouse Design Standards</u> – Mr. Emmons directed the Commission's attention to the Newtown Pike Extension Commercial Design and Property Access Standards report. He noted that the applicant had submitted a revised elevation for the townhouse development. He said that there will be more landscaping provided along South Broadway and there will be more details around the windows and door frames.

Mr. Emmons stated that the 3-story townhouses do not meet the bulk plane standard for this property. He said that the townhouses do meet the setback requirements along South Broadway and Plunkett Street. The applicant is requesting to reduce the existing setback from 10' to 0' which would then allow additional landscaping, and more details added to the entrances. These types of improvement are considered to contribute to a pedestrian friendly environment and are justified in the design guidelines.

Mr. Emmons then stated that the off-street parking for the townhouse development is being provided within the residential area, completely hidden from public view. He noted that the parking complies with the standards of the design guidelines. He then said that the applicant will also be providing on street parking along Plunkett Street. The applicant will be creating a nicer area by improving the curb and gutters and adding sidewalks along the frontage of Plunkett Street.

Mr. Emmons said that the parking lot, the accessory structures and the site lighting were previously mentioned and are the same as the commercial design.

Mr. Emmons stated that the townhouse layout along South Broadway is proposed to be staggered, ranging from 6' to 10'; but on Plunkett Street there is a large utility line in this area, which prohibits this type of design. This is the reason for the larger pedestrian area and the improvements to Plunkett Street.

Mr. Emmons then stated that the rooftop equipment for the townhouse design is not applicable since the utility equipments is being proposed behind the townhouse units in the parking area.

Mr. Emmons said that façade transparency refers to the windows and doors on the first level of the townhomes. He said that the design guidelines require at least 20 percent transparency; and from the lack of information provided, the staff believes these calculations are lacking. If that is the case, then they would need to revise the elevations to meet the standard.

Mr. Emmons then said that the townhouses would not require any type of signage; but if it were needed, a note could be placed on the development plan referencing Article 17 of the Zoning Ordinance, as well as referencing the Newtown Pike Design Guidelines.

Mr. Emmons concluded this portion of his presentation by saying that the necessary revisions for the townhouse design include relief from the bulk plane setback and the parking locational standards. He said that the applicant would need to provide calculations to demonstrate that the 20% transparency requirement is being met, or else amend the proposed elevations to meet this standard. He then said that entrance details should also be given in greater detail as the applicant had committed to doing.

Mr. Emmons said that the staff believes the applicant has made a good faith effort and has complied with the design standards and guidelines of the Newtown Pike Extension Design Ordinance. Therefore, the staff is recommending approval of this request, for the following reasons:

1. The applicant has demonstrated significant compliance with the NPE Standards.
2. The applicant has provided a reasonable justification with their request seeking relief of the two standards (B.2 and C.1) that are not met on their proposed development plan. The staff is recommending approval of this relief in a separate report (NPE 2011-1: Jeff Morgan). The Commission may grant approval of this plan subject to a condition that the Council grants relief, similar to a zoning development plan.

This approval recommendation is subject to the following conditions:

A. Provided the Urban County Council grants relief of the standards required in B.2 and C.1 of the NPE Standards; otherwise, any Commission action of approval is null and void.
B. Provided the applicant complies with the 20% transparency requirement for the first floor of the proposed townhomes.
C. The entrance details to the townhomes may be modified to accommodate revisions that would add more architectural detailing, and transparency, to create a step-up entrance, or otherwise enhance the entrances, including the provision of recessed entries.
D. The following notes shall be added to the development plan:
   a. All screening walls shown on the development plan shall be constructed or faced with brick or other type of masonry.
   b. Site lighting shall comply with Article 28-6(g) of the Zoning Ordinance, the same as required in the Mixed Use zones.
   c. Utilities shall be screened to meet the requirements of the NPE Standards.
   d. Signage shall comply with Article 17 of the Zoning Ordinance and the NPE Standards.
E. The location of the following features be shown on the development plan:
   a. Additional landscape areas needed to comply with a these standards.
   b. Street tree information and locations.

Planning Commission Questions – Mr. Holmes asked if the residential townhouses could be converted to office use. Mr. Emmons said that the proposed zoning would allow an individual townhouse to have an office; but on the development plan, the townhouses are noted as “residential.” If this were to change, the applicant would need to come back to the Commission for approval. Mr. Holmes said that should this become an office use, it would alter the parking requirements for the development. Mr. Emmons said that at this time, the staff does not believe the applicant would alter the plan from what is being proposed. Mr. Holmes then asked if there will be elevators for the townhouse units. Mr. Emmons said that the restaurant would have an elevator, but the applicant would provide better detail for the townhouses.

Ms. Copeland asked what would prevent the garage area to be converted into livable space. Mr. Emmons said that there is nothing on the development plan to keep that from happening; but from a practical standpoint, parking is at a premium with this development. He said that the property owners are only guaranteed parking inside their garage. Ms. Copeland said that the residents could utilize Plunkett Street. Mr. Emmons said that Plunkett Street would be used by the public and there is no guarantee to the residents.

Ms. Copeland asked how many bedrooms the units will have. Mr. Emmons said that these units will range from three to four bedrooms. Ms. Copeland then asked for clarification with the townhouse floor plan. Mr. Emmons explained the different type floor plans for the townhouses.

Mr. Holmes asked if Plunkett Street is dedicated parking; and if so, who would be utilizing that area. Mr. Emmons said that Plunkett Street would be considered defined public street parking. He said that the applicant would provide the improvements to the streetscape.

Mr. Cravens asked if the commercial building is required to have rooftop screening or if the equipment can be located elsewhere. Mr. Emmons said that the equipment would need to be screened and out of the public right-of-way. He then said that the applicant has informed the staff that the equipment would be rooftop. Mr. Cravens then asked how the equipment will be handled for the townhouse units. Mr. Emmons said that the utility equipment will be toward the interior of the property.

