

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

December 11, 2014

- 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; Carolyn Plumlee; Bill Wilson; Will Berkley (arrived at 1:31 PM); David Drake; Patrick Brewer; Karen Mundy; Joseph Smith and Carolyn Richardson.

Planning staff members present – Chris King; Bill Sallee; Barbara Rackers; Tom Martin; Cheryl Gallt; Kelly Hunter and Denise Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Tim Queary, Department of Environmental Policy; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; and Tracy Jones and Andrea Brown, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the Commission members that the amended minutes of the October 9, 2014, and the minutes of the November 13, 2014, meetings were previously emailed to the Commission for their review; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Berkley absent) to approve the amended minutes of the October 9, 2014, and the minutes of the November 13, 2014, meetings.

Note: Mr. Berkley arrived at this time.

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

- a. **DP 2007-134: SAND LAKE & ESTES PROPERTY (AMD) (2/22/15)*** - located at Richmond Road and South Eagle Creek Drive. (Council District 7) **(EA Partners)**

Note: The purpose of this amendment is to revise the development and the layout of buildings, reduce the number of lots, and reduce the public streets and rights-of-way.

At the February 28, 2008, meeting the Planning Commission approved this plan and granted the requested waivers to the Land Subdivision Regulations, for the following reasons:

1. The modified cross-section is the result of the site's topography and the requirement that the street be constructed totally within the required 50' right-of-way. The fact that the new street must be constructed at acceptable grades and must tie into the planned intersection with Sand Lake Drive results in a significant grade difference between the finished grade of the street and the adjacent undeveloped property. Therefore, a retaining wall was required which had to be constructed 11'-12' away from the adjacent property to ensure that the wall's footer, forms, and bracing were totally within the right-of-way. As a result, the road itself also had to shift 11'-12'.
2. The modified cross-section is substantially the same as shown at Exhibit 6-3 because 31' of pavement will be provided. Additionally, curbs, gutters, and a 6' sidewalk will be provided on the northwest side. On the southeast side will be a 4' sidewalk and a 5.5' utility strip, a portion of which will be in an easement on adjoining property owned by Developer.
3. Denial of the waiver would be an undue hardship on the Developer in that the wall was constructed, at substantial cost to the Developer, based on grading plans submitted to and accepted by the Division of Engineering. Furthermore, without the wall it is physically impossible to construct the street within the established 50' right-of-way.

And adding the following proposed note #15 to the plan:

15. The properties at 3292 and 3270 Richmond Road shall be permitted to have vehicular and pedestrian access to the private access easement, which immediately adjoins those properties. This shall be denoted on the final record plat of the property. The owners of said lots shall provide notice to the Developer 21 days prior to the public hearing for a preliminary or final development plan, including amendments, and/or for a preliminary or final subdivision plat for said lots.

Note: The applicant now requests a reapproval of this development plan.

The Subdivision Committee Recommended: Reapproval, subject to the original condition previously required by the Planning Commission on February 28, 2008, and two additional conditions:

1. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
2. Addition of a second "Planning Commission Certification" to the plan.

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of **DP 2007-134: SAND LAKE & ESTES PROPERTY (AMD)** to the January 15, 2015, meeting.

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

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

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 11-0 to postpone DP 2007-134: SAND LAKE & ESTES PROPERTY (AMD) to the January 15, 2015, meeting.

- b. **CT 2014-1: NEW CINGULAR WIRELESS PCS, LLC (dba AT&T MOBILITY)** – an application for a 125-foot monopole cellular tower with a 5-foot lightning arrestor, proposed to be located at 302 Southland Drive.

Conditions for Approval:

1. That the tower be redesigned as an alternative design tower in order to lessen the visual impact from the adjoining residential area(s).
2. That the tower be surrounded by an 8-foot security fence, as well as a 5-foot landscape buffer area that contains both a 6-foot tall hedge and evergreen trees, as shown on the submitted site plan, and as required by Article 25. The area surrounding the equipment cabinet is to be screened from view of surrounding property owners.
3. That the tower, accessory equipment cabinet and lease area be maintained on a regular basis by the owner of the facility so as to have minimal impact on surrounding properties.

Representation – W. Hank Graddy, attorney, was present representing the Hill N' Dale Neighborhood Association, in opposition to this request, and requested postponement of **CT 2014-1: NEW CINGULAR WIRELESS PCS, LLC (dba AT&T MOBILITY)**. He briefly explained that the applicant had submitted two Supplemental Radio Frequency Reports on November 25th (RFES 2) and December 5th (RFES 3); and upon reviewing both of these reports he discovered two new issues that were not made part of the original application. He said that the applicant made reference, in both reports, to a proposed cellular tower in the Zandale area, as well as introducing a new cellular service need (High Band Service 4G (LTE)) in the 3rd report. He then said that his clients were under the impression that the High Band Service would be 3G, which is referenced in the original - not 4G, which is referenced in the 3rd report. The applicant also introduced two new maps that have not been seen by his clients.

Mr. Graddy said that a week before today's meeting he received the last report, and his clients deserve more time to review all of the evidence in order for them to properly respond to the application for a tower that will overshadow their neighborhood. He then said that, under these circumstances, he is objecting to this request going forward. He requested that, should this application go forward, that his clients be allowed to present their formal opposition in January, 2015.

Mr. Graddy said that, in reviewing the staff report, there is a recommendation for an alternative design to help disguise the cellular tower. He then said that, when he received the staff report, he asked Mr. Pike if he would agree to the alternative design; and Mr. Pike's response was that he would agree to an alternative design, if the Planning Commission required it. Mr. Graddy added that he then asked Mr. Pike if he would agree to a postponement of this request for his clients to review the design schematics before the public hearing. Mr. Pike's response was negative and he indicated that they would not provide an alternative design for his clients to review.

Mr. Graddy said that their solution would be postponing this request for one month, which would allow his clients a fair amount of time to review this application since it would dramatically impact the neighborhood.

Applicant Representation – Mr. David Pike, attorney, was present on behalf of AT & T Mobility. He said that, as a courtesy, even though they are not mandated under statutory requirements or regulatory obligation, he pre-filed all of the exhibits pertaining to this request. He then said that, more fundamentally, this is another example of how cellular towers are different from any other zoning request; and the Planning Commission will want to rely on their attorneys for the interpretation of these issues. He added that, as to when the hearing should be held, it is expressly stated in KRS 100.987(c), that cellular tower cases must be concluded within 60 days from the original submission date; and, if not completed within that time frame, the request is deemed approved by operation of law, unless the applicant agrees, in writing, to extend the time. Mr. Pike said that they have agreed to a postponement of this request twice, as a courtesy to deal with the opposition's issues; now they are 120 days into this process, and his client is not agreeable to extend the time any further.

Planning Commission Questions -The Chair asked, with the applicant not being agreeable to the postponement, what the deadline is for this request. Ms. Rackers responded that the deadline was that day's meeting.

Mr. Penn asked if the Law Department agreed with Mr. Pike's statement. Ms. Jones replied affirmatively.

The Chair asked if the Commission should make a motion for the postponement request. Ms. Jones replied that it would be best.

Mr. Wilson said that the applicant can propose a postponement. Ms. Jones said that the opposition had made a request for this item to be postponed, not the applicant. She then said that under KRS, this item can only be postponed again with the applicant's consent; but they are not agreeable to another postponement. Therefore, the Planning Commission must hear this case and make their recommendation. She added that it would be best if the Commission were to act on the postponement request made by Mr. Graddy.

Mr. Wilson said that, according to Mr. Graddy's testimony, he suggested that this proceeding could go forward; but at the same time, allow the opposition to have time to reflect a few elements that are connected to this proposal. He asked if the

Commission can allow this type of request of splitting the difference. Ms. Jones said that she is not sure that can be done under KRS.

Action - A motion was made by Mr. Berkley and was seconded by Mr. Cravens, to deny the postponement of **CT 2014-1: NEW CINGULAR WIRELESS PCS, LLC (dba AT&T MOBILITY)**.

Discussion of Motion – Mr. Drake asked if the Commission denies the opposition's request for postponement, if a statement could be added to the motion stating that the Commission has no other alternative, but to hear this case at this time. Mr. Berkley and Mr. Cravens agreed to the amended motion on the floor.

The motion carried 11-0.

- c. **PLAN 2014-96F: GLEN CREEK (DOVE CREEK, UNIT 3-B, SECTION 3, LOTS 66-75) (2/1/15)*** - located at 201-1145 Appian Crossing Way. (Council District 8) **(Trinity Surveying)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the required access to the proposed lots.

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

1. Urban County Engineer's acceptance of drainage and 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 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Denote private utility providers on plat.
9. Clarify extent of access easement (24' wide) on side of Lot 66.
10. Discuss the lack of required access (25' easement) to proposed lots.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of **PLAN 2014-96F: GLEN CREEK (DOVE CREEK, UNIT 3-B, SECTION 3, LOTS 66-75)** to the December 18, 2014, 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. Brewer, seconded by Ms. Plumlee and carried 11-0 to postpone **PLAN 2014-96F: GLEN CREEK (DOVE CREEK, UNIT 3-B, SECTION 3, LOTS 66-75)** to the December 18, 2014, Planning Commission meeting.

- d. **PLAN 2014-101F: LONG VALLEY FARM, KY, INC., UNIT 2-B (AMD) (2/1/15)*** - located at Long Valley Lane and Russell Cave Road. (Council District 12) **(Randy Martin)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to subdivide a 124.15-acre tract into a 40-acre tract and an 84-acre tract.

The Subdivision Committee Recommended: Postponement, due to the failure of posting the sign on the property, as required by Article 6-4(j)(6) of the Land Subdivision Regulations.

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

1. Urban County Engineer's acceptance of drainage and 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 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. Addition of 300' building line.
8. Denote non-buildable areas.
9. Denote access easement locations and maintenance responsibility.
10. Addition of detail for adjacent corner monuments.
11. Addition of general notes required by the Subdivision Regulations.
12. Correct Urban County Engineer's certification.
13. Health Department approval for septic facilities prior to plan certification.
14. Discuss possible need for a waiver to Art. 6-4(c) of the Subdivision Regulations.
15. Discuss proposed access per prior plat note on Cabinet/Slide I-544.
16. Discuss access easement standards required by Art. 6-4(j)(2)(a) of the Subdivision Regulations.

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

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of PLAN 2014-101F: LONG VALLEY FARM, KY, INC., UNIT 2-B (AMD) to the January 15, 2015, 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 Ms. Plumlee and carried 11-0 to postpone PLAN 2014-101F: LONG VALLEY FARM, KY, INC., UNIT 2-B (AMD) to the January 15, 2015, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, December 4, 2014, at 8:30 a.m. The meeting was attended by Commission members: Will Berkley, Karen Mundy, Joe Smith, Frank Penn, Carolyn Plumlee, and Mike Owens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Galt, Dave Jarman, Denice Bullock and Kelly Hunter, as well as Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

- 1. All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
- 2. All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

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

Criteria:

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

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of all of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2014-93F: HARVEY PROPERTY (1/21/15)* - located at 4500 Old Schoolhouse Lane.
(Council District 10) **(EA Partners)**

Note: The Planning Commission postponed this item at their November 13, 2014, meeting.

