

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

June 14, 2012

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Owens, Chair; Mike Cravens, Frank Penn, William Wilson, Marie Copeland, Patrick Brewer, Eunice Beatty, Carolyn Plumlee and Carla Blanton. Will Berkley and Lynn Roche-Phillips were absent.

Planning Staff Present – Chris King, Director; Bill Sallee; Tom Martin; Cheryl Gallt; Chris Taylor; Traci Wade, Jimmy Emmons and Denise Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Tim Queary, Streets and Roads; Captain Charles Bowen, Division of Fire and Emergency Services; and Rochelle Boland and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Brewer, seconded by Ms. Beatty, and carried 9-0 (Berkley and Roche-Phillips absent) to approve the minutes of the May 10, 2012, Planning Commission meeting.

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

1. Note: The following plan is requested for revocation pursuant to KRS 100.285.

PLAN 2003-232C: RICHMOND ESTATES (BETSY TOY HALL PROPERTY) - located at 1201 Evans Mill Road (Revocation Plat).

Representation – Richard Murphy, attorney, was present representing the applicant. He said that Billy Van Pelt, staff for the Rural Land Management Board, had requested that this item postpone for one month. Mr. Murphy said that they are agreeable to his request, and requested postponement of PLAN 2003-232C to the July 12, 2012, 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. Penn, seconded by Mr. Cravens and carried 9-0 (Berkley and Roche-Phillips absent) to postpone PLAN 2003-232C: RICHMOND ESTATES (BETSY TOY HALL PROPERTY) to the July 12, 2012, Planning Commission meeting.

2. PLAN 2003-209P: MASTERSON HILLS & MASTERSON STATION, UNIT 10 (7/14/12)* - located at 2900-2918 and 3000 Spurr Road. (Council District 2) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2003-209P to the July 12, 2012, 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 Ms. Beatty and carried 9-0 (Berkley and Roche-Phillips absent) to postpone PLAN 2003-209P: MASTERSON HILLS & MASTERSON STATION, UNIT 10 to the July 12, 2012, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 7, 2012, at 8:30 a.m. The meeting was attended by Commission members: Eunice Beatty, Marie Copeland, Mike Owens, Frank Penn and Carolyn Plumlee. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Tom Martin, Cheryl Gallt, Chris Taylor, Dave Jarman, Barbara Rackers and Denise Bullock, as well as Captain Charles Bowen, Division of Fire & Emergency Services and Rochelle Boland and Tracy Jones, Law Department. 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

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

- (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 most of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2012-40F: MASTERSON STATION, UNIT 10-G (8/5/12)* - located on Eminent Drive.
(Council District 2) **(EA Partners)**

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

2. PLAN 2009-25F: RESERVE AT WALNUT GROVE, UNIT 1-A (8/21/12)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission approved this plan at their May 14, 2009, meeting and granted an extension on May 13, 2010 and May 12, 2011, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information.~~
5. Urban Forester's approval of tree preservation plan ~~and required street tree information.~~

3. PLAN 2009-26F: RESERVE AT WALNUT GROVE, UNIT 1-B (8/21/12)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission approved this plan at their May 14, 2009, meeting and granted an extension on May 13, 2010 and May 12, 2011, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.

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

7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
 5. Urban Forester's approval of tree preservation plan ~~and required street tree information~~.
4. PLAN 2009-27F: RESERVE AT WALNUT GROVE, UNIT 1-C (8/21/12)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission approved this plan at their May 14, 2009, meeting and granted an extension on May 13, 2010 and May 12, 2011, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
 5. Urban Forester's approval of tree preservation plan ~~and required street tree information~~.
5. PLAN 2009-28F: RESERVE AT WALNUT GROVE, UNIT 1-D (8/21/12)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission approved this plan at their May 14, 2009, meeting and granted an extension on May 13, 2010 and May 12, 2011, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

Note: The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.
 5. Urban Forester's approval of tree preservation plan ~~and required street tree information~~.
6. PLAN 2012-51F: THE GLEN AT LOCHDALE (8/22/12)* - located at 3600 and 3652 Winthrop Drive.
(Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to amend the building line and combine two lots.

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

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

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.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan and required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Remove plat cabinet and slide reference to 20' building line.
 8. Resolve conflict of approved cross-section and "as built" conditions.
7. PLAN 2012-53F: LAKEVIEW ESTATES, LOT 2, TRACT A (8/28/12)* - located at 1540 New Circle Road.
(Council District 5) **(Foster – Roland, 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.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection plan and required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote sanitary sewer easement for existing sanitary sewer line to the approval of the Division of Water Quality.
 8. Addition of north arrow.
 9. Extend access easement across Lot 2-A.
 10. Review by the Technical Committee prior to certification.
8. PLAN 2011-68F: RICHARDSON PROPERTY, UNIT 5, SECTION 4 (9/5/11)* - located on Hannah Todd Place.
(Council District 7) **(Fred Eastridge)**

Note: This plan was approved by the Planning Commission at its July 14, 2011, meeting, 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.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Correct note #10 to read: "This property shall be developed in accordance with the approved final development plan."
8. Addition of street tree schedule notes.
9. Addition of tree protection and planting statistics notes.
10. Denote: One dwelling unit per lot.
11. Exaction information to the approval of the Division of Planning.
12. Clarify side yard setback in the development standard for townhomes.
13. Addition of access easement cross-section between lots 74 and 75.
14. Denote street frontage in site statistics.
15. Denote setback for lot 75.

Note: The applicant is now requesting a **one-year extension** of this plan.

The Staff Recommended: **Approval of the one-year extension**, subject to the previous conditions.

9. PLAN 2011-84F: DENTON FARM, INC., UNIT 3, SECTION A, LOT 27 (AMD) (ELLERSLIE AT DELONG) (9/5/12)* -
located at 122 Somersly Place (Council District 7) **(Strand Associates)**

Note: This plan was approved by the Planning Commission at its August 11, 2011, meeting, 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 landscape buffers.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.

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6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of note for side yard drainage maintenance at the end of the townhomes.
8. Correct date on Planning Commission certification.
9. Correct plan title.
10. Resolve the status for release of easement for Lots 28 & 29.
11. Review by Technical Committee prior to certification.

Note: The applicant is now requesting a **one-year extension** of this plan.

The Staff Recommended: **Approval of the one-year extension**, subject to the previous conditions.

10. **DP 2012-36: GLEN AT LOCHDALE, UNIT 4 (AMD) (8/5/12)*** - located at Golden Trophy Trail.
(Council District 9) **(Eagle Engineering)**

Note: The purpose of this amendment is to revise the building layout, adding square footage by increasing the number of bedrooms.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Addition of record plat designation (M-942).
9. Addition of sanitary sewer easements per Division of Water Quality.
10. Addition of north arrow.

11. **DP 2012-38: BLUEGRASS BUSINESS PARK (PEMBERTON FARM) (LOT 4) (8/5/12)*** - located at 2333 Innovation Drive. (Council District 2) **(MLH Civil Engineering)**

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
10. Label tree canopy with correct title.
11. Resolve proposed access to the approval of the Divisions of Planning and Traffic Engineering.

12. **DP 2011-38: PINNACLE, LOT 1 (AMD #5) (8/23/12)*** - located at 1099 Duval Street.
(Council District 12) **(Midwest Engineering)**

Note: The purpose of this amendment is to depict the reconfiguration of the previously approved parking and buildable areas. The Planning Commission approved this plan at their May 12, 2011, meeting, 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 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. Denote the number of stories in the existing buildings.
9. Addition of tree preservation layout on plan (including original submission information).
10. Correct notes #4 & 10.
11. Clarify tree count per conditional zoning restrictions with tree canopy statistics, and denote locations.

Note: The applicant has now requested a reapproval of this plan.

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

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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 by a member of the Commission or the audience to permit discussion.

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. Myke Robbins, Foster-Roland, Inc., was present representing the applicant for PLAN 2012-53F: LAKEVIEW ESTATES, LOT 2, TRACT A. Mr. Robbins asked that this plat be removed from the Consent Agenda to allow further discussion.

Action - A motion was made by Mr. Wilson, seconded by Ms. Plumlee and carried 9-0 (Berkley and Roche-Phillips absent) to approve the items listed on the Consent Agenda, except for PLAN 2012-53F: LAKEVIEW ESTATES, LOT 2, TRACT A.

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

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce its decision at the outset of the hearing.

1. FINAL SUBDIVISION PLANS

- a. PLAN 2012-53F: LAKEVIEW ESTATES, LOT 2, TRACT A (8/28/12)* - located at 1540 New Circle Road.
(Council District 5) **(Foster - Roland)**

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.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote sanitary sewer easement for existing sanitary sewer line to the approval of Division of Water Quality.
8. Addition of north arrow.
9. Extend access easement across Lot 2-A.
10. Review by the Technical Committee prior to certification.

Staff Presentation – Mr. Martin presented the final subdivision plan for Lakeview Estates, Lot 2, Tract A; located at 1540 New Circle Road. He directed the Commission's attention to the rendering of this plat and oriented them to the surrounding area and street system. He said that the subject property is zoned B-3, and the purpose of this amendment is to subdivide one lot into two lots. If approved, it would create 1.8 acre lot and a 2.1 acre lot. He then said that there is an existing car sales facility on the subject property, which is located directly across from Woodhill Shopping Center. He added that Southland Christian Church and a nearby public park are located to the rear of these lots.

Mr. Martin indicated that the rendering being presented to the Commission at today's meeting is the latest revision submitted by the applicant. He noted that, at the last Subdivision Committee meeting, the Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He directed the Commission's attention to the list of conditions, and briefly explained that conditions #1 through #6 are standard sign-off conditions from the different utility and divisions of the LFUCG, and gave a brief explanation of conditions #7 and #8, noting that these are "cleanup" items.