Mr. Cravens clarified that the decks would be used as open space. Mr. Emmons replied affirmatively. Mr. Cravens asked if the decks would extend over the driveway to the rear of townhouse unit. Mr. Emmons again replied affirmatively.

Mr. Owens asked if there is enough room for multiple vehicles to park in the driveway. Mr. Emmons said that depending on the size of the vehicle, two cars could possibility use the driveway. Mr. Owens asked if parking could be restricted. Mr. Emmons said that it would be very difficult for the government to enforce parking.

Mr. Owens asked for clarification with the building façade articulation. Mr. Emmons explained that the each of the proposed townhouses will have a different setback than the next, noting that South Broadway will range between 6 to 10 feet from right-of-way to front door.

Mr. Cravens asked if the staff was not agreeable to changing the bulk plan setbacks for the second level of the townhouse. Mr. Emmons said that the applicant has requested relief from several standards with regard to the Newtown Pike Extension Commercial Design and Property Access Standards. He then said that the next staff presentation will speak to those requests.

Ms. Copeland said that, in reviewing the standards, the rooftop equipment should be screened from all views, particularly the buildings that are much taller than the proposal (i.e, The Lex Development). Mr. Emmons said that that standard pertains mainly to the motorist and pedestrian activity at ground level. He said that the staff does not know if the applicant has considered screening the rooftop from taller buildings.

Mr. Owens asked for a brief explanation of the previous rendering that was submitted to the Planning Commission at the zone change. Mr. Emmons directed the Commission's attention to the previous concept for this block, and briefly explained the orientation of this site, as well as what was envisioned at that time.

<u>Development Plan Presentation (cont.)</u> – Mr. Martin directed the Commission's attention to the previously submitted staff recommendations, and briefly explained the listed conditions for the Final Development Plan. He said that with the recommendations contained in the reports, the staff can now recommend approval of this plan, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection plan.
6. Bike & 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 floor area and lot coverage proposed.
10. Clarify proposed square footage of restaurant building.
11. Denote the size of bedrooms in each townhome.
12. Resolve South Broadway cross-section (differing sidewalk dimensions).
13. ~~Discuss~~ <u>Addition of commercial and</u> townhouse design ~~standards~~ <u>elevations to face of plan</u>.

~~14. Discuss 20' access aisle and access through to Cedar Street.~~

<u>14</u>. ~~15.~~ ~~Discuss~~ <u>Document useable</u> open space ~~utility~~ for all units.

<u>15</u>. ~~16.~~ ~~Discuss~~ <u>Provide additional conditions from Staff Design Review Report to</u> ensure compliance with Newtown Pike Design Guidelines & Ordinance.

<u>Planning Commission Questions</u> – Mr. Holmes asked if Traffic Engineering will review the accesses for South Broadway, Plunkett Street and Cedar Street. Mr. Martin replied affirmatively. Mr. Holmes then asked if there will be restrictions for right-in and right-out only. Mr. Martin again replied affirmatively.

Ms. Copeland referred to the development plan rendering, and said that the outside storage units can not be considered as open space. Mr. Martin said that the decks and the front yards are what constitute useable open space.

Mr. Owens asked if are there any precautions in place that might prevent the first floor of the townhouses from becoming rental property. Mr. Martin said that there is no provision on the development plan that would prevent the owner of a townhouse from renting out those rooms. He then said that if the ordinance is violated, then that issue would become an enforcement issue through Code Enforcement. Mr. Owens then asked if the townhouses are legally set up for one family. Mr. Martin replied affirmatively.

<u>Newtown Pike Extension Ordinance</u> – Mr. Emmons directed the Commission's attention to the staff report for <u>NPE 2011-1: Jeff Morgan</u>, and briefly explained that the applicant has requested relief from three standards listed in Newtown Pike Extension Commercial Design and Property Access. He said that they have requested 1A a clarification that the standards apply only to the commercial building; B) a relief from the 3rd floor Bulk Plane setbacks and C) a modification of the off-street parking Design Standards.

Mr. Emmons said that the applicant has cited a number of specific examples in the title and language of the Standards referencing the term "commercial," noting for the proposed townhouses are not in the mapped area. He referred the Commission to Exhibit "A" and explained that the majority of the townhouse area is out of the mapped area, with a small portion crossing over into the Newtown Pike Extension boundary area. He the said that according to the language in Section 10 of the Newtown Pike Ordinance, all development within the NPE Design Area that includes frontage properties includes all properties shown on the map and any other properties consolidated to a frontage property. He noted that the current property lines prevents the applicant from developing this area without consolidating the land. This was one continual development, and the staff believes that the townhouses are included in the mapped of the area, which is subject to the Newtown Pike Extension Ordinance.

Mr. Emmons then said that the staff does not dispute how many times the standards refer to design standards as "commercial;" however, the broader content of the Ordinance must be reviewed. He then said that the Newtown Pike Extension Design Area will apply to all properties that are on the mapped area, excluding only Single Family detached and Two-Family residential structures. He stated that it is the staff's opinion, at the time the Urban County Council adopted the Ordinance, that these two types of structures were the only ones to be exempt from the design standards and guidelines. He said that sentiment is further backed by the Council findings for this ordinance, which reads:

> *"Whereas, the purpose of the NPE Project combines neighborhood planning with roadway engineering to develop the new road as an amenity for the area and to support its high quality redevelopment, which includes improving flow of through traffic; drawing unnecessary traffic out of the downtown area; setting a combination of standards and guidelines governing public and private building construction; and improving access to the University of Kentucky central campus by a more efficient vehicular route, and reducing motor vehicle congestion in the downtown area; and…"*

Mr. Emmons said that the staff is recommending disapproval of the applicant's first request, and for Ordinance #105-2009, Section 10 to remain unchanged by the Commission. He said that the townhouse development is subject to the review by the Standards and Guidelines.