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

1. Urban County Engineer's acceptance of drainage and 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 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.
 10. Revise note #7 to indicate "Lot 1".
 11. Delete "varies" information from cross-section "C-C" and provide information from location shown.
 12. Resolve timing of public infrastructure improvements and their dedication.
2. PLAN 2014-97F: NEWMARKET PROPERTY, PHASE I, UNIT 1-D, LOT 63 (2/1/15)* - located at 1201 Deer Haven Lane.
(Council District 12) **(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.

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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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 8. Addition of exaction note from DP 2013-97.
 9. Addition of 25' floodplain setback line.
 10. Denote lot development standards on plan.
 11. Denote that there will be no new access to Deer Haven Lane.
 12. Resolve pedestrian access to open space area on Lot 63.
3. PLAN 2014-98F: BLACKFORD PROPERTY, PHASE 4 (2/1/15)* - located at 3200 and 3210 Blackford Parkway.
(Council District 12) **(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. Greenspace Planner's approval of the treatment of greenways and greenspace.
 7. Addition of utility and street light 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. Transfer exaction notes from DP 2014-6.
 10. Label future greenway.
 11. Label tree protection area on plat.
 12. Label future trail access locations.
 13. Addition of 25' floodplain setback on plat.
 14. Denote building line on plat.
 15. Addition of conditional zoning notes.
 16. Remove access easement on plat.
 17. Addition of cross-section for Mathern Trail.
 18. Denote minimum floor elevations.
4. PLAN 2014-99F: LEXINGTONIAN ESTATES, SECTION 1 (SIGNATURE ESTATES) (AMD) (2/1/15)* - located at Winners Circle and Versailles Road. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to subdivide 4 lots into 7 lots.

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

1. Urban County Engineer's acceptance of drainage and 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 area(s) and required street tree information.
 6. Department of Environmental Quality's approval of environmentally sensitive areas.
 7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 9. Denote Versailles Road cross-section on plan.
 10. Denote name and address of owner and developer.
 11. Denote listing of private utilities.
 12. Denote parent plat on plan.
 13. Delete Lots 16 & 17 from plat (or use dashed lines).
 14. Remove existing right-of-way from plat (or use dashed lines).
 15. Resolve need to provide pedestrian access through Lot 17 to adjacent park property, per Preliminary Subdivision Plan (PLAN 2006-76P).
5. PLAN 2014-100F: LEXINGTONIAN ESTATES, SECTION 2 (SIGNATURE ESTATES) (AMD) (2/1/15)* - located at Winners Circle and Versailles Road. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to subdivide 4 lots into 7 lots.

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

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

1. Urban County Engineer's acceptance of drainage and 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 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 8. Denote name and address of owner and developer.
 9. Denote listing of private utilities.
 10. Denote parent plat on plan.
 11. Delete Lot 7 from plat (or use dashed lines)
 12. Remove existing right-of-way from plat (or use dashed lines).
 13. PLAN 2014-99F must be recorded prior to this plat (due to changes to Lot 14).
6. PLAN 2013-27F: HAMBURG EAST, TRACTS 1 & 3 (AMD) (2/23/15)* - located at 2185 Polo Club Boulevard.
(Council District 12) **(Vision Engineering)**

Note: The purpose of this amendment was to subdivide one lot into three lots and to add easements. The Planning Commission approved this plat on May 9, 2013, 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote building line.
9. Revise engineer/surveyor certification.
10. Denote the regulatory flood elevation per Article 5-4(d)(5).
11. Addition of minimum lot building lines proposed for Tracts 1 & 3 (along frontages).
12. Addition of floodplain information for Tract 3.
13. Addition of existing Columbia Gas transmission easement on Tract 3.
14. Denote Tract 2 frontage and side lot line with dashed lines.
15. Addition of "Elkhorn Creek Detail" for Tract 3 from current non-building plat.
16. Resolve the timing and dedication of the storm water facility.

Note: The applicant is now requesting reapproval of this plat.

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

7. PLAN 2013-127F: TUSCANY, UNIT 3-A (2/8/15)* - located on Old Rosebud Road.
(Council District 6) **(EA Partners)**

The Planning Commission originally approved this plan on December 12, 2013, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and 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 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Denote that there will be only one single family unit per lot.

Note: The applicant now requests approval of a one-year extension for this plan.

The Subdivision Committee Recommended: **Approval of a one-year extension**, subject to the original conditions listed on today's agenda.

8. DP 2014-102: PALUMBO PROPERTY, TRACT A (AMD) (2/1/15)* - located at 251 West Loudon Avenue.
(Council District 1) **(Pearson & Peters)**

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

Note: The purpose of this amendment is to add building floor area and parking.

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

1. Urban County Engineer's acceptance of drainage, and 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 preservation plan.
 6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 7. Division of Waste Management's approval of refuse collection locations.
 8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 9. Identify adjacent property in dashed lines.
 10. Denote record plat designation (Cabinet D, Slide 649) on this plan.
 11. Addition of all proposed and existing easements.
9. DP 2014-103: ARCADIA INVESTMENTS, LOTS 3, 4 & 5 (AKA MEADOWTHORPE MANOR) (2/1/15)* - located at 1590, 1600 and 1610 Leestown Road. (Council District 2) **(The Roberts Group)**

Note: The purpose of this amendment is to add buildable area to Lot 3.

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

1. Urban County Engineer's acceptance of drainage, and 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 preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. Document previous neighborhood notification per the development plan requirements.
 11. Resolve sidewalk widths, exterior to the eastern corner of the Kroger store, to the approval of the Bike & Pedestrian Planner and the Division of Traffic Engineering.
10. DP 2014-104: HAMBURG PLACE, PHASE 2, LOT 14 (2/1/15)* - located at 2541 Sir Barton Way. **(HDR)**
(Council District 6)

Note: The purpose of this amendment is to add a bank drive-through and revise circulation on Lot 14.

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

1. Urban County Engineer's acceptance of drainage and 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 preservation plan.
 6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 7. Denote record plat designation.
 8. Denote construction access location on plan.
 9. Denote height of building, in feet.
 10. Denote height of canopy, in feet.
 11. Denote under Lot 17: "DP 2010-60."
 12. Remove "DP 2005-48" under Lot 14.
 13. Addition of cross-section for 36' wide access easement.
 14. Addition of site statistics from previous plan: DP 2010-60.
11. DP 2014-80: PROVIDENCE PLACE, TRACT 3, LOTS 5A & 5B (AMD) (2/22/15)* - located at 1201 Providence Place Parkway. (Council District 12) **(Milestone)**

Note: This property requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise the development of Lot 5A.

The Planning Commission approved this item at their October 9, 2014, meeting, subject to the following conditions:

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

1. Urban County Engineer's acceptance of drainage and 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 preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Provided the Planning Commission makes a finding that the development plan complies with the EAMP.
10. Denote exaction information to the approval of the Division of Planning.
11. Clarify that Lots 5A & 5B were not created by the Plat in Cabinet N, Slide 521.
12. Screening will be consistent with the previous development plan.

Note: The applicant now requests a continued discussion for this plan, to increase the building floor area.

The Subdivision Committee Recommended: **Approval**, subject to the original conditions previously approved by the Planning Commission.

Mr. Sallee directed the Commission's attention to DP 2014-80: PROVIDENCE PLACE, TRACT 3, LOTS 5A & 5B (AMD), and briefly explained that the Commission must make a finding that this plan is in compliance with the EAMP. He then said that the staff had previously distributed a copy of the finding, just prior to today's hearing, for the Commission to review. He also said that DP 2014-80 is required to have a sign posted on the property and an affidavit to be submitted for the record. He said that the staff had received the affidavit for this property, but the applicant does not have a printed document; however, the applicant's representative can present a photograph shown on his phone for the Commission and staff to review. Mr. Sallee said that, after careful review of the picture, the applicant's documented photograph appeared to be in order.

In conclusion, Mr. Sallee then said that the items identified 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, in order to permit further 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. There was no response.

Action - A motion was made by Mr. Wilson, seconded by Ms. Richardson and carried 11-0 to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee.

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

ANNUAL REPORT FROM PURCHASE OF DEVELOPMENT RIGHTS PROGRAM – Ms. Beth Overman, staff for the PDR Program, noted that the staff had distributed the necessary information for the annual PDR report to the Commission members, as required by the Zoning Ordinance. She explained that, for the last fiscal year 2014, approximately \$2 million of the LFUCG funding and approximately \$2 million of federal funding was used to purchase easements on six farms. Four of the six farms have closed, and two are pending with our federal partners. She said that they utilized \$60K of the remaining LFUCG bond funds to purchase an easement on a 40-acre farm. She noted that one farm, totaling 240 acres, located at 6602-7090 Athens-Boonesboro Road, withdrew after being appraised and receiving an offer. She said that this farm is owned by three siblings, one of whom was not ready to place the farm under easement. She then said that the family has reapplied for the fiscal year 2016 consideration. She indicated that the addresses and acreage of the easements are as follows, noting that this creates a total of 1302 acres in easements:

- 4701 Paris Pike, 256 acres;
- 2401 and 2501 Royster Road, 127 acres;
- 5425 Old Richmond Road, 222 acres;
- 101 N. Cleveland Road, 100 acres;
- 4467 Old Frankfort Pike, 292 acres (pending);
- 2801 Elkchester Road, 264 acres (pending);
- 1031 N. Cleveland Road, 41 acres (local funding);

Ms. Overman said that the PDR program currently has 244 farms, totaling 28,169 acres, participating in this program. This is 56.34% of the goal of 50,000 acres by 2020. She then said that for fiscal year 2015, the PDR program received federal funding of \$1.54 million for seven farms, totaling 782 acres. She added that these appraisals and acquisitions are in the process. Ms. Overman said that for the fiscal year 2016, there are 28 applications, 15 of which are currently eligible for federal applications.

Ms. Overman directed the Commission's attention to the schematic of Fayette County, and briefly described the areas that are under contract to close or have been acquired through either purchase or donations.

Planning Commission Questions – Mr. Berkley asked what the average cost per acre is. Ms. Overman replied that it is \$2,900.

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 11-0 to approve the **ANNUAL REPORT FROM PURCHASE OF DEVELOPMENT RIGHTS PROGRAM**, as presented by the staff.

- B. ANNUAL REPORT FOR THE COURTHOUSE AREA** – Ms. Overman, staff for the Courthouse Area Design Review Board as well, noted that copies of her presentation had been provided to the Commission members prior to the start of the meeting. She stated that, in 2014, the CHADRB had only approved 2 applications; and these included the authorization permit to approve the rehabilitation for the side and back at 135 W. Main Street (next to 21C), as well as authorizing a permit amending and reissued to approve the building design for 100 and 120 W. Main Street (CentrePointe). She directed the Commission's attention to the "before" and "after" photographs of 135 W. Main Street, and briefly gave a summary of this project.

Ms. Overman explained that there was only one violation in 2014, which was at 115-119 E. Main Street. She said that this property was cited repeatedly for a broken window and once for a torn cord on the awning. She then said that Code Enforcement did not receive any responses from the property owner about the citations, and the staff did learn that the property is in foreclosure.

Ms. Overman said that the Division of Fire, Water Control Office's was not able to provide their data on any violations; and should there be any changes after today's meeting, she would forward that data to the Planning Commission member's through the staff.

Action - A motion was made by Ms. Mundy, seconded by Ms. Richardson and carried 11-0 to approve the **ANNUAL REPORT FOR THE COURTHOUSE AREA**, as presented by the staff.

VI. LAND SUBDIVISION ITEMS (continuation)

- A. 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 his/her decision at the outset of the hearing.