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Mr. Martin said that the staff had concerns with the creation of Lot 2B and the shared access on New Circle Road. He noted that the parent plat does show an access easement crossing Lot 1 to serve Lot 2; and with the subdividing of Lot 2, the staff has requested that that access easement be extended across to Lot 2B. This is reflected in condition #9.

Mr. Martin said that the applicant had filed this request as a "late filing," and standard protocol requires late files to be presented to the Technical Committee prior to certification (condition #10).

Planning Commission Questions – Ms. Copeland asked, prior to 1980, if the access between the two lots was noted on the plan. Mr. Martin replied affirmatively, and said that the parent plat connects Lot 1 to Lot 2; and with this amendment, Lot 2 would be subdivided into "A" and "B." The staff was concerned with extending the access easement to the Lot 2B. Ms. Copeland then asked if the staff wants the easement to be graphically shown on the plat. Mr. Martin replied affirmatively, and said that the access easement needs to be appropriately addressed to prevent future problems.

Representation – Myke Robbins, Foster-Roland, was present, representing the applicant, Freedom Dodge. He explained that the north arrow was inadvertently left off the submission, noting that the error has since been corrected.

Mr. Robbins said that when this property was one continuous unit, the plat did not depict the easement on paper; but with the subdividing of this property, they have now shown those easements, and have placed a note on the plat to reflect the reciprocal access between Lot 1, Lot 2A and Lot 2B. He then said that condition #7 requires the sanitary sewer line to be approved by the Division of Water Quality, and they have placed that note on the plat to reflect that condition.

Mr. Robbins said that his client had invested millions of dollars to bring a Fiat franchise to Lexington. As part of the agreement between Freedom Dodge and Fiat, a free-standing sign must be placed on the property before any Fiats could be sold. He then said that two signs can not be placed on a single property, which this is the reason his client is requesting to subdivide the property. He added that they are not changing anything on the property, and the only difference would be an "imaginary" line splitting Lot 2A and Lot 2B and a Fiat sign installed. Mr. Robbins said that they understand procedure, but since nothing major is changing on this property, the Technical Committee review is not needed.

With that being said, Mr. Robbins requested that the Commission delete condition #10 to allow Freedom Dodge to quickly move in, bringing Fiat to Lexington. He then said that they have begun receiving the appropriate signoffs from the different government divisions, and they believe they are in compliance with the list of conditions, and requested approval.

Planning Commission Questions – Mr. Wilson asked when the next Technical Committee meeting would be. Mr. Owens replied that the next meeting would be June 27th. Mr. Robbins said that his clients are requesting to move forward to prevent paying high interest on their property.

Ms. Blanton asked why this request was filed late. Mr. Robbins said that Freedom Dodge did not realize Fiat would not allow the selling of the cars until a sign was in place. He then said that his client is in a rush to push this request through; therefore, they are willing to pay the triple filing fees for a late filing.

Mr. Penn asked if the staff was agreeable with deleting condition #10. Mr. Sallee said that the only members of the Technical Committee not listed as signoffs are the Division of Solid Waste and the Greenspace and Pedestrian Planners. He then said that the other members of the Technical Committee would see this plat and would be able to sign off on it. Mr. Penn then asked if staff would have any objections to deleting the condition. Mr. Sallee replied that, given the explanation and the agencies who would be reviewing this plat, their review would already be covered.

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. Brewer, seconded by Mr. Penn and carried 9-0 (Berkley and Roche-Phillips absent) to approve PLAN 2012-53F: LAKEVIEW ESTATES, LOT 2, TRACT A, subject to the conditions listed on today's agenda, deleting condition #10.

Note: The next three items were heard simultaneously.

- b. PLAN 2008-138F: MEADOW OAKS, UNIT 1-A (ASHFORD OAKS) (9/5/12)* - located at 3414 Felician Lane.
(Council District 12) **(EA Partners)**

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

Note: The Planning Commission originally approved this plan on November 13, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Clarify label of cross-section for "G-G."
9. Denote private street maintenance responsibilities.
10. Verify exaction information to the approval of the Division of Planning.
11. Clarify public versus private right-of-way dedication.
12. Addition of conditional zoning notes and development standards from approved development plan.
13. Resolve possible conflicts between development standards and plan notes.

Note: On February 12, 2009, the Planning Commission granted a waiver to Article 4-7(d)(9)(c) of the Land Subdivision Regulations, for the following reasons:

1. The bonding of sidewalks on private streets has been agreed to by the Urban County Government Division of Engineering in the past in the defined Expansion Area, and will still allow the collection of a surety to ensure completion of all the sidewalk improvements to this subdivision.
2. Strict adherence with the Subdivision Regulations would create an undue hardship to the developer, requiring heavy construction equipment for home construction to drive over sidewalks, which could damage the sidewalks, resulting in the need to repair or replace an otherwise new sidewalk.

Approval of the waiver was subject to the following condition being added to the Final Record Plats, in addition to those originally approved by the Planning Commission on November 13, 2008:

- a. Collection of a financial surety by the Division of Engineering for the ultimate construction of sidewalks not initially constructed on private streets, to ensure their completion, subject to the approval of the Law Department.

Approval of the waiver was subject to the following condition also being added to the Final Record Plat, in addition to those originally approved by the Commission on November 13, 2008:

- a. Denote: No certificate of occupancy shall be issued for any dwelling unit until the sidewalks are constructed in conjunction with the required concrete driveway apron.

Note: The Planning Commission reapproved this plan at their June 10, 2010, meeting subject to the previous conditions and granted a **one-year extension** on June 9, 2011, subject to the previous conditions and one additional condition:

14. Urban Forester's approval of required street tree information.

Note: A portion of this plat (Section 1) has been recorded. The applicant now requests a reapproval for the remaining portion of this plan.

The Staff Recommended: Reapproval, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information.~~
- c. PLAN 2008-139F: MEADOW OAKS, UNIT 1-B (ASHFORD OAKS) (9/5/12)* - located at 3414 Feliciana Lane.
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on November 13, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Verify exaction information to the approval of the Division of Planning.
9. Addition of conditional zoning notes and development standards from approved development plan.
10. Denote the 25' conditional zoning setback along Greenbrier golf course (lots 17-26).
11. Resolve possible conflicts between development standards and plan notes.

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

Note: On February 12, 2009, the Planning Commission granted a waiver to Article 4-7(d)(9)(c) of the Land Subdivision Regulations, for the following reasons:

1. The bonding of sidewalks on private streets has been agreed to by the Urban County Government Division of Engineering in the past in the defined Expansion Area, and will still allow the collection of a surety to ensure completion of all the sidewalk improvements to this subdivision.
2. Strict adherence with the Subdivision Regulations would create an undue hardship to the developer, requiring heavy construction equipment for home construction to drive over sidewalks, which could damage the sidewalks, resulting in the need to repair or replace an otherwise new sidewalk.

Approval of the waiver was subject to the following condition being added to the Final Record Plats, in addition to those originally approved by the Planning Commission on November 13, 2008:

- a. Collection of a financial surety by the Division of Engineering for the ultimate construction of sidewalks not initially constructed on private streets, to ensure their completion, subject to the approval of the Law Department.

Approval of the waiver was subject to the following condition also being added to the Final Record Plat, in addition to those originally approved by the Commission on November 13, 2008:

- a. Denote: No certificate of occupancy shall be issued for any dwelling unit until the sidewalks are constructed in conjunction with the required concrete driveway apron.

Note: The Planning Commission reapproved this plan at their June 10, 2010, meeting subject to the previous conditions and granted a **one-year extension** on June 9, 2011, subject to the previous conditions and one additional condition:

12. Urban Forester's approval of required street tree information.

Note: A portion of this plat (Section 1 & 2) has been recorded. The applicant now requests a reapproval for the remaining portion of this plan.

The Staff Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information.~~

- d. **PLAN 2008-140F: MEADOW OAKS, UNIT 1-C (ASHFORD OAKS) (9/5/12)* - located at 3414 Felician Lane. (Council District 12) (EA Partners)**

Note: This plan was approved by the Planning Commission at its November 13, 2008, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Verify exaction information to the approval of the Division of Planning.
10. Addition of conditional zoning restrictions and development standards from approved development plan.
11. Denote the sanitary sewer easement across the greenway.
12. Resolve the extent and timing of the greenway dedication.

Note: On February 12, 2009, the Planning Commission granted a waiver to Article 4-7(d)(9)(c) of the Land Subdivision Regulations, for the following reasons:

1. The bonding of sidewalks on private streets has been agreed to by the Urban County Government Division of Engineering in the past in the defined Expansion Area, and will still allow the collection of a surety to ensure completion of all the sidewalk improvements to this subdivision.
2. Strict adherence with the Subdivision Regulations would create an undue hardship to the developer, requiring heavy construction equipment for home construction to drive over sidewalks, which could damage the sidewalks, resulting in the need to repair or replace an otherwise new sidewalk.

Approval of the waiver was subject to the following condition being added to all the Final Record Plats, in addition to those originally approved by the Commission on November 13, 2008:

- a. Collection of a financial surety by the Division of Engineering for the ultimate construction of sidewalks not initially constructed on private streets, to ensure their completion, subject to the approval of the Law Department.

Note: The Planning Commission reapproved this plan at their June 10, 2010, meeting subject to the previous conditions and granted a **one-year extension** on June 9, 2011, subject to the previous conditions and one additional condition:

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

13. Urban Forester's approval of required street tree information.

The Staff Recommended: **Reapproval**, subject to the original conditions, revising the following:

3. Building Inspection's approval of landscaping ~~and required street tree information~~.

Staff Presentation – Ms. Gallt directed the Commission's attention to the final record plats, orienting them to the surrounding area. She noted that the subject properties are located at 3414 Felician Lane, in the Meadow Oaks subdivision, which is located south of Winchester Road and east of Man O' War Boulevard. She pointed out the locations of the nearby Blackford Property development and the Greenbrier Subdivision on the rendering.