Mr. Emmons directed the Commission's attention to the applicant's second request, and noted that they are requesting relief for a modification to the bulk plane setback. He said that this standard requires a 15-foot bulk plane setback for buildings greater than two stories or 35 feet in height. He noted that the staff is in agreement with the applicant's justification. He said that in 2007, when these standards were first drafted, the same bulk plane setback was a requirement for the Mixed Use (MU-2 & MU-3) zones. He then said that over the years, there had not been a single Mixed Use development that actually developed in this manner; as most applicants had requested (and were granted) variances to this requirement. This is what led to the removal of these standards from the Mixed Use zones. He then stated that for the applicant to comply with this standard, the entire development would need to be reconfigured into a large mixed-use development.

Mr. Emmons said that the staff agrees that relief of this standard should be granted based on the applicant's justification.

Mr. Emmons then directed the Commission's attention to the applicant's third request, and noted that he was requesting relief of the locational and design criteria for the off-street surface parking requirements. He said that this standard was designed to make sure that the parking area would be placed behind the building and out of public view. The proposed development will have two off-street parking areas, one for the townhouses and one for the commercial development. He noted that the commercial building fronts South Broadway, and the parking lot will be behind that building at the corner of Cedar Street and Plunkett Street. He said that the parking area will likely only be visible from South Broadway from the northbound approach. He then said that the staff agrees that relief to this minimum standard is warranted; and to soften the lot, landscaping of this area will be done in a manner that does not impede sight triangles or propose a hazard to pedestrians in the area.

In conclusion, Mr. Emmons stated that the staff is recommending the following:

Disapproval of the requested change A (standards only apply to commercial development), for the following reasons:

1. Ordinance 105-2009 is clear that the only types of development that are exempted from the Standards are "single family detached and two-family residential structures," whereas the applicant proposes single family attached dwellings - which are not exempt.
2. In 2009, two years after the completion of the design study, the Council took into consideration the adoption of the design guidelines for this entire corridor (excepting only single family detached and two family residential structures). At that time the Council found that the NPE Project combines neighborhood planning with roadway engineering to develop the new road as an amenity for the area and to support its high quality redevelopment setting a combination of standards and guidelines governing public and private building construction.
3. The urban design objectives of the Standards, in addition to the commercial references, support high quality development throughout the entire corridor to ensure "an overall visual continuity of the corridor from opening day".

4. This entire block is proposed for redevelopment in the Newtown Pike Extension Corridor Plan, from which the design standards were further refined. The applicant proposes a development for this entire block as a cohesive unit under one development plan, and is subject to the Standards per Section 10 of the Ordinance which reads, "…includes frontage properties shown on exhibit 'A' and any other property consolidated to a frontage property."
5. Some of the proposed townhouses are clearly in the mapped area shown on exhibit "A" to the NPE Ordinance. The applicant will need to perform some sort of consolidation of this property in order to obtain a building permit off of the proposed development plan.

Approval of the requested changes B & C (bulk plane & parking lot standards), for the following reasons:

1. In 2007 when the bulk plane standards were written, the same setback was a requirement of the Mixed Use (MU-2 & MU-3) zones, and the land use planned for this corridor was to be a mixed-use corridor. Over the years, there has not been a single Mixed Use development that has actually developed in this manner, as most developments have sought and were granted variances to this requirement, leading to the removal of these standards from the MU zones in 2010.
2. Simply imposing the bulk plane setback on the proposed three-story design would not yield a higher quality development, without significantly altering the proposed development concept for this block.
3. Although, this bulk plane standard may be appropriate for some types of development along this corridor, it is not appropriate for this proposed development, given the development across South Broadway.
4. Granting relief of the minimum parking design standards will be a minor change to the Standards for this request and can be mitigated through a landscaping design that the Planning Commission can examine on the submitted development plan.

Planning Commission Questions – Ms. Copeland asked, since this is a highly travelled area of the community, which type of plant material would be used for the landscaping buffer for the commercial parking lot. Mr. Emmons said that, at this time, the details of the plan and the type of buffer have not been determined, but there have been discussions in providing a low fence (i.e., masonry wall or wrought iron fence) that will soften the surroundings while still allowing adequate visibility for traffic and pedestrians. Ms. Copeland then asked if the proposed fencing material will be a hard material. Mr. Emmons said that that is the staff's expectation.

Mr. Owens asked when was this request was submitted. Mr. Emmons said that this proposal has been coming into the office over a period of time, with the latest revision being submitted on March 9, 2011.

Mr. Owens said that there were no elevations included on the original submittals, and the recommendations listed are requiring a 20 percent transparency. Mr. Owens asked if staff is comfortable with that percent. Mr. Emmons replied affirmatively, and said that this is a standard that the applicant will have to comply with.

Representation – Richard Murphy, attorney, was present representing Jason and Jeff Morgan, who were present at the meeting. He noted that Brian Hill, CMW Architecture, was also present. He noted that after this development plan was submitted, it was discovered that the boundaries of the property were within the mapped area for the Newtown Pike Extension Overlay Area.

Mr. Murphy said that he wanted to thank and expressed his appreciation to the staff in preparing these reports for today's meeting, as well as give thanks to the South Hill Neighborhood Association in their support of this project.

Mr. Murphy said that they are in agreement with the recommendations and requested approval. He made note that the revised staff report indicated that the availability of on-street and off-street parking for the proposed restaurant is based on 8,400 square feet; however, this is not correct. The proposed restaurant will be 9,500 square feet.

Mr. Murphy said that this development is only an acre in size, and is one of the smaller blocks within Lexington. The location and size of the land has caused several constraints on this property. He said that there is a KU easement for an overhead line that runs the length of Plunkett Street, and these lines will need to be moved from the proposed development. When this happens, it will require the proposed setback along Plunkett Street. He said that another constraint with this property is the previously approved plan for a 6-story condominium hotel. He said that since the original approval, this property has been transferred to bank-owned property. The bank is working with his clients by delaying the closing date in order for his clients to obtain the finances to develop this land. He said that another constraint with this property is the deed restriction that was imposed on this site in favor of the South Hill Neighborhood Association. He then said that the deed restriction stated that this property can only be developed in the original design of a 6-story condominium hotel. His clients have been negotiating with the neighborhood association and have come to an agreement concerning the current proposal.