1. FINAL SUBDIVISION PLANS

Note: The next three items were heard simultaneously.

- a. PLAN 2008-138F: MEADOW OAKS, UNIT 1-A (ASHFORD OAKS) (2/18/15)* - 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. 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.

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

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 Plat, 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; granted a **one-year extension** on June 9, 2011; and reapproved this plan at their June 14, 2012 and July 11, 2013, meetings, subject to the previous conditions, one additional condition, and modifying one condition:

3. Building Inspection's approval of landscaping ~~and required street tree information.~~
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 reapproval for the remaining portion of this plan.

The Subdivision Committee Recommended: **Reapproval of Section 2**, subject to the conditions as previously approved on July 11, 2013.

- b. PLAN 2008-139F: MEADOW OAKS, UNIT 1-B (ASHFORD OAKS) (2/18/15)* - 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 the 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.

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 Plat, 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:

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

- 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; granted a **one-year extension** on June 9, 2011; and reapproved this plan at their June 14, 2012, and July 11, 2013, meetings, subject to the previous conditions, one additional condition, and modifying one condition:

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

Note: A portion of this plat (Sections 1, 2 & 3) has been recorded. The applicant now requests reapproval for the remaining portion of this plan.

The Subdivision Committee Recommended: **Reapproval of Section 4**, subject to the conditions as previously approved on July 11, 2013.

- c. PLAN 2008-140F: MEADOW OAKS, UNIT 1-C (ASHFORD OAKS) (2/18/15)* - 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; granted a **one-year extension** on June 9, 2011; and reapproved this plan at their June 14, 2012, meeting, subject to the previous conditions, one additional condition and modifying one condition:

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

On July 11, 2013, the Planning Commission recommended: **Reapproval**, subject to the original conditions, as previously noted on today's agenda, adding one condition:

14. Revise boundary of Lot 61 to account for Consolidation Plat involving Lots 12-16.

Note: The applicant is now requesting reapproval of this plat.

The Subdivision Committee Recommended: **Reapproval**, subject to the conditions as previously approved on July 11, 2013.

Staff Presentation – Mr. Martin directed the Commission's attention to three final record plats for Meadow Oaks (aka Ashford Oaks), Units 1-A, 1-B and 1C, located at 3414 Felician Lane. He oriented the Commission to the surrounding area and to the street system using the plan renderings. He briefly explained that the subject property is

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

located near the Blackford Property development and the Greenbrier Subdivision. He noted that Feliciano Lane runs along Unit 1-A toward Unit 1-B, and Unit 1-C is the greenspace/floodway area that is behind Unit 1-A.

Mr. Martin said that sections of each plat have been recorded, and the applicant is requesting a reapproval for the remaining portions. He then said that the staff is recommending reapproval of the applicant's request, subject to the conditions as previously approved on July 11, 2013. He added that the staff would recommend one change to PLAN 2008-140F, and that is to reflect the new boundary that was created from the minor record plat, which consolidated a small portion of the land shown on Unit 1-A and Unit 1-C.

Mr. Martin then said that on February 12, 2009, the Planning Commission granted a waiver to Article 4-7(d)(9)(c) of the Land Subdivision Regulations, for each of these plats. He explained that the applicant wanted to install the sidewalks after the units were built to avoid any damage to them. The waiver that the Planning Commission granted was relative to the timing of the sidewalk being constructed, and as part of the approval a condition was added. Since that time, the Land Subdivision Regulations have changed, and now the applicant is allowed to post a surety to cover the construction of the sidewalks for a private street.

Planning Commission Questions - The Chair asked if the Planning Commission would be reapproving these request without the waiver. Mr. Martin said that the waiver is no longer required since the Land Subdivision Regulations allow the applicant to post a surety for the sidewalk construction.

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. Penn, and seconded by Mr. Cravens, and carried 11-0 to reapprove PLAN 2008-138F: MEADOW OAKS, UNIT 1-A (ASHFORD OAKS), as recommended by the staff.

Action - A motion was made by Mr. Penn, and seconded by Mr. Cravens, and carried 11-0 to reapprove PLAN 2008-139F: MEADOW OAKS, UNIT 1-B (ASHFORD OAKS), as recommended by the staff.

Action - A motion was made by Mr. Penn, and seconded by Mr. Cravens, and carried 11-0 to reapprove PLAN 2008-140F: MEADOW OAKS, UNIT 1-C (ASHFORD OAKS), as recommended by the staff.

- d. PLAN 2014-104F: LEXTRAN PROPERTY, LOTS 1 & 2 (2/22/15)* - located at 200 West Loudon Avenue.
(Council District 1) **(Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage and 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 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. Addition of owner's information.
8. Denote landscape buffer required by Art. 18 adjacent to P-1 property.
9. Provided the Planning Commission grants a waiver to Articles 6-2(a) and 6-6(b) of the Subdivision Regulations.
10. Delete note #1.
11. Denote access to Lot 2 and clarify note #3.
12. Review by Technical Committee prior to plan certification.

Staff Presentation – Mr. Martin directed the Commission's attention to the agenda for the final record plat for LEXTRAN PROPERTY, LOTS 1 & 2, located at 200 West Loudon Avenue. He oriented the Commission to the location of the subject property on the plan rendering, and briefly explained that the property is situated at the intersection of North Broadway and West Loudon Avenue, near the CSX Railroad overpass. He said that this property is a 13-acre site that was formerly home to the General Electric Plant, and now LexTran is proposing to develop it for their new (\$26 million) service center facility.

Mr. Martin said that the purpose of this amendment is to subdivide one lot into two lots; and in reviewing the applicant's proposal, the interior lots are being shown in an odd configuration. He then said that this unusual configuration of Lot 2 matches the proposed footprint of the new facility, and it also reflects the requirements of the financing that LexTran is utilizing to develop the site.

Mr. Martin said that, as part of the applicant's request, they have also asked for a waiver to Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations, which requires that public sanitary sewer service be provided, in advance, to all subdivision lots. He then said that there is a sewer line on this property; and as part of the redevelopment, that line

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will be relocated as the new facility as it is constructed. In conjunction with that waiver, although not specifically requested, inherent to this request is a waiver to Article 4-7(d)(1) requiring substantial completion of the public improvements prior to the certification of a final record plat; and to Article 4-7(d)(9), which requires that a performance/warranty surety be posted to ensure completion of the public improvements. He added that, just as any other government entity, LexTran being a quasi-local governmental entity, is exempt from some local regulations such as the Zoning Ordinance and the Land Subdivision Regulations. However, due to the stringent procurement and construction standards that are required as part of the Federal financing for LexTran, public health and safety will be protected, which is consistent with the intent of the Land Subdivision Regulations.

Mr. Martin said that the Subdivision Committee recommended approval of the applicant's request, and briefly explained that conditions #1 through #6 involve the standard sign-off conditions from the different utilities and divisions of the LFUCG; and the remaining conditions are "clean-up" conditions. He noted that since this was filed as a "late plan," the applicant will need to have the Technical Committee's approval before the plan is certified.

Mr. Martin then said that the staff is recommending approval of the requested waiver of Articles 4-7(d)(1), 4-7(d)(9), 6-2 & 6-6, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant by allowing the utilization of beneficial financial mechanisms for the development of the site for LexTran's new service facility.
2. Granting the waiver will not negatively impact public health and safety, as the completion of public improvements for Lot 2 will be completed with the construction of the proposed service facility.

Representation – Kevin Phillips, Endris Engineering, was present representing the applicant. He indicated 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.

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson and carried 11-0 to approve PLAN 2014-104F: LEXTRAN PROPERTY, LOTS 1 & 2, as recommended by the staff.

Action - A motion was made by Ms. Mundy, seconded by Ms. Richardson and carried 11-0 to approval the waivers to Articles 4-7(d)(1), 4-7(d)(9), 6-2 & 6-6, as presented by the staff.

- e. PLAN 2014-106F: HAMBURG EAST, LOT 2 (AMD) (2/23/15)* - located at 2500 Polo Club Boulevard.
(Council District 12) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide Lot 2 into five lots.

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 (steep slopes).
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.
10. Denote: This property shall be developed in accordance with the approved final development plan.
11. Dash property lines for adjacent lots (2A-2C).
12. Addition of name and address for developer.
13. Increase size and/or clarify text for all cross-sections.
14. Correct spelling in general notes #7 and #8.
15. Identify 40' easement with dashed lines.
16. Increase text size of line information in table found on Lot 2A.
17. Reference note for the number of trees from the previous plat.
18. Denote: Exactions will be reviewed at the time of a final development plan for the residential component of this project.
19. Denote: There shall be no development of Lot 2H until a final development plan is approved and certified.
20. Delete notes #6 and #10.
21. Revise note #5 to meet the Land Subdivision Regulations requirements.
22. Review by Technical Committee prior to plan certification.

Staff Presentation – Ms. Gallt directed the Commission's attention to the agenda for this final record plat, PLAN 2014-106F: HAMBURG EAST, LOT 2 (AMD), located at 2500 Polo Club Boulevard. She oriented the Commission to the location of the subject property using a rendering of the plat, and briefly explained the surrounding street system and

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

nearby uses. She said that the Subdivision Committee recommended approval of the applicant's request, subject to the conditions listed on today's agenda. She directed the Commission's attention to the plan rendering and explained that on December 5th, the applicant submitted a revised plat changing their original request for Lot 2 from five lots to six lots.

Ms. Gallt said that the staff reviewed the applicant's recent revised submission, and a number of "clean-up" conditions identified by the Subdivision Committee had been addressed. With those changes, the staff can provide the Commission with an alternative recommendation to consider for this plat. She said that the staff is recommending approval of the applicant's request, 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 (steep slopes).
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.
- ~~10. Denote: This property shall be developed in accordance with the approved final development plan.~~
- ~~11. Dash property lines for adjacent lots (2A-2C).~~
- ~~12. Addition of name and address for developer.~~
- ~~13. Increase size and/or clarify text for all cross-sections.~~
- ~~14. Correct spelling in general notes #7 and #8.~~
- ~~15. Identify 40' easement with dashed lines.~~
- ~~16. Increase text size of line information in table found on Lot 2A.~~
- ~~17. Reference note for the number of trees from the previous plat.~~
- ~~18. Denote: Exactions will be reviewed at the time of a final development plan for the residential component of this project.~~
10. ~~19. Denote: There shall be no development of Lots 2H & 2I until a final development plan is approved and certified.~~
- ~~20. Delete notes #6 and #10.~~
- ~~21. Revise note #5 to meet the Land Subdivision Regulations requirements.~~
11. ~~22. Review by Technical Committee prior to plan certification.~~

Ms. Gallt briefly explained that conditions #1 through #9 involve the standard sign-off conditions from the different utilities and divisions of the LFUCG; and the remaining conditions are "clean-up" conditions.

Planning Commission Questions – Mr. Penn asked where the sixth lot is being created and if there will be internal access to Lot 2-I. Ms. Gallt indicated the location of the sixth lot on the plan rendering, and explained that the applicant created another outlot (Unit 2-H) along Polo Club Boulevard. Mr. Penn asked if the Planning Commission will have to wait until the final development plan is submitted to see the location of the proposed site access. Ms. Gallt replied affirmatively.

Representation – Matt Carter, Vision Engineering, was present representing the applicant. He explained that, as part of Cabela's closing contract, the attorney has requested that the new (sixth) lot be platted as part of the original shopping center. He then said that this is a non-buildable lot until a final development plan is approved by the Planning Commission. He indicated that they are in agreement with the staff's revised recommendations and requested approval of this plat.