Ms. Gallt explained the history of the final record plats, and said that the Planning Commission had originally approved these requests on November 13, 2008, subject to the conditions listed on today's agenda. She then said that on February 12, 2009, the Planning Commission had granted a waiver to Article 4-7(d)(9)(c) of the Land Subdivision Regulations to bond the sidewalks on the private streets. In addition to that waiver, a condition was added to denote "no certificate of occupancy shall be issued for any dwelling unit the sidewalks are constructed in conjunction with the required concrete driveway apron". Ms. Gallt further explained that the Planning Commission reapproved these plats again at their June 10, 2010, meeting, as well as granting a one-year extension on June 9, 2011. Both requests were subject to the original conditions, plus one additional condition that was added at the June 9, 2011, meeting. She said that the applicant is now requesting another reapproval, subject to the same conditions as previously outlined.

Ms. Gallt said that the staff is recommending reapproval of the applicant's request, as previously mentioned, and including the revision, as noted on today's agenda.

Planning Commission Questions – Mr. Penn asked if the exactions have been updated since 2008. Ms. Gallt replied affirmatively, and said that the exactions were last reviewed in 2010. She then said that the staff would verify the exaction amount at this time; and, if needed, those amounts would be recalculated.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested reapproval.

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, and seconded by Mr. Brewer to reapprove PLAN 2008-138F: MEADOW OAKS, UNIT 1-A (ASHFORD OAKS); PLAN 2008-139F: MEADOW OAKS, UNIT 1-B (ASHFORD OAKS) & PLAN 2008-140F: MEADOW OAKS, UNIT 1-C (ASHFORD OAKS), as presented by the staff.

Discussion of Motion – Mr. Penn asked if how long a request could be reapproved, noting that Mr. Kahly indicated that reapprovals are endless. Mr. Sallee said that theoretically, yes, that is the case.

The motion carried 9-0 (Berkley and Roche-Phillips absent).

2. DEVELOPMENT PLANS

- a. DP 2012-35: HAMBURG PLACE COMMUNITY (MULTI-FAMILY), PHASE IIA (AMD) (8/5/12)* - located at Old Rosebud Road and Pascoli Place. (Council District 6) **(EMHT)**

Note: The purpose of this amendment is to add an access point and revise dwelling unit types.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding compliance with open space and lot coverage requirements.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
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 Planning Commission's certification.
9. Clarify site statistics to reflect dwelling unit changes to lot coverage, floor area and total units.
10. Identify location of "WE-II" building on plan or remove from site statistics.

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

Staff Presentation – Mr. Taylor presented the final development plan for the Hamburg Place Community (Multi-Family), Phase IIA. This property is located at Old Rosebud Road and Pascoli Place. He directed the Commission's attention to the rendering and oriented them to the surrounding area and street system. He said that the purpose of this amendment is to add an access point directly across from Pascoli Place and revise the dwelling unit types.

Mr. Taylor said that the staff had received a revised submittal on June 11, 2012, that had addressed the Subdivision Committee's reasons for postponement. He directed the Commission's attention to the revised handout, and briefly explained that conditions #1 through #7 are standard sign-off conditions from the different divisions of the LFUCG. He noted that condition #8 is a "cleanup" item, and condition #9 came from the staff's concern with the sight visibility and traffic movement out of this development. He then said that the area near the new intersection (Ogden Way and Old Rosebud Road) would need be striped to prevent off-street parking, and this would need the approval of the Division of Traffic Engineering.

Mr. Taylor said that the staff is recommending approval of this request, 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. 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. Remove note referencing Zoning Ordinance compliance.
9. Identify location of sight triangle at new intersection.

Representation – John Henderson, EMHT, was present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested approval.

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

Planning Commission Discussion – Ms. Copeland indicated that the conditions listed on today's agenda had not been updated. Mr. Owens noted that the revised handout was previously distributed to the Commission members.

Action - A motion was made by Ms. Copeland, seconded by Ms. Beatty and carried 9-0 (Berkley and Roche-Phillips absent) to approve DP 2012-35: HAMBURG PLACE COMMUNITY (MULTI-FAMILY), PHASE IIA (AMD), subject to the revised conditions, as presented by the staff.

- b. DP 2012-37: NEWMARKET PROPERTY, PH 1, UNIT 2-E & RICHARDSON PROPERTY (AMD) (9/4/12)* - located at 4127 Todds Road. (Council District 12) **(ALT 32)**

Note: This property requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise the commercial use, the building layout and the off-street parking.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Provided the Planning Commission makes a finding that the plan complies with the provisions of the EAMP.
9. Denote exaction amount and time of payment to the approval of the Division of Planning.
10. Discuss Todds Road access note.
11. Discuss timing of construction of access drive to adjoining townhouse area.

Staff Presentation – Mr. Taylor presented the amended final development plan for the Newmarket Property, Phase 1, Unit 2-E & Richardson Property, which is located at 4127 Todds Road. He directed the Commission's attention to the rendering and oriented them to the surrounding area and street system. He said that the surrounding streets include Deer Haven Lane and Polo Club Boulevard, and noted that Deer Haven Lane runs along I-75 and Polo Club Boulevard ends just prior to the subject property. He added that the Polo Club Boulevard right-of-way runs next to the subject property and will eventually connect to Todds Road.

Mr. Taylor said that the purpose of this amendment is to revise the commercial use, the building layout and the off-street parking. He then said that the applicant is proposing to use the existing one-story structure for an office, and

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

to add off-street parking spaces. He added that an office use is an allowable use in the Community Center (CC) zone, and to meet the parking requirement, the applicant is proposing to add 6 more parking spaces on site. He noted that the area along Todds Road is zoned as Community Center and north of Todds Road is zoned as Expansion Area Residential 2 (EAR-2) and a Transition Area (TA).

Mr. Taylor said that the applicant had met with the staff and the Division of Traffic Engineering earlier this week on the issues related to site access. He directed the Commission's attention to a staff exhibit on the overhead projector, and noted the proposed area for the Polo Club Boulevard right-of-way that had not been constructed. He explained that, when the development plan was first approved by the Commission, the subject property was being proposed for a convenience store/gas station. He said that, in the beginning, it was anticipated that the construction of Polo Club Boulevard would connect to Todds Road in a timely manner.

Mr. Taylor noted the location of the driveway to the existing house, and said that the driveway was proposed to be shifted back further from Polo Club Boulevard to act as temporary access to the townhouse development until Polo Club Boulevard was finished. At the time Polo Club Boulevard is completed, it will become the main access to the townhouse development and the temporary access off Todds Road will be removed. He noted that the improvements to Todds Road would be done by the Kentucky Transportation Cabinet and the completion of Polo Club Boulevard would be through the Lexington-Fayette Urban County Government.

Mr. Taylor directed the Commission's attention to an aerial photograph, and explained the location of where Polo Club Boulevard's current termination. At that location, a dirt path connects the townhouse development. He said that the applicant is requesting to not construct their internal connection to the townhouses due to safety concerns. He then said that if people are willing to drive the dirt path access to the townhouse development as the photo indicated, then people may also be willing to cut through the subject property trying to gain access from the townhomes to Todds Road. The staff is in agreement with the applicant and has no problems with delaying the internal connection until the improvements to Todds Road and the completion of Polo Club Boulevard are finished.

Mr. Taylor then directed the Commission's attention to the list of revised conditions, and briefly explained that conditions #1 through #7 are standard sign-off conditions from the different utilities and divisions of the LFUCG, with the remainder being "cleanup" items:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Provided the Planning Commission makes a finding that the plan complies with the provisions of the EAMP.
9. Denote exaction amount and time of payment to the approval of the Division of Planning.
10. ~~Discuss Delete~~ Todds Road access note.
11. ~~Discuss Denote~~ timing of construction of access drive to adjoining townhouse area.

Mr. Taylor said that the applicant would need to denote the timing of the construction for the access drive to the adjoining townhouse area on the plan (condition #11), as well as delete the note that pertains to the Todds Road access (condition #10). He said that the note on the development plan was specifically for the convenience store/gas station; and should this property be redeveloped and a new access proposed, that note would be added back to the development plan. He then said that the applicant is proposing to utilize and widen the existing driveway to accommodate two-way traffic, as well as emergency vehicles.

Mr. Taylor said that the staff is recommending approval, subject to the revised conditions as previously outlined. He then said that this request also requires the Commission to make a finding that the plan does comply with the provisions of the EAMP (condition #8).

Planning Commission Questions – Mr. Owens asked if condition #10 should be modified rather than deleted in its entirety. Mr. Taylor replied that the note on the development plan is speaking to an access point that is not being shown on the development plan. He then said that if the note were to remain, it would be misleading since the Todds Road access cannot occur until the improvements to Todds Road are made and the completion of Polo Club Boulevard is done. If the subject property were to redevelop, there would be no question as to the access point being moved further from Polo Club Boulevard.

EAMP Compliance Report – Mr. Martin said that the Planning Commission must make a finding that the amended development plan does comply with the provisions of the Expansion Area Master Plan (condition #8). He directed the Commission's attention to the EAMP Compliance Report previously distributed, and briefly explained that the proposed plan must meet several major elements of the Expansion Area Master Plan.

Mr. Martin directed the Commission's attention to the rendering and explained that the area to the north is zoned EAR-2, with a TA overlay. He then said that the CC zone abuts the EAR-2/TA zone and extend towards Todds Road. The CC zone is approximately 3.93 acres in size, and the Community Center (CC) zoning does allow residential, office and commercial uses. These types of uses are intended to complement and serve the needs of the surrounding residential neighborhoods.