Mr. Murphy briefly listed the type of uses surrounding this project, and said that this project will be a transition between the high density apartment complexes and nearby residential area (South Hill Neighborhood). He said that this property is within the Infill and Redevelopment area, as well as the Newtown Pike Overlay area; and is subject to those standards and/or guidelines.

Mr. Murphy directed the Commission's attention to the Newtown Pike Extension Commercial Design and Property Access Standards, and stated that they believe these standards only apply to the commercial building and not the townhouses. He said that in reviewing Section 10 of the Ordinance, it states "*that all development within the NPE Design Area (which includes frontage properties shown on Exhibit "A" and any other property consolidated to a frontage property), excluding Single Family detached and Two-Family residential structures, shall require approval of a final development plan by the Planning Commission…"* He then stated that Section 10 of the Ordinance further stated that "*Structures on the development plan shall be a minimum of two (2) stories in height and, in addition to the requirements of the Zoning Ordinance and Land Subdivision Regulations, shall comply with the standards and the guidelines in the Newtown Pike Extension Commercial Design and Property Access Standards dated May 11, 2007, which are incorporated herein by reference as if fully set out herein."* He noted that his clients are complying with these regulation and guidelines. Mr. Murphy said that Chapter 1 of the Newtown Pike Extension Commercial Design and Property Access Standards specifically stated that these elements address compatibility of future commercial development. The purpose of the study was "*to develop a recommended set of commercial design standards to best accommodate the desired character."* He said that the key to this section is "*the term commercial is intended to include not residential and mixed use buildings*." He then said that this development is designed for a residential area, not a commercial or mixed use.

Mr. Murphy stated that the bulk plane setback for this development is designed to allow natural sunlight at street level. He said that this area would not have a problem in blocking out the sunlight because most of the buildings within this area are set back from the street. He then said that utility easement along Plunkett Street causes this area to have the necessary setbacks. He noted that the proposed design is more in compliance than the original mixed-use design that was approved by the Commission.

With regard to the locational and screening requirements for parking at the for the corner lot, Mr. Murphy said that his clients did not want to install a 6' nontransparent wall due to community policing standards. He then said that the standards and guidelines were designed for newer development along Oliver Lewis Way, which is within the Newtown Pike Overlay Area. He noted that most of this development is outside that area, with only a small portion within the boundary.

In conclusion, Mr. Murphy requested the Planning Commission to recommend a granting of relief from the Newtown Pike Extension Commercial Design and Property Access Standards to allow this item to be forwarded to the Urban County Council.

<u>Planning Commission Questions</u> – Mr. Owens asked what type of treatment will be used to in the design to break up the windows and doors. Jeff Morgan, applicant, was present. He said that the front façade of these buildings will be "broken up" by using different types of material, such as brick or limestone, or enhancing the look of the front doors. He then said that they can provide more detail to the structure to give each unit its own indentify. He noted that this design is conceptual since they do not own the land as of yet.

Mr. Owens asked what assurance the applicant can give the Commission to make sure the front façade is varied. Mr. Morgan explained the types of materials that could be used and how those materials could break up the front and side façade with the use of different colors. He then said that this design will be good for the community and this is not student housing. This development is geared to young professionals, and the floor plans of the townhouse allow more options to choose from. He said that in looking at past developments, this type of parking functions very well for two vehicles.

Mr. Owens asked why the mixed-use development was not part of the design. Mr. Morgan said that from an economic standpoint, there is too much mixed use development in Lexington that is sitting empty. He then said that he would take a loss if this site were to be developed as mixed use. He reiterated that this type of residential design is adding to the existing neighborhood and that it is not student housing.

Ms. Copeland asked if elevators will be installed. Mr. Morgan said that elevators are required for the restaurant, but not for the townhouse development. He then said that the townhouses will be geared toward young professionals and not "empty nesters." They believe the omission of elevators does not pose an issue.

Mr. Cravens asked for clarification to the South Broadway façade, and asked where the main entrance would be located. Mr. Morgan said that the main entry into the townhouses will be through the garage door in the rear. He then said that the front entrance facing South Broadway will be decorative and above grade. The townhouses along Cedar Street will be set at different elevations, and the front façade will utilize steps up to the entrance. Mr. Cravens confirmed that the townhouses along Cedar Street will have stairs leading up to the front door. Mr. Morgan replied affirmatively and noted that the front doors will be decorative.

Mr. Cravens then asked for clarification to the proposed buildings' setbacks. Mr. Emmons said that the proposed pedestrian setbacks are justified since there will be additional landscaping to this area. The staff believes the applicant's proposal will increase the pedestrian activity for this portion of the South Broadway corridor. Mr. Cravens asked if this request will require a variance from the Commission. Mr. Emmons said that this type of request is not, technically a variance, because the Newtown Pike Ordinance provides guidelines allowing modifications to the standards. Mr. Cravens commented that this type of request ordinarily would be a variance.

Ms. Copeland asked how the Commission could move this forward. The Chair noted that the audience comments must be allowed, and then the Commission could take action.

<u>Audience Comment</u> – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

<u>Commission Comments</u> – The Chair explained that there will be separate actions that need to be made by the Commission.

Mr. Cravens asked if the Commission would review the design of the front façade along South Broadway at a future date. Mr. Sallee said that normally the Commission would not see such a design, but the staff could present any final submissions to the Commission at a future work session prior to certification of the Final Development Plan. Mr. Cravens asked if the townhouse design was final. Mr. Morgan replied that this is only a conceptual idea as of this time.