Planning Commission Questions – Mr. Penn asked, when the larger lot is developed, if this will force another (new) access onto Polo Club Boulevard. Mr. Carter replied negatively, and said that their intentions have not changed since the preliminary development plan was presented. He then said that the lot will be using the access easement to be built along the front of the Cabela's store. Mr. Penn asked if this will be a service road, to which Mr. Carter replied affirmatively.

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. Richardson, seconded by Mr. Wilson and carried 11-0 to approve PLAN 2014-106F: HAMBURG EAST, LOT 2 (AMD), as recommended by the staff.

2. DEVELOPMENT PLANS

- a. DP 2014-110: HAMBURG PLACE MALL, UNIT 1, PARCELS 2 & 2A (AMD #26) (2/22/15)* - located at 1816 Alysheba Way. (Council District 6) **(Core Estate Group)**

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

Note: The purpose of this amendment is to add 634 sq. ft. of restaurant floor area on Parcel 2, Outlot 6, and to increase the parking.

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

1. Urban County Engineer's acceptance of drainage and 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 preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Addition of dimensions for driveway, walkway and parking spaces.
10. Addition of exterior building dimensions and height.
11. Denote required parking.
12. Resolve need to retain landscape island interior to the site.
13. Review by Technical Committee prior to plan certification.

Staff Presentation – Mr. Hunter directed the Commission's attention to the agenda for the amended final development plan for DP 2014-110: HAMBURG PLACE MALL, UNIT 1, PARCELS 2 & 2A (AMD #26) located at 1816 Alysheba Way. He directed the Commission's attention to the development plan rendering, orienting them to the location of the subject property, and briefly explained the surrounding street system and nearby uses. He said that the purpose of this amendment is to add 634 sq. ft. of restaurant floor area on Parcel 2 (Outlot 6), and to increase the parking.

Mr. Hunter said that the Subdivision Committee recommended approval of this plan, subject to the conditions listed on today's agenda. He then said that on December 10th the applicant submitted a amended plan to the staff, revising the parking lot to a layout more similar to the original configuration. As a result, the staff can offer a slightly revised recommendation for the Commission to review. The Staff is recommending approval, subject to the following revised conditions as follows:

1. Urban County Engineer's acceptance of drainage and 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 preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Addition of dimensions for driveway and walkway and parking spaces.
10. Addition of exterior building dimensions and height.
11. Denote required parking.
- ~~12. Resolve need to retain landscape island interior to the site.~~
12. 13. Review by Technical Committee prior to plan certification.

Mr. Hunter briefly explained that conditions #1 through #8 involve the standard sign-off conditions from the different utilities and divisions of the LFUCG; and the remaining conditions are "clean-up" conditions. He noted that this request was filed as a late plan submission; therefore the Technical Committee will need to approve the plan prior to it being certified.

Representation – Patrick Bennett, Core Estate Group, was present representing the applicant. He clarified that they are proposing a total of 4,134 sq. ft., and the addition will be 976 sq. ft. in size. This discrepancy is due to the freezer/cooler being enclosed and being made part of the building. He requested that the listed square footage be changed from 634 to 976; and with that, they are in agreement with the staff's revised recommendations and requested approval of this plan.

Planning Commission Questions – The Chair asked what the total square footage is for this project. Mr. Bennett said that the total square footage is 4,134 and it does not propose to change. However, he would like the square footage for the addition to reflect an increase of 976 sq. ft., not 634 sq. ft.

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. Mundy, seconded by Mr. Smith and carried 11-0 to approve DP 2014-110: HAMBURG PLACE MALL, UNIT 1, PARCELS 2 & 2A (AMD #26), as recommended by the staff, noting that the square footage of the addition is to reflect 976 sq. ft.

- b. DP 2006-84: HAMBURG PLACE FARM – TUSCANY UNIT 1, LOT 169 (3/4/15)* - located at Old Rosebud Road and Pascoli Place. (Council District 6) **(Brandstetter Carroll)**

Note: The Planning Commission originally approved this plan on July 13, 2006, and then again on August 10, 2006, 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 parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and zone-to-zone screening.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Show all existing utility easements.
10. Addition of conditional zoning.
11. Identify zone-to-zone landscape buffer areas.

Note: The development plan was signed on August 10, 2007; however, since that time, it has expired. Now the applicant is requesting a reapproval of this development plan.

The Staff Recommends: **Reapproval**, subject to the original conditions previously approved by the Planning Commission, adding one condition:

12. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

Staff Presentation – Ms. Gallt directed the Commission's attention to the amended final development plan for DP 2006-84: HAMBURG PLACE FARM – TUSCANY UNIT 1, LOT 169, located at Old Rosebud Road and Pascoli Place. She directed the Commission's attention to the development plan rendering and oriented them to the location of the subject property, briefly explaining the surrounding street system and nearby uses. She then said that the development plan's certification has expired and now the applicant is requesting a reapproval.

Ms. Gallt said that the staff is recommending reapproval of the applicant's plan, subject to the original conditions previously approved by the Planning Commission, adding one condition:

12. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

Representation – Charlie Schneider, Brandstetter Carroll, was present representing the applicant. He indicated 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.

Action - A motion was made by Ms. Mundy, seconded by Ms. Richardson and carried 11-0 to reapprove DP 2006-84: HAMBURG PLACE FARM – TUSCANY UNIT 1, LOT 169 as recommended by the staff.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 11-0 to approve the release and call of bonds as detailed in the memorandum dated December 11, 2014, from Barry Brock, Division of Engineering.

VI. **STAFF ITEMS**

The Infill & Redevelopment Facilitator is referring the following item to the Planning Commission in order to expedite the certification of a development plan located in the defined I/R area.

- a. DP 2014-63: LYNN GROVE ADDITION (3/8/15)* - located at 186 Simpson Avenue; 1101-1111 Fern Avenue (odd only); and 1100-1110 Stillwell Avenue (even only). (Council District 3) **(Barrett Partners)**

Note: The plan was originally approved by the Planning Commission at its meeting on August 14, 2014, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and 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 preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.

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

7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Move dumpster location to match approved preliminary development plan.

Note: The purpose of the continued discussion is to add approximately 2,000 square feet to the approved apartment building, for a new total of 35,636 square feet.

Staff Presentation – On behalf of Mr. Emmons, who was under the weather today, Mr. Martin directed the Commission's attention to the amended final development plan for DP 2014-63: LYNN GROVE ADDITION, located at 186 Simpson Avenue; 1101-1111 Fern Avenue (odd only); and 1100-1110 Stillwell Avenue (even only). He directed the Commission's attention to the development plan rendering and oriented them to the surrounding street system and nearby uses. He briefly explained the layout of the development and said that this plan is almost ready to be certified, but the applicant wants to add approximately 2,130 square feet to the approved apartment building, for a new total of 35,636 square feet. He then said that there will be no parking changes or an increase in the units or number of bedrooms, only an increase to the stairwell size. This type of change can not be approved at the staff level and requires the Planning Commission's approval. The staff is recommending approval of the applicant's request, subject to the conditions listed on today's agenda.

Representation – Tony Barrett, Barrett Partners, was present representing the applicant. He indicated that they were 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.

Action - A motion was made by Mr. Cravens, seconded by Ms. Richardson and carried 11-0 to approve DP 2014-63: LYNN GROVE ADDITION, as recommended by the staff.

Note: A recess was declared by the Chair at 2:33 p.m. and the meeting re-convened at 2:40 p.m.

VII. COMMISSION ITEMS (continued)

The Chair explained that the procedure for the next item to be heard on today agenda will be as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s), including expert testimony (30 minute maximum)
- Citizen Comments (3 minutes each)

The Chair said that, after consulting with the Law Department, the Telecommunications Act of 1996, 47 U.S.C, Section 332(7)(b)(i)(iv) reads: "*No State or local government or instrumentality thereof may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the Commission's regulations concerning such emissions.*" He further said that Kentucky Revised Statutes (KRS 100.986) states that the Planning Commission, in regulating placement of cellular antenna towers, shall not: "*Regulate the placement of a cellular antenna tower on the basis of the environmental effects of radio frequency emissions to the extent that these facilities comply with the regulations of the Federal Communications Commission concerning radio frequency emissions.*"

The Chair indicated that the Planning Commission would not be discussing radio frequency emissions due to ramifications that may occur in the future.

The Chair acknowledged that a letter from Mr. Thomas Andrea, Sr. was sent to each of the Commission members.

- A. CT 2014-1: NEW CINGULAR WIRELESS PCS, LLC (dba AT&T MOBILITY)** – an application for a 125-foot monopole cellular tower with a 5-foot lightning arrestor, proposed to be located at 302 Southland Drive.

Conditions for Approval:

1. That the tower be redesigned as an alternative design tower in order to lessen the visual impact from the adjoining residential area(s).
2. That the tower be surrounded by an 8-foot security fence, as well as a 5-foot landscape buffer area that contains both a 6-foot tall hedge and evergreen trees, as shown on the submitted site plan, and as required by Article 25. The area surrounding the equipment cabinet is to be screened from view of surrounding property owners.
3. That the tower, accessory equipment cabinet and lease area be maintained on a regular basis by the owner of the facility so as to have minimal impact on surrounding properties.

Staff Presentation – Ms. Rackers directed the Commission's attention to the next item on the agenda. She informed them that Councilmember Henson, who represents the 11th District, had submitted a letter regarding this cell tower application, which was placed at the Commission's seats. She noted that the staff had received and distributed several emails and letters of opposition and one support letter from the nearby residents, as well as a letter from the Friends of Wolf Run.

Ms. Rackers began by explaining that this application was submitted by New Cingular Wireless (dba AT&T Mobility) to construct a monopole cellular antenna tower for property located at 302 Southland Drive. She directed the Commission's attention to the overall map of the area, which was displayed on the overhead projector, to orient them to the surrounding property and to the nearby street system. She said that the applicant is proposing to construct a 125-foot monopole tower with a 5-foot lighting arrestor (total 130 feet) on the vacant property that is currently owned by Oleika Shiner's Temple, directly behind Incredipet and the Dollar General store. She noted that other than a temporary bandstand in the southwest corner of the property, the site is vacant. Ms. Rackers directed the Commission's attention to the land use map, and explained that subject site is zoned B-1, as is the property immediately to the north/northwest of the site. She said that to the east/northeast of the property is R-2 (Two Family Residential) and P-1 (Professional Office) zoning; and to the immediate southwest, adjoining the property, is an established single family residential area (zoned R-1C). All of the immediately surrounding properties area developed.

Ms. Rackers provided the site plan, and said that as the tower is currently designed, it will be approximately 80 feet from the residential properties along Sheridan Drive, with the lease area being a little over 60 feet away from these properties. She then said that the access to the lease area is proposed to be via a 20-foot wide access easement off of Hough Court, a short local street between Eastway Drive and the subject property. She added that although the tower location and the lease area are relatively close to those residential properties, the 3:1 height-to-yard ratio meets the setback requirements as outlined in Article 25 for a B-1 zone, because for a 125-foot tower, the setback would be approximately 42 feet on all sides. She said that it might be possible to move the tower 25 to 30 feet closer to the commercial properties; in that case, a variance for the height-to-yard ratio would be required for the commercial properties, not the residential properties, and the staff would be supportive if that was requested.