Mr. Martin said that the Planning Commission last approved an amended final development plan for this site in 2006 that allowed slight modifications to the residential townhouse area on the development. He then said that the applicant is not proposing any changes to the residential component of the CC zone; and although the proposed use is not what was originally approved for this area, the staff views their proposed use as an "interim" or "temporary" use until such time as all road construction is completed in this vicinity. He added that should there be a demand to redevelop this property into a higher intensity use, such as a convenience store/gas station, the request would come back to the Commission for their approval.

Mr. Martin then said that the EAMP Community Design Element does not call for any greenways, scenic overlays or rural roads in the area governed by this development plan. He noted that the townhouse neighborhood of the development is served by the local street system and is connected the single family neighborhood immediately to the north. He said that future redevelopment of the property would call for a reevaluation of the subject property and the access to the townhouse development in terms of compliance with the design element. He added that the access easement has been platted and, if needed, the subject property could utilize the access easement in the future.

Mr. Martin said that the infrastructure element is a major component of the EAMP and does consist of the storm water, sanitary sewers and the street systems. He then said that there are other elements of the infrastructure that address public service, parks, libraries and schools. This proposal does not impact the Infrastructure Element Plan. He said that the sanitary sewer trunk lines do exist toward the north and are accessed from this development by a pump station. He then said that the stormwater system is a regional system and there is a detention basin located to the north that is part of this regional system for the area. He added that the most important infrastructure element is the construction of Polo Club Boulevard. He said that the connection of Polo Club Boulevard to Todds Road is the responsibility of the Lexington-Fayette Urban County Government. He then said that there is no timeline as to when this connection will be completed; therefore, the connection is not applicable to the applicant's request.

Mr. Martin said that the staff believed that the final development plan for Newmarket, Phase 1, Unit 2-E and Richardson Property (AMD) is in substantial compliance with the Future Land Use, Community Design and Infrastructure elements of the Expansion Area Master Plan for the following reasons:

1. The proposed existing structure and office use is in compliance with the future land use element of the EAMP. It is possible that the use of the subject property will intensify once all roadway improvements are completed in this vicinity.
2. The proposed development does not alter the previously approved community design in any significant way, and the overall development is in substantial compliance with the Community Design element of the EAMP. Future redevelopment of this lot at a more intense use will provide the opportunity to insure greater compliance with Community Design element of the EAMP.
3. All infrastructure needed to serve this use is in place and the construction of Polo Club Boulevard is not applicable to the proposed development.

Planning Commission Question – Mr. Penn asked if the currently approved use is inconsistent with in the CC zone. Mr. Martin replied negatively. Mr. Penn then asked if this property were to redevelop into a gas station, if that use is permitted in the CC zone. Mr. Martin replied affirmatively. Mr. Penn asked if the staff anticipated a 1-acre zone change should this property be redeveloped. Mr. Martin replied that the staff is not anticipating a zone change.

Applicants Presentation – Donna Horn, president of Horn and Associates, was present. She explained the services that they provide to their patients, and said that this particular land was purchase to provide therapy services for children and young adults that have experienced brain injuries. She then said that most of the patients will be immobile and transported to and from the facility. She added that they are very excited to find a home that is appropriately zoned, which would allow the facility to provide their patients with a more independent way of living. She said that their hours of operation will be no earlier than 9 AM and no later than 5 PM, Monday through Friday. She then said that their facilities will be ADA compliant inside the house, as well as outside. She concluded by saying that they are in agreement with the staff's recommendations, and requested approval.

Morgan Dye, ALT32, was present along with Ms. Horn, and noted that this property does require the posting of a sign, the affidavit of which had been submitted to the staff. He said that they are in agreement with the staff's recommendations, and requested approval.

Audience Comments – Pastor Jim Aldridge, Crossroads Christian Church of Lexington, LLC, was present. He asked for clarification that this request is not a zone change. Mr. Owens replied that it is not and that it is a permitted use in the CC zone.

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

Elizabeth Booth, 1940 Deer Haven Lane, was present. She indicated that she has been involved with the EAMP since the beginning. She said that she knows the guidelines of the EAMP and requested that the Planning Commission uphold and enforce the guidelines that were set in place many years ago.

Ms. Booth said that the subject property is a very sensitive area and there are less than three areas zoned for a Community Center inside the EAMP area. It is the responsibility of the Planning Commission to make sure the EAMP guidelines are followed. She said that she is not opposed to this proposal, but she believed that the Commission should deny this request until the plan is cleaned up. She then said that the plan needs to be resubmitted with more details of the proposal, only showing the CC area, not the entire development.

Ms. Booth then said that another concern is traffic safety on Todds Road. She directed the Commission's attention to the general notes listed on the development plan and said that notes #3, #4 and #14 need to be further clarified. She said that all of the entrances on Todds Road were to be temporary until Polo Club Boulevard was completed. However, the timeline for the completion of Polo Club Boulevard is unknown, and adding another entrance on Todds Road would become a safety issue. She then said that she believes the applicant should use the rear access to the subject property, as it was proposed in the beginning.

Ms. Booth said that she had asked the staff for clarifications to what entrances would be used on Todds Road. She was told that the driveway on Todds Road would be widened and used as the main entrance into the property. She then said that the rear entrance was being shown on the development plan, but would not be enforced due to the cost. She added that the staff had mentioned vehicular traffic cutting through on the dirt path, and she visited the area and had seen indications of a dirt path. Ms. Booth directed the Commission's attention to the rendering, and said that the safest way would be to provide access at the rear near the townhouse development, removing the entrance on Todds Road. She then said that there is a note on the development plan that reads: "*Todds Road access to the convenience store/gas station shall not occur until Deer Haven Lane and the temporary access to Todds Road have been removed.*" She then said that this note declared this entrance unsafe in the beginning, and it is still unsafe.

Ms. Booth directed the Commission's attention to the following sections of Appendix 23A – Zoning Categories and Restrictions in the Zoning Ordinance.

23A-2(h) PEDESTRIAN ACCESSWAYS – All properties shall have access to a pedestrian accessway, and development plans shall provide for connections between residential uses, non-residential uses, greenways, and other pedestrian accessways. The development of any parcel of land, which abuts a land in a CC zone, shall provide a pedestrian accessway directly to the Community Center.

23A-2(k) ACCESSORY STRUCTURES PROHIBITED IN FRONT YARDS - Notwithstanding any other provision of this Article, no accessory structure may be located within any yard area directly between a principal structure and any street except an alley.

23A-9(a) INTENT - The intent of this zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and non-residential uses which serve the needs of the surrounding residential neighborhoods.

23A-9(k)(4) SPECIAL PROVISIONS – Parking areas shall be designed so as to minimize the placement of parking between the buildings and the adjoining streets.

23A-9(k)(5) SPECIAL PROVISIONS – Each development within a CC zone shall have access to a pedestrian accessway.

23A-9(k)(6) SPECIAL PROVISIONS – Each development shall provide suitable facilities for the parking of bicycles.

Ms. Booth said that the applicant is proposing to place the parking area between the house and Todds Road. This does not comply with Article 23A-9(k)(4) of the Zoning Ordinance. She then said that she had asked the staff why they were allowing the parking in this area, and the staff had indicated it would be too costly to have it at the rear. Furthermore, the staff had told her that if she wanted the parking to be enforced, she would need to address the Commission with her concerns. Ms. Booth then said that this proposal does not have sidewalks or pedestrian access and does not comply with Article 23A-9(5) of the Zoning Ordinance. She added that the staff had told her that sidewalks and pedestrian access are not needed. She disagrees because this is zoned for a Community Center. Ms. Booth said that Article 23A-9(k)(6) of the Zoning Ordinance is addressed on the development plan through notes, but it is unclear where these locations are being proposed. She added that the dumpster for this proposal is being placed between the house and Todds Road. She said that Todds Road is not an alley; therefore, this proposal violates Article 23A-2(k) of the Zoning Ordinance.

Ms. Booth said that this parcel is very sensitive since it is zoned CC and is located within the Expansion Area Master Plan. She then said that she is not against the proposal, because it is an allowed use for this area. It should be done properly. She added that she understands that these items are expensive, but that is part of doing business. She noted the applicant is the one who decided where to locate her business, and she must have known that there were certain guidelines to be followed since she indicated that there were only a few houses that could provide this service.

Ms. Booth said that there has been thousands of dollars from tax payers spent on the development of the EAMP, and she requested that the Commission deny this proposal because it is in violation of several restrictions. She then said that the applicant can resubmit a proposal that complies with those restrictions.

David Booth, 1940 Deer Haven Lane, was present, and he said that he was concerned with the staff's testimony regarding this proposal being a temporary use, and the possibility of future development on this parcel. He then said that there was a master plan created that designed the Expansion Area, and there are only three areas that are zoned for a Community Center. He added that this parcel has been proposed as a Community Center since 1995 and he has been attending meetings for several years in an effort to make sure the Expansion Area is done correctly.