Ms. Blanton asked if the Commission denies the applicant's reasoning that the Newtown Pike Extension Commercial Design and Property Access Standards only applies to commercial structures, if this will set a precedent for future proposals. Mr. Emmons said that the Newtown Pike Extension Ordinance reports are in the form of recommendations to the Urban County Council, who will then take final action for this proposal. He then said that this type of request will be processed like a zone change request, which will require a final report to be submitted to Council for their consideration. Ms. Blanton said that she is not convinced that these standards do not apply to the townhouse areas.

The Chair asked if the Commission had further discussion before taking action on the <u>DP 2011-16</u>. There was no response.

<u>Action</u> - A motion was made by Mr. Holmes, seconded by Mr. Owens, and carried 6-0 (Blanton abstained; Beatty, Brewer, Paulsen, Roche-Phillips and Wilson were absent) to approve <u>DP 2011-16</u>, subject to the revised conditions listed by the staff.

The Chair asked if the Commission had further discussion before taking action on <u>NPE 2011-1</u>. There was no response.

Ms. Blanton asked if the Commission accepts the staff's recommendation, would that confirm that the Newtown Pike Extension Commercial Design and Property Access Standards apply to both commercial and residential uses. Ms. Boland said that the Newtown Pike Ordinance (#105-2009) is not part of the Zoning Ordinance. She said that the Newtown Pike Ordinance was passed by the Urban County Council, and the Planning Commission can only make a recommendation to the Council. The Council would either state that the "Newtown Pike Extension Commercial Design and Property Access Standards" does or does not apply to these residential uses. She said that the Commission must interpret what the Council was intending for these standards. The Council will make the final determination for this request. She said that the Commission is not setting a precedent for these types of requests.

<u>Action</u> - A motion was made by Ms. Copeland, seconded by Mr. Owens, and carried 6-0 (Beatty, Brewer, Paulsen, Roche-Phillips and Wilson were absent) to forward <u>NPE 2011-1</u> as a recommendation to the Council, for disapproval of the requested change A (standards only apply to commercial development), as listed in the staff report; and approval of the requested changes B & C (bulk plane & parking lot standards), as listed in the staff report.

b. <u>DP 2011-19: HAMBURG PLACE OFFICE PARK, LOT 12-A (AMD)</u> (5/1/11)* - located on Pink Pigeon Parkway and Vendor Way. (Council District 6) **(Vision Engineering)**

<u>Note</u>: The purpose of this amendment is to reflect development on Lot 12A.

<u>The Subdivision Committee Recommended:</u> **<u>Postponement</u>**. Improvements to area intersections are required to be reviewed as part of the development of Lot 12.

<u>Should this plan be approved</u>, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.

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

2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Approval of street addresses as per e911 staff.
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.
8. Addition of lot line between lots 12B and 8.
9. Correct lot coverage statistics.
10. Addition of proposed easements on Lot 13.
11. Discuss prior note regarding traffic improvements to Man O' War Boulevard and Pink Pigeon Parkway.

Staff Presentation – Mr. Sallee directed the Commission's attention to the amended final development plan for the Hamburg Place Office Park, Lot 12-A. This property is located on Pink Pigeon Parkway and Vendor Way, west of Man o' War Boulevard.

Mr. Sallee oriented the Commission to the surrounding street system, noting that Pink Pigeon Parkway is just off Man o' War Boulevard. He indicated that the first intersection off Pink Pigeon Parkway is Alysheba Way, which is parallel to Man o' War Boulevard; and the second intersection is Vendor Way. He said that Vendor Way continues east across Pink Pigeon Parkway, ending at Sir Barton Way. He noted that east of the subject site are Big-Box commercial development, such as Meijer and other retail establishments. He then said that north of the subject site is an extended-stay hotel, and the purpose of this amendment is to permit development of another-extended stay hotel at the corner of Pink Pigeon Parkway and Vendor Way. He pointed out on the aerial photograph the overhead electric line that is running through the property, noting that this was an issue at the March 3rd Subdivision Committee meeting.

Using a rendered zoning map, Mr. Sallee reoriented the Commission to the surrounding street system, the proposed and existing uses in the area, and the location of the subject property. He said that in the general area, there are signalized intersections at multiple locations to include Sir Barton Way, Man o' War Boulevard, Pink Pigeon Parkway, Todds Road, Liberty Road and Helmsdale Place.

Mr. Sallee directed the Commission's attention to the rendered final development plan, and said that the subject site is just west of the Meijer property at the corner of Pink Pigeon Parkway and Vendor Way. He then said that the purpose of this amendment is to develop an extended-stay hotel on Lot 12, noting that over half of this office park has been built, but there are still a number of vacant spaces left. He then said that there is a detention basin on the opposite side of Vendor Way, directly across from the subject site.

Mr. Sallee said that this proposal is to construct a 4-story building that will have 97 rooms and 103 off-street parking spaces. He then said that there will be an access point from the subject site to Vendor Way that is immediately opposite the access point to the existing extended-stay hotel.

Mr. Sallee stated that the Subdivision Committee reviewed this request at their March 3rd meeting, and recommended postponement. He said that there are required improvements to the intersections that needed to be reviewed as part of the development of Lot 12. He then said that after the Subdivision Committee meeting, the applicant had submitted a revised rendering to the staff, and had met with the Division of Planning and the Division of Traffic Engineering. The planning staff was notified, at that time that the LFUCG is in the process of applying for a federal grant (Congestion Management Area Quality, CMAQ) for the future road improvements to both the intersections of Man o' War Boulevard and Pink Pigeon Parkway; and Alysheba Way and Pink Pigeon Parkway. He noted that these improvements may include such items as striping, median design, turn lanes, etc.

Mr. Sallee said that, in reviewing this plan amendment, it was discovered that there was a previous note on the development plan stating that as Lot 12 and the other vacant lots developed, the improvements would be reviewed. He then said that after a lengthy discussion, it was determined that this note does not need to be placed back on the development plan. As each lot is amended, it would be ordinary to review the need for road improvements in the area. He said that another reason the staff is comfortable with the note not being shown on this plan is that another development plan will be submitted for this area in the future. At that time, the staff can inform the Commission of any updates.