Ms. Rackers directed the Commission's attention to the tower elevation schematic and said that, even though the tower is at a lower height than most towers that have been previously approved. Additionally, it would be built at a height to accommodate at least three sets of antennae for co-location purposes, and would be built of the same construction type and materials as the majority of existing towers in Fayette County (i.e., steel monopole). She then said that due to its limited height it can be smaller in diameter (20" at the top and 44" at the base), which will help to minimize its profile. She added that since the tower is less than 200 feet tall, Federal Aviation Administration [FAA] lighting requirements are not applicable, and the tower will not be lighted. It will comply with all other FAA requirements, as well as those of the Federal Communications Commission (FCC). Ms. Rackers then displayed a schematic of the compound layout, and said that the tower and equipment cabinet will be enclosed by an 8-foot security fence. She explained that the screening is proposed to be a 5-foot landscape buffer around that fence, which will contain a 6-foot tall continuous hedge and evergreen trees set 15 feet on center. She noted that the landscape buffer and screening must be in accordance with Article 25 of the Zoning Ordinance.

Ms. Rackers said that there are service issues associated with the Southland Drive area, as well as the Nicholasville Road and Jesselin Drive area. The inadequacies in service have resulted in gaps in coverage, dropped calls and blocked calls. She said that Nicholasville Road is one of the more heavily traveled roads in Fayette County; and in 2011, it was documented that the average number of vehicles passing through the Nicholasville Road/Southland Drive/Jesselin Drive intersection on a daily basis was well over 38,000. That number has likely increased in the past three years.

Ms. Rackers said that even though there are several antennae on buildings in this area, as well as four towers approximately 2 miles from the subject property that create a polygon, it is still not enough to provide adequate coverage to alleviate the service needs. She explained that there are several factors that play into having adequate coverage for an area. This includes the height and size of the tower; the ability of an antenna to catch radio frequencies; spacing between towers and the topography of the area. She said that, although that is not always or necessarily the case, a tower with a 1- to 2-mile service radius generally can have adequate coverage and service. She then said that dropped calls are an inconvenience to most people; but when considering emergency providers and their need to contact hospitals or E-911 dispatchers, it is critical.

Ms. Rackers said that Article 25 encourages tower location on government properties whenever possible, but it prohibits a tower to be located in a floodplain. She then said that almost the entire northside of Southland Drive is a FEMA floodplain area, which limits the tower location in this area to the south side of Southland Drive. She noted that when the initial assessment was done for potential tower locations, the LFUCG fire station (399 Southland Drive) at the corner of Cherrybark and Southland Drive was considered. However, at least half of the property is encumbered by a 100-year floodplain and the other half is taken up with a building and parking area. The only location for a tower would be right up on the road, and the staff would likely not recommend approval for this location.

Ms. Rackers said that the commercial properties along Southland Drive that are not in a floodplain had been considered, but only one was found to be suitable - the Collins Bowling Center, on the opposite side of Southland Drive. However, after reviewing the Collins Bowling Center property, the only area that was out of the floodplain was the parking area. This made it infeasible to use the property because it would have necessitated the removal of parking that is needed to meet the minimum requirements of the Zoning Ordinance. Ms. Rackers said that, after carefully reviewing the Southland Drive area, the applicant was not able to find a suitable location that was not in a residential zone, not in a floodplain, not environmentally sensitive or large enough to handle the tower or the equipment, and had an owner that was willing to negotiate a lease that would remedy the service issue in the area.

Ms. Rackers said that because of the level of opposition from residential property owners and the multiple letters and emails submitted, the applicant's Radio Frequency Engineer reviewed the neighbors' suggestions for alternative tower locations and antenna co-locations on buildings. However, after review and analysis, it was determined that 302 Southland Drive was the best solution to provide the necessary service that is needed for this area, as well as fulfill the technical requirements of Article 25 of the Zoning Ordinance. She said that, other than an alternative tower design, the applicant is making the tower as unobtrusive as possible with regard to the height and diameter of the tower, while still allowing co-location.

Ms. Rackers said that the current Comprehensive Plan does not make a land use recommendation for specific properties; rather it is policy-based and is based upon appropriate land use principle. Therefore, the staff consulted the 2007 Comprehensive Plan, as well as past Comprehensive Plans. It was found that Retail Trade and Personal Services had been recommended for the subject property because of its B-1 zoning, and because it was unlikely that the lot would be developed for residential purposes, due to its ownership by the Oleika Temple Trustees since the 1950s. Additionally, it is connected to and aligns with the other commercial properties along Southland Drive, also zone B-1, which further ensures that the vacant lot would almost never be developed as residential.

Ms. Rackers said that there is one particular objective in the 2007 Comprehensive Plan that is still relevant and is supported by the text and the Goals/Objectives of the 2013 Comprehensive Plan - that being to improve and develop "essential public and private facilities and services in existing neighborhoods where these are non-existent or inadequate." The proposed tower is consistent with that Objective. Additionally, Theme D, Goal 2 of the 2013 Comprehensive Plan reads: "To provide for accessible community facilities and services to meet the health, safety, and quality of life needs of Lexington-Fayette County's residents and visitors." She said that the proposed tower is consistent with the 2013 Comprehensive Plan and it does comply with all of the technical requirements, such as setback and screening, as required by Article 25 of the Zoning Ordinance. She then said that, even though the applicant does not need any variances, Article 25 states that, if a reduction in setback or the amount of screening is required, the applicant has every right to request that from the Commission; and the Commission has every right to grant the variance. She noted that the proposed tower is not within a FEMA floodplain area, it is not within an environmentally sensitive area and it is not within 1200' of a historic district or along a scenic byway. This request is within a B-1 zone where a monopole is permitted and will allow co-location, which is encouraged by the Zoning Ordinance. That being said, the intent of Article 25 is "to provide for cellular telecommunication towers in appropriate locations throughout the community at sites that provide adequate cellular telecommunication service, while protecting the public; preserving the character and value of surrounding property; and protecting the view from residential areas."

Ms. Rackers said that the cellular telecommunication service issues had been documented between January 2014 and November 2014; and the radio frequency analysis proves that the cellular tower is needed, thereby meeting the intent of Article 25. She then said that the staff received a statement from a real estate appraiser, who reported that the presence of a tower would not negatively affect property values in the area, which also meets the intent of Article 25. She added that the staff did research other areas where a cellular tower is located near a residential zone; and those property values were not affected, but rather the values had increased. She said that having a tower near residential properties is not an ideal situation, but Article 25 does allow a tower in a residential zone if no other location can be found. She then said that even though this area has trees, many are deciduous and there would only be screening for half the year. Although its profile will be minimized, with regard to its height and diameter, the tower will be visible to several of properties in the surrounding neighborhood. It will affect the view from many residential properties in all directions, which is contrary to the intent of Article 25.

Ms. Rackers said that, based upon the documented need; the radio frequency analysis; the limitation of the other sites in the area; and the intent of Article 25 of providing service where it is needed, while maintaining its compliance with the Comprehensive Plan, the staff is recommending approval of the applicant's request. However, also based upon the intent of Article 25, which is to preserve the character of a residential area and protect the view, the staff is recommending an alternative tower design. She explained that an alternative tower design was used along the Tates Creek Road corridor in order to disguise the tower, making it look like it was part of a church building. She then said that this was specifically done to protect the view shed along the Tates Creek Road corridor and its surrounding neighborhoods. The staff is recommending that a similar architectural feature or design be used, creating the appearance that the tower is part of the Oleika Temple or the adjoining building. In order to minimize the visual impact of what many surrounding property owners believe will be a negative, overwhelming presence for the neighborhood. Therefore, the staff is recommending that the following conditions be applied to this request:

1. That the tower be redesigned as an alternative design tower in order to lessen the visual impact from the adjoining residential area(s).
2. That the tower be surrounded by an 8-foot security fence, as well as a 5-foot landscape buffer area that contains both a 6-foot tall hedge and evergreen trees, as shown on the submitted site plan, and as required by Article 25. The area surrounding the equipment cabinet is to be screened from view of surrounding property owners.
3. That the tower, accessory equipment cabinet and lease area be maintained on a regular basis by the owner of the facility so as to have minimal impact on surrounding properties.

Representation – Mr. David Pike, attorney, was present on behalf of the applicant. He said that they recognize the importance of expediency, and they believed that they have designed an approach that would allow their presentation to be completed within the allocated time. He thanked the Planning staff for their time and the amount of work that was placed into presenting the necessary documentation concerning this case.

Mr. Pike said that all exhibits required by LFUCG Article 25 and KRS 100 have been submitted, and this application meets all of the requirements and regulations that have been developed by the Planning Commission and adopted by the LFUCG. He then said that no variances or waivers are required by this application. He added that the applicant has put incredible effort into this application and understands the sensitivity of this issue, to ensure that the requirements of the Planning Commission are met to the letter. He noted that, from a legal perspective, although confidentiality is one of the hallmarks of an application under KRS 100, his client waived that confidentiality as to the initial application as well as to all the subsequent information that was filed.

He said that they previously distributed an informational packet to the Commission and would be presenting a PowerPoint presentation on that information, noting that a copy of this information had also been given to Mr. Graddy for his review. He directed the Commission's attention to the overhead projector, and gave a brief summarization of their presentation. He said that, with regard to siting a tower, the staff report indicates that this application meets all technical requirements as outlined in Article 25 of the Zoning Ordinance. He then said that the staff had also made a recommendation for an alternative tower design, but it is their (his and his client's) opinion that an alternative design would be a bad idea. However, should the Commission choose to require an alternative design, they would like to put forth their proposal.

Mr. Pike said that their site plan shows all details of the proposed construction, and it demonstrates that no variances or waivers have been requested and are not required for this location. He then said that the site has been designed with strict conformance, and it is in full compliance with what was outlined by the Planning Commission and adopted by the LFUCG in Article 25.

Mr. Pike said that they have three reports that were prepared by experts, who have documented that there is a significant gap in the wireless coverage in this area. This gap is caused by the insufficient infrastructure in the area; and in order to remedy this problem, a tower must be located within the prescribed search area and be built to the specific elevation. He then said that, although they are not required to do so, the applicant has worked hard to evaluate all possible solutions and alternative locations. He added that most of the available areas have been ruled out by either the Planning Commission or the Lexington-Fayette Urban County Government regulations, which indicate that if a commercial site is available then a residential property can not be considered. Also with the FEMA floodplain regulations, an accessory structure can not be built within 25 feet of the floodplain boundary, further limiting the available real estate in this area.

Mr. Pike said that based upon the opposition the staff had received, his clients have tendered expert reports explaining why small cells can not be utilized to cover the gap in service and why a tower is necessary. He said that moving the tower toward the southeast is not a solution due to the spacing requirements. He added that this is not the only site for which AT&T will be seeking approval over the next couple of years. He indicated that they did review the suggested alternative sites, but those sites are located well outside the search area; and according to the expert documentation, any tower constructed outside the search area would not resolve the radio frequency problem. Mr. Pike said that the proposed tower has been sited to have high band coverage because that is the nature of the frequency that modern coverage is now required to have.

Mr. Pike said that, in reviewing the search area, there are no vacant lots from which to select due to the density of the area and because the vast majority of the area is residential or within a FEMA floodplain area. He then said that the Site Acquisition Report documents that, if possible, co-location on a tower will be obtained. He added that, not only do the regulations require co-location, but it is less expensive; plus, it would not require the Commission's approval. He said that during their search, it was determined that there are no towers or sufficient building heights within the search area that could meet the coverage objective that is necessary for this area. They have exhausted co-location alternatives in this instance. Mr. Pike explained that, in reviewing the County Tower map of all FCC registered towers in Fayette County, the nearest towers, some of which are to the south of this proposed location, are at least a mile away.