Mr. Booth explained how the EAMP was created and its history since 1995, and said that in the past there were discussions concerning the traffic safety on Todds Road, as well as a note being placed on the plan stating that the temporary access road would be removed when Polo Club Boulevard was built. There is a note on the plan indicating that no building shall be built until the boulevard is completed. He said that in 2000 the plan had shown the access easement for the boulevard being purchased, and the exaction fees collected were to pay for the connection to Todds Road. He then said that since 1995, the temporary access has been in place due to Polo Club Boulevard not being complete. With Polo Club Boulevard not connecting to Todds Road, this forces traffic to travel through the townhouse development and exit onto Todds Road. The access onto Todds Road has been paved three times, as well as speed bumps put in place. He added that through the years the notes transferred over to the new development plan. Mr. Booth said that his concern is forcing the traffic from Polo Club Boulevard onto Deer Haven Lane. He then said that there are three temporary entrances in to developments located on Todds Road because what was proposed for 17 years is not being done. The traffic circulation in this and surrounding areas is unsafe for pedestrian activity. He said that the subject property needs to use the rear connection to Polo Club Boulevard, and Polo Club Boulevard needs to be completed. He believes that the development in this area needs to be stopped until the connection is made to Todds Road. He noted that the exaction fees were collected from the developers to build the connection, adding that the developer of the townhouses had agreed to build the connection; but the City denied his proposal due to issues in obtaining the right-of-way. Now the exaction fees have been collected and the City owns the right-of-way; therefore, he believes that the Commission should not allow any further development until that connection is done.

Mr. Booth said that the applicant's proposal does not meet P-1 parking requirements. He then said that there is a residential garage on site, and the two spaces inside that garage are being counted toward the public access parking requirement. He added that he is not objecting to the proposal, but he believes adding another entrance on Todds Road is a safety hazard.

Staff Rebuttal – Mr. Taylor said that the change in use is allowed in the CC zone; and had there been six additional parking spaces proposed on this property, the applicant would not need to amend the development plan, but they would only need a Zoning Compliance Permit to open their doors. He then said that the applicant is proposing to add six parking spaces in order to comply with the square footage requirement.

Mr. Taylor then said that, with regard to the discussions concerning the cost, the staff can only request what is needed; and for this proposal, there is nothing new needed or being constructed on this property. He then said that there is no new development being added or major construction taken place; it is simply a change in the use. He added that the cost nexus is a factor in the staff's ability to ask for major improvements on a property.

Mr. Taylor said that, with regards to pedestrian facilities being added to these roadways, those will need to come from the State and local governments, and not from the applicant. He then said that the pedestrian connections are proposed for both Polo Club Boulevard and Todds Road; but without the street improvements completed, those connections are not practical or possible at this time.

Planning Commission Questions – Mr. Penn clarified that the dumpster pad involves new construction. Mr. Taylor replied affirmatively, and said that when a request is submitted, the applicant's request is presented to the full Technical Committee, at which time the applicant is informed of what needs to be done to meet the requirements. He then said that for this request, the Division of Traffic Engineering, the staff and the applicant had discussed the widening of the driveway to allow two-way traffic to independently enter and exit the subject property on Todds Road.

Mr. Penn then said that to meet the requirements for the CC zone, the dumpster pad should be behind the house. Mr. Taylor said that dumpsters are not accessory structures. Therefore, it would not apply; but it would require landscaping/screening per the Ordinance.

Mr. Brewer said that the City has postponed the connection of Polo Club Boulevard, which should have been done years ago. He then said that the Commission is not doing the City a service by exacerbating the problem. Given today's testimony, Mr. Brewer asked the staff and Traffic Engineering to make comments on this issue. Mr. Taylor said that the applicant is proposing to utilize the existing property, and the only change being made, other than new parking, is the type of use on the property. He then said that the staff has no control over the timing of Polo Club Boulevard or the widening of Todds Road. He added that there is not another access to this property other than Todds Road, which limits the options for this site.

Jeff Neal, Traffic Engineering, said that the connection of Polo Club Boulevard would fix the problem; but at this time, that connection has not been funded. He then said that, with the original proposal for the gas station, there were several concerns about the increase in traffic, which is what led to the current notes on the development plan. As for this proposal, it would generate light traffic with most of the people being transported by a bus. He said that the proposed use can be compared to the same amount of traffic that a large residential house would generate.

Mr. Brewer asked if the multiple accesses on Todds Road were considered. Mr. Neal said that it is unknown when the roadway projects would be started, and to make improvements to this area would be ineffective. Mr. Brewer said that, based on City's revenue situation, it would be highly unlikely that the connection would be done anytime soon. He asked if staff would agree. Mr. Neal concurred. Mr. Brewer added that this is a real concern for him to move forward with a project when the collector street connection is not being made.

Ms. Beatty asked if the staff had physically visited the site, given the testimony of the Booths. Mr. Taylor said that the staff did not visit the site, but they had reviewed the aerial photograph, which shows the dirt path made by vehicles.

Ms. Blanton clarified that this is an existing structure with an existing driveway on Todds Road. Mr. Taylor replied affirmatively. Ms. Blanton then said that there are valid concerns regarding this area; and since this site is not being fully redeveloped, those concerns are beyond the Planning Commission's scope when looking at the bigger picture.

Mr. Taylor said that the Law Department would be able to better define what the Commission's parameters would be on this request. Mr. Saltee said that the staff always reviews developments for these types of issues. He then said that for instance, to expect the applicant to now complete the construction of Polo Club Boulevard would be way out of scale with the improvements they are proposing on their site. He added that the Highway Department is planning to make improvements to Todds Road. He said that improvements are often discussed in conjunction with the knowledge of other developments in the area. He said that this type of situation results brings up the question as to how a situation can be improved, not knowing how temporary the improvements may be.

Ms. Boland concurred with Mr. Saltee, and said that even with landscaping requirements nothing is triggered unless there is at least 25% improvement or redevelopment of a structure. She then said that the Planning Commission can not place demands on a property owner that far exceeds the work that is being done to their own property. She further explained that there is case law documenting developers who have sued the City, citing that what they were being asked to do is out of balance with their property since it would not cause an impact on the existing infrastructure. She then said that the only road frontage that this property has with access is along Todds Road, so there is no way the Planning Commission can require additional access under the current circumstances. She added that the Commission would need to take the land if they wanted the road to be completed before the area is built. She said that with this proposal, the staff has compromised with the applicant to improve the situation as much as possible; and at the time this property is redeveloped to a higher intensity, those issues can be readdressed.

Citizen Rebuttal – Mr. Booth said that it had been mentioned that there is no other access to the site, but the development plan does show the additional access. He then said that removing the note from the plan regarding the temporary access is a concern.

Planning Commission Questions – Ms. Blanton clarified that the issue is the current access and what the Commission can and can not impose on the property owner, since there are no major changes being made. She noted that Todds Road has the only access point for this property at this time.

Staff Rebuttal - Mr. Taylor clarified that the note on the development plan does not relate to the closure of the temporary access into the townhouse development, but it refers to an access point that is no longer being proposed for the subject property.

Applicant's Rebuttal – Ms. Horn said that she wants to be a good neighbor and they will do everything they can to be a good neighbor. She then said that the traffic would be less than a family with three teenagers, and that most of her clients would be transported through the Wheels program in the morning and afternoon, and there is virtually no other traffic for the remainder of the day. She added that they are continuing to clean up the property from trash that people have left from partying on the property. She wants to provide a safe area for the area, as well as her clients.

Mr. Dye said that they have presented their proposal to all concerned Committees and requested that the Planning Commission recommend approval, as well.

Planning Commission Questions – Mr. Wilson asked why the second access was not available. Mr. Taylor said that the primary reason was due to cut-through traffic posing a safety concern. Mr. Wilson then asked if that would be the case even if the access were temporary. Mr. Taylor said that the proposed access to Polo Club Boulevard would be made permanent at some point in the future. Mr. Wilson asked why the access to Polo Club Boulevard could not be constructed at this time. Mr. Taylor said that that is possible; but as the applicant had stated, and both the staff and Traffic Engineering are in agreement, there are safety concerns with that cut-through traffic movement.

Ms. Copeland commented that traffic could not cut-through the property if the original drive way on Todds Road were closed. Mr. Taylor said that that is correct and that decision would be up to the Commission. Ms. Copeland said that this would place the parking in the rear as well as the dumpster. Mr. Taylor said that the staff was concerned, for this property, what would be the appropriate amount of improvements, given the level of construction, or the lack thereof, on this property. He then said that the staff, Traffic Engineering and the applicant are trying to balance with regard to an existing site. Ms. Copeland then said that that issue must be weighed with regard to starting a precedent in the CC zone.

Mr. Penn asked for an explanation about the exaction fees funding Polo Club Boulevard. Mr. King said that, at one time, there were discussions on the location of the boulevard; and during those discussions, the City was trying to negotiate a deal between the developer and the church with regard to the road location & the exactions. He then said that over a series of intense meetings, the developer had agreed to construct the boulevard. Unfortunately, the church had gone under, and there was no one else around who could give the developer the authority to enter the church property. He added that the Clark Property developer was very interested in creating a good entrance into their development and offered a 50/50 split if the City were to help complete the boulevard. This offer was taken to Council, and they did not accept the offer. Mr. King said that on a different occasion, there was a piece of right-of-way that the City tried to purchase, but that property owner would not sell until a later time. He then said that the right-of-way is there, but the cost to complete the boulevard has escalated since the original estimate. He noted that the boulevard from Todds Road to Winchester Road is in one large exaction pool; however, at this time, there are no funds to complete the remaining section. Most of the Clark Property, as well as other property across Man O' War Boulevard, have not developed. He said that to complete the last piece of this street system, the funds would have to come from the Lexington-Fayette Urban County Government.

Mr. Cravens said that it is unreasonable to ask the applicant to make that road connection, and he believed that the street on the subject property is a private one. He then said that he would not want the traffic forced onto his property and it would be better to have the traffic come out on Todds Road. He added that this is an existing house and the applicant is only adding a few two parking spaces and cleaning up the property.

Action - A motion was made by Mr. Cravens, seconded by Ms. Blanton, to approve DP 2012-37: NEWMARKET PROPERTY, PH 1, UNIT 2-E & RICHARDSON PROPERTY (AMD), subject to the revised conditions, as presented by the staff, as well as make a finding that the plan complies with the provisions of the EAMP, for the reasons provided by the staff.