In conclusion, Mr. Sallee said that, with the recent submission, the staff is comfortable with recommending approval of this plan, deleting conditions #8, 9 and 11.

Mr. Sallee said that the staff does not believe that the extended-stay hotel will increase the traffic flow or cause a hardship to this area, and that as this area develops, the staff can update the Commission on the improvements to the area.

As to condition #10 remaining, Mr. Sallee said that the overhead lines going through the property will need to be relocated to a more appropriate area. There is a proposed easement being shown on Lot 13, and the staff would like that easement to be extended south across Vendor Way. He said that the Subdivision Committee felt that more discussion was needed regarding the traffic improvements to Man o' War Boulevard and Pink Pigeon Parkway, which was the previous note from 2006. He then said that, from the staff's perspective, whether or not that note is added to the development plan, those improvements will be reviewed as this area is developed. The staff can then update the Commission as to what improvements will be carried out.

Planning Commission Questions – Mr. Owens asked for clarification as to what CMAQ stood for. Ms. Rackers replied that CMAQ stands for "Congestion Management Area Quality." Mr. Owens then said that normally the road improvements are tied to the lotting of the property. He asked if this area has been reviewed; and if so, if those improvements are not needed now. Mr. Sallee said that the existing note on the development plan that prompted condition #11 said that any improvements would be reviewed as development plans for the vacant lots were submitted. He then said that in reviewing the proposal for the extended-stay hotel, this particular use will not adversely impact the intersections in the area; therefore, those improvements are not needed at this time. Mr. Owens said that at least 50 percent of this development is completed, and there are other proposals that will be submitted to the staff. Mr. Sallee replied affirmatively. Mr. Owens said that any one development may not push the limit; but at some point, that limit will be exceeded, and asked how the limit will be determined. Mr. Sallee said that as each development is submitted, the need for those improvements will be reviewed. Mr. Owens asked, at this point in time, if what collectively exists in this area does not merit the improvements. Mr. Sallee said that the extended-stay hotel alone does not require those improvements to be made. He said that as this area is developed with different uses, the staff will update the Commission as to whether or not improvements are needed. He then said that should the federal CMAQ grant be approved, it may allow improvements to be done prior to this area being developed. Mr. Owens asked if LFUCG is waiting to see if the federal grant is approved. Mr. Sallee said that the Commission will be updated with that information in the future. Mr. Owens said that it seems like this issue is going in circles; and with the high percentage of area already developed, it seems that those improvements are needed. He then said that he is afraid that this will set a precedent for this area, and asked if this area will be developed before determining whether or not those improvements are needed. Mr. Sallee said that the staff understands the dilemma, but there is the expectation of seeing this same type of issue very soon. He then said that this issue can be deferred until the next development proposal is submitted to the staff, and at that time it could be reexamined. Mr. Owens said that he does not want this issue to be reexamined over and over again.

Ms. Copeland said that the larger picture needs to be reviewed because Pink Pigeon Parkway and Man o' War Boulevard serve other properties in the general area. She said that a large development could occur off site that would trigger the need for those improvements. If the immediate area is only reviewed to determine whether or not those improvements are needed, then some type of report that includes traffic counts should be done until the CMAQ report is completed. Mr. Sallee said that the current note on this development plan is not tied to particular improvements, but it is tied to analyzing the situation at the intersection.

Mr. Holmes said that as this intersection is analyzed, the report should include the overall impact to this area. Jeff Neal, Division of Traffic Engineering, said that the history of this note started in 2006, at which time the economy was different and there was only one entrance into this portion of the Hamburg Center from Man o' War Boulevard. He then said that over the past few years other connections have been made, and other improvements have been done to the street system. He noted that in order to evaluate this area to determine what is needed as proposals come in for approval, more time is needed.

Representation – Richard Murphy, attorney, was present representing the applicant. He said that the note in question had been omitted from the subsequent plans, but it did state that "*Pink Pigeon Parkway and Man o' War Boulevard improvements shall be further discussed with the development of vacant lots.*" He said that it was determined that since 2006, when this note was first introduced, there had been many improvements to the immediate and nearby street systems, including completion of Star Shoot Parkway to Liberty Road. These improvements were done to help alleviate the overall traffic flow. He said that it was determined that the extended-stay hotel would not cause an impact on the street system coming in or out of this area.

In conclusion, Mr. Murphy said that they are in agreement with the revised recommendations and requested approval.

Audience Comment – The Chair 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 Mr. Holmes, and carried 6-0 (Beatty, Brewer, Paulsen, Roche-Phillips and Wilson were absent) to approve DP 2011-19, subject to the revised conditions listed by the staff.

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 6-0 (Beatty, Brewer, Paulsen, Roche-Phillips and Wilson were absent) to approve the release and call of bonds as detailed in the memorandum dated March 10, 2011, from Ron St. Clair, Division of Engineering.

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

A. PFR 2011-2: FAYETTE COUNTY PUBLIC SCHOOLS RENOVATION AND EXPANSION FOR BRECKINRIDGE, CARDINAL VALLEY & MILLCREEK ELEMENTARY SCHOOLS - a Public Facilities Review of redevelopment and expansion of Breckinridge Elementary, located at 2101 St. Mathilda Drive; Cardinal Valley Elementary, located at 218 Mandalay Road and Millcreek Elementary, located at 1212 Reva Ridge Way.

SUMMARY FINDINGS: There are no Goals, Objectives or text of the *2007 Comprehensive Plan* in opposition to the expansion/renovation of any of the three elementary schools. The Land Use Element of the Plan recommends that each property be used for Public Education purposes, recognizing its historic use as a public elementary school and indicating a desire for it to remain so. The text of the Comprehensive Plan, including both the Land Use Element and the Community Facilities chapter, supports the projects, as do several Goals and Objectives.