Mr. Pike said that Marshall Slagle, FAICP, had drafted their Planning Review report, which was then made available to the Planning Commission, the staff and the public. He then said that that report details their proposal and the issues that have been discussed at today's hearing. He added that Mr. Slagle finds this site to be consistent with the requirements of the Comprehensive Plan and the requirements of the Zoning Ordinance, as well as noting that this site is the best area within the search ring and that monopoles are the preferred structure under the Zoning Ordinance and general zoning principles.

Mr. Pike said that his client is not required to eliminate all other parcels, and this parcel is allowed to be considered on its own merit. He then said that Mr. Slagle examined this parcel rule-out process and found that there are no other available sites that would meet the required objectives that have been outlined by Article 25 terms, which was adopted by the Lexington-Fayette Urban County Council. He added that 302 Southland Drive meets all the necessary requirements. He said that this site is located in a B-1 zone and it has natural screening to reduce the visual impact from the surrounding area. He then said that uses that could be used at this location include automobile service stations, office space, funeral parlors and parking structures. With regards to property values, Mr. Pike said that, according to an expert real estate appraiser, a cell tower will not negatively impact or increase the property value in this area.

Mr. Pike then said that William E. Grigsby, P.E., prepared the Structural Consideration report, and he reported that the tower foundation and design would be built to extraordinary standards to withstand any extreme weather events that could occur. He then said that the tower will be engineered to a zero-fall radius, meaning that should there be a meteorological event, such as an F5 tornado, the tower would not fall like a tree, but rather it would bend toward the ground. He said that they had provided a Geotechnical Report showing that the subsurface conditions were analyzed, ruling out any issues that could occur.

He added that the construction recommendation was based upon the results of the geotechnical study. Mr. Pike said that the Kentucky State Historic Preservation Office has stated that the proposed construction will have no adverse effects associated with this proposed tower.

Mr. Pike said that Daniel K. Stevens drafted a report addressing the environmental concerns and noted that there is a limited amount of diesel fuel that would be used and non-spillable batteries that would be stored on site. He then said that the facility will be designed to handle any regulatory requirements; and, in the event a spill were to happen, they have a response Environmental Health and Safety Team that would be monitoring this site 24 hours a day, 365 days a year. With regard to the noise level, they can time the backup generator to be tested at the same time every day.

Mr. Pike said that the FEMA map shows that much of the search area is located within a floodplain, especially the commercial lots along Southland Drive; whereas, this property is not. He directed the Commission's attention to a series of photographic simulations that show the relationship of the facility with the surrounding structures, trees and other visual masses. He explained that, even though the tower is tall, it is short in the cellular tower standards and not visible from most of the search area. He said that the average tower height is approximately 278 feet, more than twice the height of the proposed tower. He then said that within a 10-mile radius there are 71 FCC registered towers that have been constructed; only two of these towers are shorter than what is currently being proposed at this location. This is not a short structure, but it is a short cell tower. Mr. Pike added that cellular towers are not like zone changes because towers are protected by the Federal Telecommunications Act of 1996. He further said that the courts have stated that generalized aesthetic concerns are not substantial evidence in cell tower cases, and towers can not be denied on this basis by this body or any other Board. Mr. Pike said that the applicant had fulfilled the notice requirements as required by the local and state regulations, including the two extensions that were granted. He then said that the applicant complied with all of the local requirements, as outlined in Article 25 of the Zoning Ordinance.

Mr. Pike said that it was suggested that an alternative design should be considered. However, that is not a requirement according to the regulations. He then said that they are prepared to provide an alternative design should the Commission impose that condition as part of their approval. It was his belief that they believe that would be a bad choice, but they would do as the Commission wished. He directed the Commission's attention to a photograph of an alternative design choice, and said that they believe an alternative design is often self defeating, because it would increase the visual cross-section of the structure, making it more noticeable. He then said that, based on the reduced height of the monopole, the tower can be constructed with a smaller pole; but attaching a large tree structure at the top would increase its height.

Mr. Pike said that the Federal Telecommunications Law is an applicable federal statute that separates cell tower cases from all other types of zoning cases. He then said that applications for construction of a telecommunications facility can be denied only when the denial is based on substantial evidence that is admissible by federal standards. He directed the Commission's attention to Tab V and explained what is not substantial evidence under federal law, within this federal district or federal circuit. He added that federal law does not allow local zoning authorities to prohibit an applicant from providing wireless service. He said that a prohibition of service occurs when an application to construct a telecommunication facility is denied, even though the applicant proves that a significant gap in service coverage exists, and an inquiry into the feasibility of alternative facilities or site locations has occurred. He then said that a service gap exists when the applicant presents evidence of a significant gap in its own coverage. He indicated that they have done all of these and have presented those findings.

Mr. Pike said that, with regards to health concerns, that issue was dealt with at the opening remarks from the Chairman of the Commission. Mr. Pike said that they had submitted a Federal Communications Commission Report stating that approximately 70% of all 911 calls are placed from wireless phones. This percentage is increasing. It's important to provide okay service, but they want to provide outstanding service in every situation. Mr. Pike said that, as of December 2013, the National Health Interview Survey shows 39.1% of all adults live in households with only wireless phones, and 47.1% of all children live in households with only wireless phones. These percentages, along with the percentages of 911 calls, make the provision of wireless coverage even more critical.

In conclusion, Mr. Pike said that they do have one supporter in the audience who would like to speak on behalf of this AT&T application. He then said that they have expert witnesses also in the audience, should the Commission have any questions concerning this cell tower case. He noted that all filings by the applicant to date, including those prior to the hearing, supplemental filings and information introduced today included in the binders are hereby introduced into the record. He said that there are several people in the audience present on behalf of AT&T, none that whom are naive enough to believe that cell towers are easy cases. The AT&T representatives who are present take this seriously. He hopes that the degree of documentation that was presented to the Commission underscores that. He said that people depend on AT&T to provide this community the best, most advanced wireless service that the world has to offer. This is not optional; and in order to serve these areas, cell towers are necessary where people will be in opposition. That is what it's going to take for cellular service to function. He said that they have worked very hard to follow the rules of the game, as outlined by the Planning Commission and adopted by the Urban County Council. He requested that the Commission approve this cell tower request in order to provide this community the wireless service that it deserves and needs.

Planning Commission Questions – Mr. Drake asked what the quality of service is that AT&T would be providing at this facility, such as speed and capacity. Mr. Pike said that the service would be 4G.

Mr. Penn asked, if cell towers were to become obsolete, what would happen to the monopoles. Mr. Pike said that AT&T is required by local and state law and the terms of the lease to remove the structure, which they would adhere to.

Mr. Wilson said, in reference to the relay point, it was mentioned that the next cell tower is 2.5 miles away from the nearest connecting point without the proposed cell tower installation. Ms. Sherri Lewis, RF Engineering for AT&T, was present on behalf of the applicant. She said that from the southeast, the existing site to the proposed site is 2.3 miles; and there are closer towers to the north and west, at roughly 1.5 miles. Mr. Wilson then asked what AT&T is trying to achieve and at what distance. Ms. Lewis said that the cellular tower spacing is roughly a mile, depending on the topography of the area and the height and location of the tower. Mr. Wilson asked if AT&T is trying to achieve one mile for this area. Ms. Lewis replied affirmatively.

Mr. Wilson said that it was mentioned that another tower would be requested in a couple of years. Mr. Pike explained that they would be seeking the Commission's approval to install a cell tower about 1.2 miles from this tower, to be consistent with the one mile standard. He then said that, based upon the zoning requirements and other standards, they are allowed to have another company attach to this tower before constructing an additional tower. Mr. Wilson then asked, if the competitor needed a different area if they are allowed to locate elsewhere. Mr. Pike said that that company would have to demonstrate the need to relocate and that they could not meet their service needs through co-location on this tower. He added that they have reciprocal leasing agreements with all competitors in this market.

Mr. Wilson asked how the tower would be accessed. Ms. Rackers illustrated the site plan, and said that access would be provided off Eastway Drive. Mr. Pike said that once the facility is constructed, the normal activity would be one vehicle in and out once a week – a very low trip generator.

The Chair asked what the height of the "mono pine" tree would be, to which Mr. Pike responded it would be 125'.

Opposition – Hank Graddy, attorney, was present on behalf of the Hill 'N Dale Neighborhood Association, which is comprised of a large majority of residents in the Southland Drive area, who will be adversely impacted by the construction of the proposed cell tower at 302 Southland Drive.

Mr. Graddy distributed an informational packet to the Planning Commission and said that, according to the applicant's report, the Zandale area is where there are serious gaps and problems - not the Southland Drive area. He said that their original application undercuts the need for a cellular tower at the Southland Drive location and that the report did not mention the Zandale tower, which is noted to be constructed at a later date in the supplemental report.

Mr. Graddy said that the residents of the Southland Drive area will be speaking to the character of their neighborhood and how they believe this application clearly violates the intent of Article 25 of the Zoning Ordinance. He then said that his clients are requesting the Commission to disapprove the application to construct the 125-foot tall monopole cellular tower, with a 5-foot lightning arrestor, as this location is contrary to Article 25, Section 25-1 (Intent) for the following reason:

This site is not an appropriate location for a cellular tower. Article 25 states that the intent is to provide for cellular telecommunications towers in appropriate locations throughout the community at sites that provide adequate cellular telecommunication service while protecting the public, preserving the character and value of surrounding property, and protecting the view from residential areas.

This ordinance section requires a consideration and a finding on five (5) separate and distinct siting requirements.

1. a site must provide adequate cellular telecommunications service;
2. protecting the public;
3. preserving the character of surrounding property;
4. preserving the value of surrounding property; and
5. protecting the view from residential areas.

To be approved, the Planning Commission must be able to find that a site will meet all five siting requirements. He said that this site fails on four of those five.

Mr. Graddy introduced several residents of the area, who presented a PowerPoint presentation to the Commission, illustrating a series of photographs of the Southland Drive area.

Ms. Gail Lightner, 279 Clearview Drive, president of the Hill 'N Dale Neighborhood Association, was present and explained that the Southland Drive business corridor and the surrounding residential neighborhoods are some of the oldest and most well established areas in Lexington. She then said that the Southland Drive area is an unique neighborhood and many of the local residents feel that a 125' cell tower is not appropriate for this location. She added that much of the Southland Drive area was first established in the 1940s and 1950s, and the surrounding neighborhoods are robust and growing due, in to a large part to the fact, that these well established neighborhoods are affordable and walkable. Southland Drive is very diverse area of locally owned businesses and has developed a reputation of being a shopping district for small locally owned businesses that can take root and grow. She then said that the unique aspects of Southland Drive area allows residents to purchase groceries, have a cup of coffee or watch a UK basketball game, all within walking distance. She added that there are 1,534 families and 6,134 people living within ½ mile of Southland Drive. The area has become more pedestrian with the added

sidewalks under the railroad bridge, as well as becoming bicycle friendly with the bike lanes along Southland Drive. She said that these improvements will help bring more businesses to the Southland Drive corridor area. She then said that some of the public art along Southland Drive include four horses from the Horse Mania collection and murals depicting the region's musical tradition. She noted that there will be an Art in Motion bus shelter in front of the Good Foods Co-op, which will not only add to the appeal of the area, but will improve connectivity. She said that if the proposed cell tower is approved, it will become an eyesore and will hinder businesses in this area. Hill 'N Dale Park, located on Maple Wood Drive, is a hub of neighborhood events and activities ranging from picnic outings to sports. She said that the park was the previous home to the community garden project, which the neighborhood association hopes to revive. She then said that the Hill 'N Dale Church on Hill 'N Dale Road is another activity center for the area. The church embraces not only its own activities for its members, but activities for the entire neighborhood, such as neighborhood association meetings and social events. The intent of Article 25 of the Zoning Ordinance is to provide cellular telecommunications service in an appropriate location in order to preserve the character and value of the surrounding properties, while protecting the view from residential areas. She said that the proposed cell tower, at 302 Southland Drive, will be adjacent to the back yards of the nearby residents along Sheridan Drive versus the businesses along Southland Drive. She then said that a large group of Southland Drive neighbors and businesses believe that erecting a cell tower at this location is not in the best interest of this area.