Discussion of Motion - Mr. Brewer said that this is a classic case of "damned if you do and damned if you don't." He then said that the Planning Commission's hands are tied with regard to what they can do, but he feels that something needs to be done. He added that this is a bad situation that the Commission should not exacerbate. Mr. Brewer agreed that the Commission can not place this burden on the applicant, but this is pushing a problem that will not be fixed by the Council in the near future. He asked if the motion could be amended to place the responsibility back on the Council, having them agree to what they had planned to do in the beginning. He said that he is not comfortable in supporting this continuing problem, however, fully recognizing that the burden can not be placed on the applicant.

Mr. Penn agreed with Mr. Brewer's comments, and said that it is hard for the Commission to understand the concept of the exactions program. He then said that even though the Commission does not agree with what has transpired through the years, the applicant is proposing a permitted use that is not intensive. He indicated that he would support this request, but he does not agree with the process or the fact that this use would be temporary.

Ms. Copeland asked if a note could be added to the development plan to reflect that, if a more intense development were to be proposed, it would trigger the connection of Polo Club Boulevard to Todds Road. Mr. Owens said that the minutes of today's meeting would reflect those concerns.

Mr. Brewer agreed with adding a note to the development plan, and said that the previous statement from Mr. King explained why the exaction fees are not being done, but it does not make it right. He then said that if the Commission can help move this connection along, they should do it. He added that the Commission members in 15 years will not read the minutes, and something needs to be documented on the development plan that will notify the staff. Mr. King said that the Planning Commission minutes are very detailed and the conversation on this

discussion item will be well documented. He then said that if the Commission wishes, the staff can draft a letter to the Council to communicate the Commission's concerns, urging them to construct the remaining section of the infrastructure, as it has been proposed for many years.

Mr. Brewer said that he liked the idea of the letter, but would still be comfortable with adding a note to the development plan. In response, Ms. Boland said that as this property redevelops, it will need to meet all the standards for the infrastructure and access points commensurate with the proposed redevelopment. She then said that her concern with adding a note to the development plan, while the future use is unknown, the Commission can not foresee the demand or intensity of what a future redevelopment would produce. She added that the plan does acknowledge the future extension of Polo Club Boulevard, and it was clearly noted that if a gas station were to develop on this site, other access points and vehicular traffic patterns were documented. Ms. Boland said that another concern is setting a precedent for the next developer, and that for the minimal intensity of the proposed use and the development taking place, this is adequately compliant with the requirements. She added that everyone is very well aware that the Commission can not, in any way, authorize an intense development on this piece of land with the infrastructure as it is today. She said that if a gas station were being proposed without the connection of Polo Club Boulevard and Todds Road, the staff would have recommended disapproval. She then said that the infrastructure is not in place, and the property is not ready for an intense use. What the applicant is proposing is a good compromise to allow a property owner to get a reasonable use out of the land without creating an extremely unsafe situation prior to the infrastructure being completed that would support higher intensity. She said that the Commission can not anticipate the future land use of this property, and placing a note on the development plan would cause a problem.

Mr. Sallee said that the staff had drafted a note that could be applied to the development plan.

"Note: Redevelopment of the CC area will be evaluated by the Planning Commission in terms of temporary and permanent access, and the timing of road construction in this area (Review PC minutes of June 14, 2012)."

Mr. Brewer said that he agreed with the note, and asked if Ms. Boland was agreeable. Ms. Boland said that the note would be appropriate.

Mr. Brewer asked if the motion on the floor could be amended to include the note provided by the staff. Mr. Cravens agreed.

Mr. Wilson said that he agreed with the added note, but asked if the language could be changed to read that the connection of Polo Club Boulevard and Todds Road will be done before any future development occurs. Mr. Cravens said that that request is not appropriate. Ms. Blanton said that the Commission can not compel the City to spend money on Polo Club Boulevard. She then said that if the City does not make that connection, then the property owner is stuck with an unusable piece of land; so that type of request is not under the Commission's purview.

Mr. Cravens said that there has been a lot of discussion concerning this property being redeveloped, but the applicant just purchased the land and has no intention to redevelop the land. He then said that there are other areas on Polo Club Boulevard that are in more need of improvement.

Amendment to Motion - Mr. Wilson asked, as parliamentarian, if Mr. Cravens and Ms. Blanton would like to amend the motion on the floor to include the note being added. Mr. Cravens said that the Commission is trying to make a development plan do too much, but he would accept an amendment to the motion. Ms. Blanton agreed, as well.

Amended Action – The amended motion carried 9-0 (Berkley and Roche-Phillips absent).

Commission Comments - Mr. Penn said that he would like the staff to follow up with the letter to the Council concerning this situation, the exaction fees, and the connection of Polo Club Boulevard and Todds Road. He then said that the Commission needs to encourage the Council to solve this dilemma.

Action - A motion was made by Mr. Penn and seconded by Mr. Wilson to draft a letter to the Lexington-Fayette Urban County Council concerning the connection of Polo Club Boulevard and Todds Road.

Discussion - Mr. King said that was an appropriate request and the staff would draft a letter to the Council, which the Commission could review at their next work session.

Ms. Beatty said that this type of discussion is very necessary for the Planning Commission to have; and as members of this Commission, they are placed in a very awkward position when making a decision, whether it is right or wrong. She then said that the letter is an appropriate way for the Planning Commission to be heard. She added that having to vote on this request was very uncomfortable for her with regard to what was right in the long term and planning for the area.

Mr. Wilson agreed with Ms. Beatty.

Mr. Brewer extended his appreciation to the staff & legal council, and particularly to the Booth family and their knowledge of the area history and voicing the problems and concerns.

Ms. Copeland asked, when the letter to the Council is written, if the staff could quantify the smallest area of Polo Club Boulevard that needs to be improved. Mr. King said that the only portions remaining are the connection of Deer Haven Lane, Polo Club Boulevard and Todds Road.

The motion carried 8-1 (Cravens opposed; Berkley and Roche-Phillips absent).

Note: A recess was declared by the Chair at 3:24 p.m. and the meeting re-convened at 3:29 p.m.

- c. DP 2012-39: DEERFIELD SHOPPING CENTER (OLLIE'S TROLLEY) (AMD) (8/5/12)* - located at 205 Southland Drive. (Council District 3) **(Vision Engineering)**

Note: The purpose of this amendment is to add buildable area for an auto parts store and revise parking.

The Subdivision Committee Recommended: Postponement. The proposed use falls outside of what the B-3 zone allows.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. 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. Addition of Southland Drive cross-sections.
10. Denote height of building.
11. Addition of floodplain information.
12. Denote: No building permit shall be issued unless a variance is granted by the Floodplain Appeals Committee in compliance with Article 19 of the Zoning Ordinance or a Letter of Map Revision is approved by FEMA.
13. Clarify site statistics for B-1 uses, bank and B-3 use.
14. Resolve pedestrian facilities internal to the site and the right-of-way.

Staff Presentation – Mr. Martin presented the amended final development plan for the Deerfield Shopping Center (Ollie's Trolley). This property is located at 205 Southland Drive, which is south of Rosemont Garden and north west of its intersection with Nicholasville Road. He said that the purpose of this amendment is to add 6,400 sq. ft. of buildable area for an auto parts store and to revise the parking.

Mr. Martin directed the Commission's attention to the rendering and oriented them to the surrounding uses. He said that the proposed building would be located on Southland Drive at the front of Collins Bowling Lanes property. He noted that there is a bank located at the corner of the subject property along Southland Drive, and the proposed building would be located east of the bank. He said that there is existing access into the property, as well as 247 parking spaces being provided. He noted that with this amendment there would still be a surplus of parking spaces on site.

Mr. Martin said that the Subdivision Committee had recommended postponement of the applicant's plan at their last Committee meeting. That postponement request came about from the staffs' review and their initial concerns over the split zoning (B-3 and B-1 zones) and the proposed use in the B-1 zone. After further discussion with the applicant and consultation with the Division of Building Inspection, the staff is now confident that the proposed use is consistent with past interpretation and enforcement of the Zoning Ordinance.

Mr. Martin directed the Commission's attention to the list of revised conditions, and briefly explained that conditions #1 through #8 are standard sign-off conditions from the different utilities and divisions of the LFUCG, and remain as originally drafted.

Mr. Martin further explained that the revised conditions #9 through #14 are "cleanup" items:

9. Addition of ~~Southland Drive cross sections~~ building dimensions and information from current development plan.
10. Denote height of building in feet.
11. ~~Addition of floodplain information.~~

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

- ~~12. Denote: No building permit shall be issued unless a variance is granted by the Floodplain Appeals Committee in compliance with Article 19 of the Zoning Ordinance or a Letter of Map Revision is approved by FEMA.~~
- 11.43. Clarify site statistics for B-1 uses, bank and B-3 use.
- ~~12.14. Resolve pedestrian facilities internal to the site and the right-of-way~~ Addition of information from DP 2001-107 for 215 Southland Drive.
13. Revise note #2 under Prohibited Uses to delete "or supplies for such items."
14. Delete note #3 under Prohibited Uses "minor automobile and truck repair."

Mr. Martin added that a large portion of the Southland Drive area, including this property is within a regulatory FEMA floodplain and floodway area. As such, a Special Use Permit and approval from FEMA is required before any construction can begin. He then said that it is the staff's understanding that the applicant had submitted a CLOMR to FEMA and they are awaiting approval at this time. He added that the deleted condition #12 had been addressed; and the applicant had added a note on the development plan to reflect that no building permits will be issued unless the Floodplain Appeals Committee grants a variance, or a Conditional Letter of Map Revision is approved by FEMA.