STAFF RECOMMENDATION: Approval, as requested, with the following recommendation:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction/remodeling of the school and grounds; and that a plan for storm water management be submitted to, and accepted by, the Division of Engineering prior to issuance of any permits for construction, particularly due to the fact that there is a FEMA flood hazard area approximately 1,000 from each property.

Staff Presentation - Ms. Rackers directed the Commission's attention to PFR 2011-2, noting its location on the agenda, and stated that this is a Public Facilities Review for the renovation and expansion of Breckinridge Elementary School, located at 2101 St. Mathida Drive; Cardinal Valley Elementary School, located at 218 Mandalay Road and Millcreek Elementary School, located at 1212 Reva Ridge Way. She noted that there was representation for each of the elementary schools design teams at today's meeting, should the Commission have any questions or concerns.

Ms. Rackers stated that the Land Use Element of the 2007 Comprehensive Plan recommends Public Education land use for each of these properties. This is reflective of their historic and current use as an elementary school and is an indication of the desire for them to remain at these locations. The Comprehensive Plan defines the Public Education land use category as all public school facilities, as well as the Central Office and any accessory facilities.

Ms. Rackers explained that in the 2007 Comprehensive Plan there is a list of the schools, with the condition of each noted as "fair," "poor to fair" or "poor." Those schools that have been listed as "poor" or "poor to fair" are either under construction or the renovation has been completed. She said that the schools that are listed as "fair" are currently ready to be renovated, and the three that are listed on today's agenda fall into "fair" category. She noted that the construction bids for these schools will begin in March and will continue to the middle of April.

Breckinridge Elementary School Presentation - Ms. Rackers directed the Commission's attention to the map showing the Breckinridge Elementary School property. She noted the surrounding street system, and said that the elementary school is located on the north side of St. Mathilda Drive. Most of the area is zoned R-1C, with the exception of St Christopher Drive, which is zoned R-2; however, the entire area surrounding the school property is developed as single family residential.

Ms. Rackers said that the Breckinridge Elementary School was built in 1962, and building additions were done in 1969, 1987 and 1990. She said that the site acreage is 9.78 acres; the existing structure contains 58,950 square feet, and there is also a small storage building on the site. Referencing the site plan, she said that after the storage building and 36,650 square feet of existing building are demolished, there will be 50,330 square feet of new constructions added. She said that at least 22,300 square feet of existing building will be renovated. This will include the removal and replacement of the mechanical system; and replacement of the existing electrical, fire protection and fire alarm systems. Renovation will also include the removal and replacement of the interior finishes, such as walls, ceiling, floor and bases, as well as door hardware and replacement of kitchen equipment.

Ms. Rackers then said that the new construction will include classrooms for the elementary and pre-school, a media center, an administration area, new kitchen and cafeteria, and a new mechanical room. She then said that the outside improvements will include new paving, expanded parking and a larger bus loop. A new emergency turnaround area will also be added. There will be additional play areas, and new storm and sanitary sewer infrastructure. She said that this site will comply with the ADA standards, as well.

Ms. Rackers stated that this project is anticipated to will be completed by 2013, and will be done in three phases. She said that the school will be occupied during the course of construction, with the use of portable classrooms. She then said that when this project is finished it will accommodate 625 students. She noted that the architect for Breckinridge Elementary School was present should there be any questions or concerns.

Cardinal Valley Elementary School Presentation - Ms. Rackers directed the Commission's attention to the map showing the Cardinal Valley Elementary School property. She noted the surrounding street system, and said that the elementary school is located north of Versailles Road, near Oxford Circle, and the area surrounding the school property is zoned R-1C.

Ms. Rackers said that the Cardinal Valley Elementary School was built in 1962, and building additions were added in 1965 and 1985. She said that the site acreage is 7.76 acres, and approximately 68,000 square feet of existing structure will be renovated. She noted that this structure is a one-story building with a basement. Referencing the site plan, she said that there will be 6,800 square feet added to the main floor, as well as an elevator. The new construction will include a gym stage, a media center expansion, and a kitchen expansion. She said that there will be a new entry vestibule and a new mechanical room. She then said that the renovation work will include removal and replacement of the mechanical system; and replacement of the existing electrical, fire protection and fire alarm systems. There will be renovations to the interior finishes, such as walls, ceilings, floor and wall base, as well as replacement of all door hardware. She said that the outside improvements will include permeable paving for the parking areas, and will be ADA compliant.

Ms. Rackers stated that the school will be occupied during the course of construction, with the use of portable classrooms. She said that this project is planned to be completed in the year 2012, and it will accommodate 675 students. She noted that Kevin Warner, Carman and Associates, was present should there be any questions or concerns.

Millcreek Elementary School Presentation - Ms. Rackers directed the Commission's attention to the map showing the Millcreek Elementary School property. She noted the surrounding street system, and said that the elementary school is located east of Tates Creek Road and south of Armstrong Mill Road. She said that most of the surrounding area is zoned residential, with the exception of one property to the north, which is zoned agricultural urban. She noted that the creek at the southern end of the property is a tributary of West Hickman Creek.

Ms. Rackers said that Millcreek Elementary School was built in 1979, and there have been no building additions since that time. She said that the site is a 10-acres sloped property that has been terraced to accommodate the building. She then said that this school utilizes 3 floors for teaching, which includes a basement for the gymnasium. The creek has been recently restored and used by the school as an outdoor classroom. She noted that there is no floodplain associated with the creek.

Ms. Rackers said that the second floor is considered the primary floor, and this will be where most of the renovation will take place. She then said that the second floor consists of classrooms, the media center, cafeteria and kitchen, the art and computer rooms, the nature studies room and various support spaces. She then said that as part of the renovation, the first and second floors will be expanded to add 11,800 square feet of space. She noted that the expansion to the first floor will increase the administrative office space, student and family support space and pre-school classrooms, and an outdoor play area will be added. The second floor expansion will consist of two smaller additions, which will include increasing the kitchen by 1,200 square feet and providing a new 2,755 sq. ft. entryway for the bus drop-off area, an art classroom and nature studies classroom.