Ms. Janet Cabaniss, 704 Cumberland Drive, former president for the Hill 'N Dale Neighborhood Association, was present. She said that the Southland Drive corridor character involves more than the residential streets. She then said that the residential character has been deliberately established and enhanced over the recent years due to the formation of the Southland Neighborhood Association. She made note that she was not speaking on behalf of the Southland Association; but, rather, she is providing her knowledge of the area because she has lived there for a number of years. She said that the Southland Association membership includes merchant, professionals, neighborhood associations and individual members. She added that the idea for having this association is to embrace and enhance the viability of the Southland area for everyone to provide both strong home and strong business values. She said that the Southland Association has brought the Farmers' Market and the Southland Jamboree to this area to enhance the viability of the Southland Drive corridor. She explained that since 2005, the Farmers' Market has been open during the summer months on Saturday and Sunday, and the Jamboree, is a free weekly event that has been going on for 9 years. She added that, from May to September, the Jamboree provides a concert event on Tuesday night that is open to the public. She said that there are at least 6,000 people a year that attend the event; and, in turn, those people bring more business to the local shops and the residents, as well as establish the Southland Drive corridor for cultural events. This, again, is a very cultivated aspect of Southland Drive that the residents want to retain. She said that in the past the Jamboree was held in the field to the side of Collins Bowling Lanes on Southland Drive. However, additional construction has been planned and that site will be unavailable in the future. She said that the Southland Jamboree had announced its relocation to the grassy area behind the Oleika Temple for 2015. She then said that this event will bring upwards of 500 people regularly coming into the area where the proposed tower will be located. She added that the existing towers have warning signs of high voltage, diesel fuel and so forth, and this was not mentioned in the staff report. Ms. Cabaniss asked if the proposed tower violates the safety needs for these activities in the field. She then asked if these two separate land uses can co-exist or should the Southland Jamboree relocate. She added that a neighborhood should not have to change its tradition, and Article 25 speaks to preserving the character of a neighborhood. They believe the cell tower should not be located in this particular field.

Ms. Christina Zakowski, 342 Sheridan Drive, was present. She said that before her family moved to Sheridan Drive in 2012, they wanted a neighborhood with personality, mature trees, large lots and walkability. She then said that the Southland neighborhood area is one of the few affordable locations with access to businesses and amenities. She added that they traveled Sheridan Drive at different times of the day and night to see if there were any potential negatives before buying their home. After making several trips in the Southland Drive area, they decided to purchase their home and settle down with their family.

Ms. Zakowski said that, in August 2014, she received notification from AT&T about the 125' monopole tower. She then said that, considering all the time and effort spent in assessing the neighborhood, she is outraged that there could be a looming cellular tower across from her home. She indicated that if they had known of the proposed cell tower, it would have changed their mind about purchasing their home.

Ms. Zakowski said that she had great hopes for this neighborhood and this community; but with the addition of this tower, it will discourage other young professionals from relocating their families to this area. She then said that the proposed site does not minimize the impact to the residents of this area. This location is absurdly close to the Sheridan Drive properties, and if the Commission intends to uphold the intent of Article 25 of the Zoning Ordinance to protect the public, preserving the character and value of surrounding property and protect the view from residential areas, then the Commission must reject AT&T's request.

Ms. Zakowski said that, in addition to being a resident of Sheridan Drive, she is also a mechanical engineer and a licensed professional engineer for the State of Kentucky. She then said that she wanted to educate herself regarding radio frequency, so she contacted an engineering professor at the University of Kentucky. After she learned about radio frequency, the neighborhood made a good faith effort in finding another location for the proposed cell tower. She said that they came up with 12 alternate sites that might have a lesser impact on the public. She then said that they looked for sites that would meet the cellular coverage that is needed while providing a lesser impact on the public. These included roof tops to minimize tower proliferation and be further away from residential homeowners. As Mr. Pike had pointed out, their sites were more toward the southeast; and the reason they looked toward the southeast is that the 3G Maps were the only maps made available to them

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

with the original application, not the 4G maps. She said that the 4G maps were submitted to the Planning Commission on December 5th, which did not allow them to review them until just prior to today's hearing. She then said that new maps paint a fuller picture for the need, and she feels that an alternate site could be located based upon the new information. She added that there are many sites and churches along Pasadena Drive and in the Clays Mill area that might be the perfect spot. They have not had the chance to evaluate those maps.

Carlin Robbins, Vice President of the Hill 'N Dale Neighborhood Association, who also lives on Sheridan Drive, was present. She said that as a self-supporting single homeowner, her first concern with this application was property value. She then said that she had placed a call to PVA in order to inquire about any data concerning cellular towers and decreased property values. She added that, from the conversation with the PVA staff, she was informed that a cellular tower is considered an external obsolescence or an eyesore. She explained that the definition of "external obsolescence" is "an element of depreciation; a defect, usually incurable, caused by negative influences outside a site and generally incurable on the part of the owner, landlord, or tenant." This term is also considered an economic obsolescence. She said that other resources state that external obsolescence impact the appeal and marketability of the area. She then said that she contacted ReMax Real Estate about the possibility of placing her home on the market. She was informed that she would have to disclose the proposed cellular tower, which would limit the number of potential buyers. Ms. Robbins said that if this application is approved, the view from her front window would be blighted by a 125-foot monopole cellular tower with a 5-foot lightning arrestor, plus up to three antennas. She then said that the real estate agent submitted 9 "comps" that represented almost all of the streets in this area; and if her property values decrease, it will negatively impact the market value for the remaining area.

Ms. Robbins said that Article 25 states that the burden should be on the applicant to establish evidence as to why the tower would not alter the essential character of the surrounding area. She then said that, as part of her research on the Southland Drive area, she had traveled to many towers located in Lexington and surrounding counties; and without a doubt, this proposed tower will alter the character of the surrounding area and the public view. However, as many times as she has read Article 25, she kept returning to the intent of the Zoning Ordinance. She said that the intent of Article 25 is to provide adequate cellular telecommunications service; protecting the public; preserving the character and value of surrounding property; and protecting the view from residential areas.

Rebecca Lutz, 331 Sheridan Drive, was present. She explained that her home is located directly behind Incredipet and will be directly behind the proposed cell tower location. She said that the reason she moved to this area was the easy access to the nearby restaurants and businesses that she currently accesses through her back yard. However, with this proposed application, there is now a chain link fence with a padlocked gate for the preparation of building the tower. She said that the strip of land where the tower will be built is relatively narrow and effectively is in her back yard. The impact of a large structure in a small space is staggering, and it will completely overwhelm the surrounding area. She added that there are 46 homes within 500 feet of the proposed tower, which shows just how compact the area is.

Ms. Lutz said that she regularly uses electronic devices and she understands that infrastructure must be in place to make those devices possible. She then said that she also understands that businesses need to remain open, but she does not believe a business should be able to increase its revenue at the expense of an entire neighborhood, adding that she finds it extremely difficult to believe that there is not a more suitable location for this proposed cellular tower project.

Ms. Lutz said that shortly after receiving the certified letter for this application she asked her neighbor what this would mean for the neighborhood. She said that her neighbor researched monopole cellular towers on the internet, and one of the first links was a picture of a tower on fire. She added that the link took them to a website where Dr. David Stupen, retired physicists from Los Alamos Laboratory, had documented different news story and videos of cellular towers failing. She said that the idea of this type of accident occurring so close to her and the other residents is terrifying. She asked that the Planning Commission remember that this proposal is not being done in a vacuum; but, rather, to consider the negative impact on the many homes and businesses if this project is allowed to move forward. She said that since there is no buffer zone around the proposed tower, should there be an event, it would be catastrophic to the nearby residents. The intent of Article 25 is to place the cellular telecommunications towers in appropriate locations throughout the community at sites that would provide adequate cellular service, while protecting the public. She requested that the Commission protect their neighborhood and their homes by stopping this project.

Meriah Kruse, resident of the Hill 'N Dale area for 7 years, was present. She said that she moved to this area because of its small, quaint atmosphere in the middle of a larger city. She then said that she heard Mr. Pike say that they would not be able to decide on matters of appearance; however, in the LFUCG regulations, the Commission is asked to consider the character of an area, so why not the appearance of an area. She added that her neighbors mentioned their concerns with the potential negative appearance that will be placed on this area because it is a beautiful area. She said that this is a close-knit community and the neighbors know each other.

Ms. Kruse said that her initial response to this proposal was that a 6-story tower in the middle of this neighborhood will do irreversible harm to the character of the neighborhood. She then said that it would be like permanently installing an elephant in the middle of your living room. She added that, with the exception of two people, most of the other residents and businesses owners feel the same way. The neighborhood association is unanimously in opposition this request and has dedicated funds to secure legal counsel. She said that they had appointed a subcommittee of volunteers to express the neighborhood's opposition to this request. In less than three months they had prepared, organized and received an outpouring of opposition on this proposal from the residents. She said that they created a FaceBook page, made yard signs

and visited the residents to help educate them. She then said that several residents (169 people) had signed the petition, and she believed that if they had more time they would obtain more signatures. She added that they also have a separate petition, with 116 signatures, from people who visit and shop in this area.

Ms. Kruse said that one of Lexington's appealing characteristics is its neighborhoods, and by placing a large cellular tower in the middle of a significant neighborhood would immediately make the area lose its appeal and value. She said that homeowners who purchased their home in 2013 would not have relocated to this area if they had known this proposal was coming to the area. She asked the Planning Commission to respect the views of the Hill 'N Dale Neighborhood Association and reject AT&T's proposal.

Mr. Graddy said that with what they have outlined in their packet, along with the staff report from the Division of Planning, as well as the testimony presented, this application fails to meet the standards and is in violation of Article 25. He then said that what has been said and outlined gives the Commission a basis to find that this proposal, at this location, does not protect the character of the Hill 'N Dale neighborhood or the view from the residential area and should be denied.