Mr. Martin said that, in 1985, when B-3 zoning was approved in this area, conditional zoning restrictions did not exist; therefore, development notes were placed on the plan as restrictions. He then said that conditions #13 and #14 relate to the Prohibited Uses for this property:

2. Establishments and lots for the display, rental, sale, service and minor repair of farm equipment; contractor equipment automobiles; motorcycles; trucks, boats; travel trailers; mobile homes or supplies for such items.
3. Minor automobile and truck repair.

Mr. Martin said that the staff was concerned that the restrictions stating "or supplies for such items" may prevent the sale of automobile parts, and recommended that this section be deleted from the Prohibited Uses. He added that #3, which reads: "Minor automobile and truck repair" should also be deleted, so that the store's staff could replace batteries, wiper blades and the like.

Mr. Martin said that the staff is recommending approval of the applicant's request, subject to the revised conditions, as previously presented.

Planning Commission Questions – Ms. Copeland asked if the staff is recommending conditions #11 (addition of floodplain information) and #12 (Denote: No building permit shall be issued unless a variance is granted by the Floodplain Appeals Committee in compliance with Article 19 of the Zoning Ordinance, or a Letter of Map Revision is approved by FEMA) be deleted because the applicant had added this information to the revised submittal. Mr. Martin replied affirmatively.

Representation – Richard Murphy, attorney, was present representing the Collins family. He indicated that Chas Hite, Urban Planner, and Matt Carter, Vision Engineering, were also present. He said that he appreciated the Planning Staff and the Division of Building Inspection meeting with his clients to address the split-zoning concerns. He then said that they are aware of the floodplain situation in this area, and it's his understanding that they are seeking a LOMR and not a CLOMR. He added that they had added the note to the development plan to reflect condition #12 that was recommended for deletion by the staff. He said that, by changing the prohibited use notes on the development plan, this would allow the automobile store to function similar to the other automobile stores in the community.

Mr. Murphy said that his clients are in agreement with the staff's recommendations, and requested approval.

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

Planning Commission Question – Ms. Plumlee asked for clarification to the letter from FEMA. Mr. Murphy said that the property is within a FEMA regulatory floodplain area, and a LOMR is required before any construction can begin. He then said that his clients have submitted a LOMR to FEMA and are awaiting their approval. He added that the Division of Engineering would also need to approve the proposed development.

Ms. Copeland said that she supports this type of development for the Southland Drive area.

Action - A motion was made by Ms. Copeland, seconded by Mr. Brewer and carried 9-0 (Berkley and Roche-Phillips absent) to approve DP 2012-39: DEERFIELD SHOPPING CENTER (OLLIE'S TROLLEY) (AMD), subject to the revised conditions, as presented 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 Ms. Blanton, seconded by Mr. Wilson, and carried 9-0 (Berkley and Roche-Phillips absent) to approve the release and call of bonds as detailed in the memorandum dated June 14, 2012, from Ron St. Clair, Division of Engineering.

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

1. PLAN 2012-48C: LEXINGTONIAN ESTATES (SIGNATURE ESTATES), SEC. 1, LOT 15 & SEC. 2, LOT 14 - located at 1561 Winners Circle. (EA Partners)

Note: The staff is referring this minor plan to the Commission due to the designation of a Homeowners' Association lot.

The Subdivision Committee Recommended: **Approval**, with no conditions.

Staff Presentation – Mr. Martin presented the amended final development plan for the Lexingtonian Estates (Signature Estate) Section 1, Lot 12 & Section 2, Lot 14. This property is located at 1561 Winners Circle. He noted that this is a minor amendment that was submitted to staff in order to consolidate a part of one lot to the adjoining lot. He directed the Commission's attention to the rendering and oriented them to the layout of the property and the nearby street system. He said that the Lexingtonian Estates is located just south of Versailles Road and is zone R-1B. He then said that this neighborhood is a gated community with a circular drive throughout the property. He noted that there is an historic house situated in the center of the neighborhood. He added that Calumet Farm is across Versailles Road, and a city park is close to Parkers Mill Road just south of the Lexingtonian Estates neighborhood.

Mr. Martin said that the Planning Commission previously approved a request that created a series of R-1B lots on the property. Since that time, there had been one consolidation plat submitted to the staff that adjusted the lot lines. He then said that the applicant is now asking to consolidate a part of one lot to the adjoining lot, creating one larger lot and leaving a smaller remnant to be designated as a homeowner's association lot. The homeowner's association lot will be non-buildable due to it not being in compliance with the R-1B standards. He noted that the Planning Commission has approved the creation of several other non-buildable lots in the subdivision.

Mr. Martin said that the staff is referring this request to the Commission in order to have the homeowner's association lot designated as a non-buildable lot.

Planning Commission Question - Mr. Owens asked if this type of request had occurred in the past. Mr. Martin replied negatively, and said that non-buildable lots are designated on Final Record Plats approved by the planning Commission, and not on a minor amended plan.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that the applicant is in agreement with the staff recommendation and requested approval.

Planning Commission Question - Mr. Owens asked the reasons for this request. Mr. Kahly explained that, in the beginning, there were 13 buildable lots on the property; then the land was purchased by one entity. He said that his client had consolidated some of the lots resulting in fewer neighbors around him. He then said that the two lots in question now have the house, the pool, and an open area. His client wants to consolidate the lot with the pool and the lot with the house, leaving the smaller remnant lot. He said that his client does not want any neighbors behind him in the future. Mr. Owens asked why his client didn't just take the rest of the lot. Mr. Kahly responded that he did not know the answer to that question.

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 Ms. Blanton, seconded by Mr. Brewer and carried 8-1 (Owens opposed; Berkley and Roche-Phillips absent) to approve PLAN 2012-48C: LEXINGTONIAN ESTATES (SIGNATURE ESTATES), SEC. 1, LOT 15 & SEC. 2, LOT 14, as presented by the staff.

V. ZONING ITEMS - The Zoning Committee met on Thursday, June 7, 2012, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, Carla Blanton, Lynn Roche-Phillips, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS

1. **ZOTA 2012-7: AMEND THE NOTIFICATION REQUIREMENTS FOR CONDITIONAL USE PERMIT APPLICATIONS (6/18/12)*** – petition for a Zoning Ordinance text amendment to modify the notification requirements for Conditional Use Permit applications to the Board of Adjustment by increasing the notification area to a distance of 800 feet from the subject property, and requiring notice to the nearest neighborhood association or homeowner's association, regardless of distance.

INITIATED BY: Urban County Council

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

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

7-5 NOTICE - The Board shall fix a reasonable time for hearing an action or appeal and shall give public notice in accordance with KRS Chapter 424, as well as written notice as set forth more fully herein. Any person may appear at the hearing personally or by attorney. All applications shall be decided by the Board within sixty (60) days from the date of the application, unless postponement is granted pursuant to the Board's bylaws.

When an application is made for a variance, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to the owner of every parcel of property within two hundred (200) feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 200-foot radius of the subject property, but to the next two properties beyond those included in the 200-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property.

When an application is made for a conditional use permit, administrative review, non-conforming use or structure appeal, or any other appeal, written notice shall be given at least twenty-one (21) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to owners of parcels of property within eight hundred (800) ~~four hundred (400)~~ feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within an 800-foot ~~400-foot~~ radius of the subject property, but to the next two properties beyond those included in the 800-foot ~~400-foot~~ radius; but in no event shall notice be required for property more than one (1) mile from the subject property. In addition, notification shall also be given by first class mail to the neighborhood or homeowner's association which is nearest to the subject property, regardless of distance. Such association must be duly registered with the government through its Division of GIS.

All written notice shall be by first-class mail, with certification by the Board's Secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the Board the name and address of an owner of each parcel of property as described in this section and of the nearest neighborhood or homeowner's association. Records maintained by the Property Valuation Administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners.

STAFF ALTERNATIVE TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

7-5 NOTICE - The Board shall fix a reasonable time for hearing an action or appeal and shall give public notice in accordance with KRS Chapter 424, as well as written notice as set forth more fully herein. Any person may appear at the hearing personally or by attorney. All applications shall be decided by the Board within sixty (60) days from the date of the application, unless postponement is granted pursuant to the Board's bylaws.

When an application is made for a variance, written notice shall be given at least fourteen (14) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to the owner of every parcel of property within two hundred (200) feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 200-foot radius of the subject property, but to the next two properties beyond those included in the 200-foot radius; but in no event shall notice be required for property more than twenty-four hundred (2,400) feet from the subject property.

When an application is made for a conditional use permit, administrative review, non-conforming use or structure appeal, or any other appeal, written notice shall be given at least twenty-one (21) days in advance of the public hearing on the application to the applicant, Division of Building Inspection, and to owners of parcels of property within five hundred (500) ~~four hundred (400)~~ feet of the property to which the application applies. In the event that the subject property adjoins land which is zoned Agricultural Urban (A-U), Agricultural Rural (A-R), Agricultural Natural Areas (A-N), or Agricultural Buffer (A-B), notification shall be given by first-class mail to not only those properties within a 500-foot ~~400-foot~~ radius of the subject property, but to the next two properties beyond those included in the 500-foot ~~400-foot~~ radius; but in no event shall

notice be required for property more than one (1) mile from the subject property. Notification shall also be given by first-class mail to any neighborhood or homeowner's association within the 500-foot radius of the subject property. Such association must be duly registered with the government through the Division of Planning and the Office of Geographic Information Systems (GIS). In addition, for any conditional use permit, notice of the public hearing shall be posted on the subject property for fourteen (14) consecutive days prior to the hearing.