Ms. Rackers said that the construction will begin in June 2011 and is expected to be completed by December 2012. She then said that this renovations and expansion will accommodate 625 students. She noted that Maureen Peters, Pearson and Peters Architects was present should the Commission have any questions.

Ms. Rackers stated that there is no known opposition to these requests, nor is there anything found in opposition in the Goals, Objectives or text of the 2007 Comprehensive Plan. She said that the expansion/renovation of the schools would help FCPS to reach their desired standards of providing safe and aesthetically pleasing facilities for the students and attain the goal of becoming a world class school system by the year 2020.

Ms. Rackers said that even though there is a creek near the Millcreek Elementary School, there is no associated floodplain within 1,000 feet of the school or neighborhood. But because there is a creek on this property and in the neighborhood of the other two schools, the staff is requesting that Fayette County Public School utilize Best Management Practices during all aspects of construction. They will need to submit a storm drainage and retention plan to the Division of Engineering during the permitting and design review process for each school's renovation and expansion. She said that this will ensure that there are no adverse impacts to either the subject or surrounding properties or to the area streams.

In conclusion, Ms. Rackers stated that the staff is recommending approval of these Public Facility Reviews, subject to the following recommendation:

1. Even though the Fayette County Public School System is exempt from Zoning Ordinance requirements, it must still comply with State Building Code requirements. It is therefore recommended that any applicable permits be obtained from the Division of Building Inspection prior to commencing construction/remodeling of the school and grounds; and that a plan for storm water management be submitted to, and accepted by, the Division of Engineering prior to issuance of any permits for construction,

particularly due to the fact that there is a FEMA flood hazard area approximately 1,000 from each property.

Planning Commission Questions – Mr. Owens asked if these facilities will be LEED certified. Ms. Rackers replied that she could not answer that question. Mr. Owens said that he is comfortable with these request, but he would like to know more information regarding LEED certification.

Mr. Holmes asked if the Fayette County School Board could present this topic at Work Session. Ms. Rackers said that perhaps Mr. Wallace, Facilities Management, could make a presentation to the Commission.

Mr. Cravens said that a lot of these approved buildings have a list to become LEED certified, but have not completed that list.

Mr. Owens said that Locust Trace is working hard to become self sustaining, and the Fayette County Schools should be leading by example when it comes to their projects.

Representation – Maureen Peters, Pearson and Peters Architects was present for the Millcreek Elementary School project. She said that the Locust Trace and Keithshire Elementary project are not LEED certified, but rather some of the aspects of the LEED design will be incorporated into their projects. She then said that Locust Trace and Keithshire Way are new buildings, which allows more flexibility to meet the LEED requirements. Even though Millcreek and the others are not LEED certified, they are trying to incorporate some of these design aspects into the renovations and expansion (i.e., solar tubes, permeable pavers). She said that with existing structures it is more difficult to add certain designs versus new constructions. Ms. Peters noted that there will be bike racks added to the sites.

Mr. Owens said that it would be a good idea to let the Commission and public know about the LEED certification process. Ms. Peters agreed, and said that that information was not requested, which is why it was not added for the Commission to review.

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

Action: A motion was made by Mr. Owens, seconded by Mr. Holmes, and carried 6-0 (Beatty, Brewer, Paulsen, Roche-Phillips and Wilson were absent) to approve PFR 2011-2, subject to the recommendation by the staff.

B. NPE 2011-1: AMENDMENT TO NEWTOWN PIKE DESIGN GUIDELINES – for property located at 502-526 South Broadway, 320 Pine Street and 319 Cedar Street

Request by: Richard V. Murphy (letter dated March 4, 2011)

Ordinance: Council Ordinance No: 105-2009

Location: 502-526 South Broadway, 320 Pine Street and 319 Cedar Street

COUNCIL ORDINANCE 105-2009 controls traffic movement, safety, access, and design aspects of the Newtown Pike and Scott Street Extensions. Section II of this Ordinance states: "that prior to the adoption of any amended ordinance, the Urban County Council shall receive a report from the Panning Commission outlining any concerns and/or recommendations."

Note: This item was presented simultaneously with DP 2011-16: Mark Acre Properties (above).

C. CANCELLATION OF WORK SESSION – The staff requested that the Commission take action to formally amend the 2011 Meeting & Filing Schedule to cancel one of their previously scheduled work sessions in March.

The Chair said that since there are two Work Session scheduled for the month of March, she suggested that the March 31st Work Session be cancelled at this time.

Action: A motion was made by Ms. Cravens, seconded by Ms. Blanton, and carried 6-0 (Beatty, Brewer, Paulsen, Roche-Phillips and Wilson were absent) to cancel the previously scheduled March 31, 2011, Work Session.

VI. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

A. **HOUSE BILL 55 TRAINING OPPORTUNITY** - There will be an APA audio conference on Wednesday, March 16, 2011 from 4:00 until 5:30 in the Division of Planning Conference Room on the 7th floor of the Phoenix Building. The title of this training session is "Mitigating Hazards through Planning " and will count toward 1.5 hours of training credit.

Ms. Rackers informed the Commission that there would be an APA audio-conference in the Division of Planning Conference Room on Wednesday, March 16, 2011, beginning at 4:00 p.m. The title of this conference is "Mitigating Hazards through Planning " and will count toward 1.5 hours of training credit for the Planning Commission members, as well as staff.

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

VII. **<u>AUDIENCE ITEMS</u>** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will <u>NOT</u> be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

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

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... March 17, 2011
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **March 24, 2011**
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... March 30, 2011
Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers (Cancelled) .... March 31, 2011
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... April 7, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... April 7, 2011
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **April 14, 2011**

IX. **<u>ADJOURNMENT</u>** - There being no further business, a motion was made to adjourn the meeting at 5:32 PM.

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Carolyn Richardson, Chair

____
Mike Owens, Secretary

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