All written notice shall be by first-class mail, with certification by the Board's Secretary or other officer that the notice was mailed. It shall be the duty of the applicant to furnish to the Board the name and address of an owner of each parcel of property as described in this section and of any neighborhood or homeowner's association located within the required notice area. Records maintained by the Property Valuation Administrator may be relied upon to determine the identity and address of said owner. In the event such property is in condominium or cooperative forms of ownership, then the person notified by mail shall be the president or chairperson of the owner group that administers property commonly owned by the condominium or cooperative owners.

The Zoning Committee Recommended: **Approval of the Staff Alternative Text.**

The Staff Recommends: **Approval of the Staff Alternative Text,** for the following reasons:

1. The staff alternative text amendment is supported by Goal #1 of the 2007 Comprehensive Plan, which endorses providing planning processes which enable widespread citizen participation and benefit the community.
2. The text amendment would increase the notice to nearby property owners, require notice to neighborhood or homeowner's associations within the required notice area, and would require a sign to be posted on the subject property associated with a conditional use application well in advance of the Board of Adjustment's public hearings.

Staff Presentation - Ms. Wade directed the Commission's attention to the staff's packet of information, and noted that the packet contains the staff report, the Kentucky Revised Statutes 100.237 (conditional use permits) and the staff's case study that illustrates the mailings required by a notification distance of 400' and the staff's proposed notification distance (500'), and the Council proposal (800').

Ms. Wade said that the Lexington-Fayette Urban County Council initiated the text amendment to Article 7-5 of the Zoning Ordinance in order to increase the notification area for Board of Adjustment conditional use permits and administrative appeals, as well as to notify the nearest neighborhood or homeowner's association. She then said that KRS 100.237, subsection 6, requires mail notification to be sent to the property owners that are adjoining the subject property. However, the Zoning Ordinance requires notification to be sent to the property owners located within a 400-foot radius from the property, for which the conditional use permit is required. Ms. Wade then said that, once a text amendment has been initiated, the Planning Commission has 60 days to review the proposed amendment and make their recommendation to Council. She noted that the Council had initiated this text amendment in April, 2012, and the Commission's deadline is June 18, 2012.

Ms. Wade stated that the proposed text amendment is to expand the written notification area from 400' to 800', and to provide a written notification to the neighborhood or homeowner's association regardless of the distance, as well as to notify only the associations that are "duly registered" with the LFUCG through the Geographic Information System (GIS).

Ms. Wade said that the Division of Planning has established a neighborhood association database for Lexington. The purpose of this database is to notify the neighborhood associations that are near the areas subject to a zone change, text amendment, conditional use and variance applications, as well as to provide notification for the Comprehensive Plan updates. Along with the Division of Planning, other government divisions use this database for notification purposes regarding surrounding activities. She added that this database is available online for public use. Ms. Wade said the neighborhood association database has approximately 250 registered neighborhood associations, and at least 10 percent of these registered associations have not established a boundary for their neighborhood. She noted that, in looking at the neighborhood association map, some neighborhood associations overlap each other; but in some places there are gaps between the neighborhood associations. Ms. Wade noted that, as for the homeowner associations, these areas have not yet been established with their neighborhood association and are not included in the LFUCG database to receive notification. She said that the county-wide organizations that are notified include the Fayette Alliance and the Fayette County Neighborhood Council. Ms. Wade indicated that, in the past, some neighborhood associations were formed to oppose a particular zone change or conditional use permit; then once that case has been considered, the association(s) became inactive.

Ms. Wade said that since the 1970s, as a courtesy, the Lexington-Fayette Urban County Government provides neighborhood association's notice of pending requests, as well as providing property owners notice of conditional use permits and zone changes within a 400-foot radius. She then said that in the 1980s, that notice requirement was specifically added to the Zoning Ordinance and has remained unchanged.

Ms. Wade then said that the staff is supportive of expanding the notice area; however, there were several concerns associated with the text amendment as proposed. First, there were concerns with increasing the cost of the mailed

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

notification with the increase of property owners. She said that the cost of the mailing is the applicant's responsibility; and in many of these cases, the applicant is an average resident of Lexington. Most of these types of applications submitted are for day care facilities or in-home businesses, and increasing the mailing costs would pose a hardship on some of these applicants. Ms. Wade said that a second concern is that the Zoning Ordinance currently treats the notification for a zone change and a conditional use application equally, and the proposed text amendment would give greater importance to conditional use applications, which is not what the staff wants to convey to neighborhoods and to future applicants. The next concern of the staff is establishing what is the nearest neighborhood or homeowner's association. She said that this can be a subjective assessment, since requested zone changes may have multiple neighborhood associations near the property in question. She then said that only requiring notice to one neighborhood association that is closest to the request could create a situation where errors could occur, adding that the Planning Staff does their best in providing notification to the appropriate neighborhood association with regard to zone changes. Lastly, the staff has a concern with the formation of the neighborhood associations and the inconsistencies with their boundaries. The Division of Planning maintains the database to provide information to the community as a whole, but the mapping and database is not a perfect system, which is a requirement of "legal" notice.

Ms. Wade directed the Commission's attention to the staff exhibit, and explained that when the staff reviewed the conditional use applications submitted in 2011 and applied the Council's proposal of an 800 foot radius, it resulted in a 172 percent increase in the mailing cost borne by the applicant due to the additional number of properties being notified. For example, case C-2011-1 had required 7 properties to be notified with the current 400-foot radius. This cost the applicant \$3.29 in first-class postage. When applying the Council proposal of the 800-foot radius, the number of properties increased to 10, costing the applicant \$4.70 in postage handling. Another example was case C-2011-11, which had required 77 properties to be notified with the current 400-foot radius. This cost the applicant \$36.19 in postage handling. When applying the Council's proposal of an 800-foot notification radius, the properties increased to 236, which would have cost the applicant to pay \$110.92 in postage handling.

Ms. Wade said that the staff is suggesting the notification area to be increased to 500 feet, rather than 800 feet. She noted that the increase to 500 feet would be reasonable and would not be unbearable to the applicant and the cost of postage. She then said that when applying the staff's proposal for the 500-foot notification radius, there would be an increase of 32 percent in the cost and the number of properties being notified.

Ms. Wade said that the staff was also concerned with the notification applying to only associations that are "duly registered" with the LFUCG through GIS. She then said that the neighborhood associations would need to be registered with the Division of Planning as well as GIS. The staff is recommending that the notification area to increased from 400' to 500'; notify any "duly registered" neighborhood or homeowner's association within 500' of the subject property; and post a notice sign on the property at least 14 days prior to the public hearing for a conditional use permit. She noted that the sign posting is more visible to the community and it will be an efficient method to notify the nearby property owners, renters and so forth.

Ms. Wade concluded by saying that the staff is recommending approval of the Staff Alternative Text, for the following reasons:

1. The staff alternative text amendment is supported by Goal #1 of the 2007 Comprehensive Plan, which endorses providing planning processes which enable widespread citizen participation and benefit the community.
2. The text amendment would increase the notice to nearby property owners, require notice to neighborhood or homeowner's associations within the required notice area, and would require a sign to be posted on the subject property associated with a conditional use application well in advance of the Board of Adjustment's public hearings.

Planning Commission Questions – Ms. Plumlee asked what is the current requirement for the posting of a sign. Ms. Wade said that the current requirement for a zone change is 14 days prior to the hearing. She then said that the proposed text amendment would allow consistency with the zoning requirement.

Mr. Owens said that the mailing notification is required to be 21 days prior to the hearing, and asked if the requirement for posting of the sign is only 14 days prior to the hearing. Ms. Wade explained that there is a tiered approach in the notification of a pending request. She said that notice is sent via USPS 21 days prior to the hearing, a sign is posted 14 days prior to the hearing and legal notice is placed in the newspaper about 7 days prior to the hearing. She then said that any longer than the 14 days would pose a problem for the sign to remain in good condition and remain posted on the property. Mr. Sallee added that KRS 100 requires a zone change sign to be posted 14 days prior to the hearing and the staff believed that this proposal should be consistent with that statute.

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 Ms. Plumlee, seconded by Mr. Penn, and carried 8-1 (Cravens opposed; Berkley and Roche-Phillips absent) to approve the staff alternative text for ZOTA 2012-7, for the reasons provided by staff.

Staff Comments - Ms. Wade noted that, if this proposal is accepted by the Lexington-Fayette Urban County Council, the staff would be requesting that the Commission initiate a text amendment to match the Map Amendment Request notice to the Board of Adjustment notice, whether it is approved at 500 feet or 800 feet.

VI. COMMISSION ITEM – The Chair will announce that any item a Commission member would like to present will be heard at this time.

- A. **APPOINTMENT OF NOMINATING COMMITTEE FOR COMMISSION OFFICERS** – At the first regular and official meeting in June, the Commission will elect three members to a nominating committee. This committee will present a slate of officers for consideration by the Planning Commission. The slate will be forwarded to the full membership of the Commission and presented at the Commission work session in June.

The Chair asked the Planning Commission for volunteers to be on the nominating committee to elect Commission officers for the next year. After a brief discussion, he indicated that Frank Penn, Mike Cravens and William Wilson had volunteered to serve on the nominating committee. He asked that the nominating committee be prepared to present a slate of officers to the full Commission at the June 21, 2012, work session. He said that with Mr. Penn's experience, he would serve as the Chair on the nominating committee.

Action - A motion was made by Ms. Beatty, seconded by Ms. Plumlee, and carried 9-0 (Berkley and Roche-Phillips absent) to appoint the nominating committee as presented.

- B. **UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for June 21, 2012.

VIII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT 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.

IX. NEXT MEETING DATES

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 21, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	June 27, 2012
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 28, 2012
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	July 5, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	July 5, 2012
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	July 12, 2012

IX. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 4:14 PM.

Mike Owens, Chair

Lynn Roche-Phillips, Secretary