Mr. Graddy directed the Commission's attention to his previously distributed packet, and briefly explained what each tab referenced. He said that, in light of the instructions from the Commission, there are contents referencing radio frequencies; but that issue had been ruled out of order. He said that he understands that the Commission is striking that issue from this case; but under Tab 1 is a report from Mary McClinton Clay, who provided literature research regarding the impact and damage from cellular towers. He then said that it is her opinion that the average impact is 20 percent, and her study shows a range of 12 to 50%. The Chair said that the Commission is not taking testimony on that subject; and simply put, if it can be construed that the Commission's decision was based upon something that the federal government had stated the Commission can not rule on, they cannot consider that. Mr. Graddy said that he understood that testimony given on radio frequencies would be struck. He then said that he was asking the Commission to consider discussion separate from those items because this is what Ms. McClinton relied upon. He added that her report reaches conclusions that are based upon the market and property values. He said that he is not asking the Commission to discuss radio frequencies, but rather property values. The Chair replied that property value testimony is permitted. Mr. Graddy said that, based upon the impact to the property values, along with his clients' testimony, gives the Commission findings of fact to disapprove this application (Tab 4).

Mr. Graddy said that everyone has cell phones and everyone wants adequate service and, in general, everyone supports AT&T's efforts to find a suitable location. He then said that they believe that the Hill 'N Dale neighborhood is not an appropriate site; and, in part, this finding is based upon the documentation that was submitted by AT&T. He added that in their report they cite the Zandale area as being the worst area for cellular coverage, and they could not figure out why AT&T was doing research the on Southland Drive area. Mr. Graddy said that they submitted AT&T alternative sites for the Zandale area to see if those sites would help out the problem areas. He then said that they learned that a cellular tower would be placed in both locations, but the tower that is needed is in the Zandale area. He added that they are requesting that the Commission deny this application and allow a tower to be installed in the Zandale area, which is where the problem area is occurring. He said that if there is a need for an additional cell towers then they would help to find alternative locations to make it work.

Mr. Graddy said that they believe the fire station site, which is out of the floodplain, is worthy of consideration. He then said that the fire station is a government building, the front yard is an open area that is not being used, it is a proper site for a cellular tower and it is consistent with the Zoning Ordinance.

Planning Commission Questions – Ms. Mundy asked where the Southland Jamboree is currently held. Ms. Cabaniss said that for the first 8 years the Jamboree was held on the vacant lot beside the Collins Bowling Lane. Ms. Mundy then asked why that was brought up with regard to the application for this property. Ms. Cabaniss said that the Southland Association was told that the owner of Collins Bowling Lane would be building something on that vacant lot and it would no longer be available, which led them to choose the lot behind the Oleika Temple. Ms. Mundy said that the Southland Association may have chosen the lot behind Oleika Temple; but that lot has been leased to AT&T. Ms. Cabaniss asked if the entire field has been leased. Ms. Mundy commented that she does not know, and said that she does not know how the Southland Association can announce that the Jamboree is going to be on a piece of property that they do not own and that is leased to another entity. Ms. Cabaniss said that the Oleika administration made the offer to the Southland Association, and they accepted their offer.

The Chair asked if his clients would be in favor of the alternative tower that was presented by Mr. Pike. In response, Mr. Graddy said that they are looking forward to supporting a cellular tower in the Zandale area. The Chair clarified that he was asking about the alternative tower design at its proposed location. Mr. Graddy said that he objected to being asked to approve an appropriate design that he has never seen before this hearing. He then said that he can not speak to what his clients think about the alternative design without consulting them, but he can say that his clients were expecting a church tower design. The Chair clarified that Mr. Graddy is reserving his answer since they have not had time to review the alternative design. Mr. Graddy noted that Ms. Clay is not available due to a conflict, which is one of the reasons they were requesting this application to be postponed to January.

Supporters – Teresa Vogt, 394 Sheridan Drive, was present. She said that, with the exception of 12 years, she has lived in this house all of her life. She then said that she understands, when purchasing a home, the homeowner owns the house but they do not own their outside view. She said that she understands the concept of "Not In My Back Yard (N.I.M.B.Y)", because it will destroy property values. She said that she has received phone calls at all hours of the night. She has received notes in her newspaper regarding this tower, plus her son had to stop someone from putting a yard sign in her front yard opposing the

tower. Ms. Vogt said that there are power lines along the Eastway Drive area, and there are the railroad tracks in the same area. She asked if people really think that this single monopole cellular tower will tank their property values more than what the power line, the railroad tracks, not to mention the businesses along Southland Drive, several of which have been robbed, have done. Ms. Vogt said that there are several businesses along Southland Drive that use cell towers to back up their business records; and, if their calls get dropped, then they will lose their records and will need to re-enter that data before they can open their doors that day.

Ms. Vogt said that she has kept quiet throughout this process, but at the same time, she has reached a point where she is saying "Not in my damned neighborhood are we going to be treated like lepers when we don't agree with the majority, and she has as much right to live in this area as the next person." This tower is fine. She added that the Oleika Temple has done more for this community than the entire Neighborhood Association ever could do with their charities.

Opposition – Councilmember Harry Clarke, representing the residents from the 10th District, was present, and said that he is speaking against the cell tower proposal. He said that he has absolute respect for the Planning Staff, and they are one of the truly outstanding agencies of the Lexington-Fayette Urban County Government; but he is in opposition to this application. He then said that he understands the task at hand; and in reviewing the staff report, he can see that the staff is also concerned with this application and the neighborhood's concerns. He added that the Planning staff must be objective to report the facts and make a recommendation based upon the Comprehensive Plan, the Zoning Ordinance and regulations on all levels. He also said that he has the greatest respect for the Planning Commission, and he certainly does not envy the members and their task. Councilmember Clarke said that the Planning Commission can make a subjective decision by taking into account not only the facts, but the effect on human life, happiness, and the welfare of the people who will be impacted by this cell tower. He said that the staff cites Goals and Objectives, Theme D, Goal 2 - the local quality of life, and found it in support of the tower. He disagreed and said that that goal is a significant factor in disapproving this application for this location. He said that a real estate appraiser reported that property values will suffer no negative effect. However, for this data to be reliable, one would need multiple opinions, particularly from real estate agents, who would be charged by these residents to sell their property with a tower hovering over their heads. He asked the Commission members what if this tower was in their back yard and how they would feel if their homes were to be close to this tower. It would be disturbing. He said that Mr. Pike made his points, and he understands that it's about the money between AT&T and the Oleika Temple developing this lot; but they are not interested in the welfare of the residents, whose lives will be changed. He then said that the residents of this area put their savings into their homes and they expect to look out their windows at their gardens without seeing the ugly spectrum of this monstrosity. He said that they looked at the alternative sites, and this project can be done better. The homeowners in this area deserve better. Councilmember Clarke said that, as a city government, we can not avoid something that would significantly impact the normal life of our residents. This is not our role and it's certainly not our style. He added that Mr. Pike, AT&T, and Oleika Temple do not care, but the Planning Commission does care.

Shun Lucas, 103 Venice Park, was present, and said that as far as he knows, his neighborhood association was not made aware of this application. He then said that even though radio emissions was struck from this hearing, those emissions would be entering his neighborhood. He added that the Planning Commission does not have to consider the radio emissions, but his family does have to consider those emissions. Radio emissions will change the character of the neighborhood. He said that he is fortunate because he works in Springfield, KY and his wife works for a state-wide nonprofit organization; and if this tower is approved, they will be seriously considering picking up and moving from this area. He then said that they chose to live in Lexington for the past 7 years because his family loves this wonderful community and he does not want this tower so close to his children.

Damon Snyder, 380 Bradford Drive, was present and said that it's very interesting that AT&T, corporate DNA structure includes Bell Labs who invented the transistor, can't do a better job than putting a 150' tall "sequoia" in the Southland area. He then said that there were no other options given to the Planning Commission, and it may be true that 302 Southland Drive is the optimal place based on AT&T's needs; but is it also true that 302 Southland Drive is the only place. He indicated that he does not believe this to be true and suggested a hypothetical situation. He asked, if this lot was already occupied or did not exist, where AT&T would place the tower. He said that with the time and money AT&T has invested in the infrastructure, of course this would not come to a complete halt. The engineers would work around the issue and pick another location, which would then become their first pick. It may not be as efficient, but it would work to meet their needs. He said that the so-called "only spot" to place the tower and the only way to provide the services, both statements are not absolutes, and it only expresses AT&T's desires; any other option would result in more money being spent by AT&T. He then said that AT&T wants to spend the least amount of money, even if their ideal solution forces the homeowners to experience a direct cost with their home value depreciating, as well as having a lower quality of life in a less visually appealing neighborhood. Mr. Snyder said that AT&T has not provided the Planning Commission a creative enough solution. He then said that monopolies are the established technology, but the future is calling for smaller and less intrusive devices. He added that AT&T has used similar devices in other parts of the country. He believes that this application should be given back to AT&T with the instructions to try harder to find a site that is less visible. There is no limit of technology; it's AT&T's reluctance to spend the extra money on installing the tower.

Helen Morrison, 571 Mitchell Avenue, was present. She said that she is speaking against the cell tower proposal because she cares about the future of Lexington and the Southland Drive area. She then said that the Southland Drive area is not only where she chooses to live, but it is unique place for several reasons. It has an increasingly diverse population; it is an urban neighborhood with a variety of housing and small businesses; it has an interesting history and it is pedestrian and bicycle friendly. She said that, if cared for and furthered improved, the Southland area could be a model for Lexington and other

cities. However, if the Southland area is not cared for or improved, it would become an opportunity that is lost due to lack of forethought and planning.

Ms. Morrison said that the Zoning Ordinance states that whenever possible, a cell tower, whether temporary or permanent, shall be sited at locations that will minimize their adverse effect on the residential uses in the immediate area. She then said that it is quite possible that this tower could be relocated to another area and still provide the service that is needed, in order to minimize the adverse effect on the neighborhood. She added that the Zoning Ordinance also states that a cell tower, whenever feasible, should be placed on government property.

Ms. Morrison then said that she finds that the northwest corner of the search area is a little strange, and she believes that the search area was moved a few times. She indicated that, to her, this says that there is some flexibility in the search area and this was done to find the height-to-yard ratio that is needed. She said that she wants AT&T to use that flexibility to find an appropriate location for this tower.

Ms. Morrison said that she finds it disturbing that the reason for the tower being so tall is to help the very large service area on Nicholasville Road. She then said that in high density urban areas it is common to use lower towers and small cells, which would boost the coverage at the street level. This large cell tower is the solution to multiple smaller towers. She asked if AT&T had discussed placing smaller towers along the railroad versus the large tower before submitting their application to the Planning staff.

Hilary Angelucci, Legislative Aide to Council Member Peggy Henson, was present. She noted that she lives 133 Edgemoor Drive. She said that, should the cell tower be approved, the Planning staff had recommended an alternative design for the cell tower in order to lessen the visual impact from the adjoining residential area. She directed the Commission's attention to the overhead projector, and said that she believes that this condition could be implemented in many different ways, such as a pine tree or a design that would fit with the neighborhood. She then said that, even though it is not in the Zoning Ordinance, and with this proposal being so closely knitted into this neighborhood, if design elements could be attached to the approval of this application.

Ms. Angelucci asked for Mr. Pike and his client's representatives to put themselves in the resident's position. She said that having a cell tower 50' from their home would severely impact their lives. She then asked for AT&T to "raise the bar" over and beyond the minimum requirements to create a better standard for cellular towers in Lexington. She added that there are many local artists in Lexington, and perhaps they can help create something that suits this neighborhood. She asked, should the Planning Commission approve this application, that the design of the cellular tower be something creative rather than the standard pine tree. Ms. Angelucci said that she stands behind Council Member Henson and asked that the Commission think about raising the standards.

Michael Galbraith, President of the Mitchell Avenue Neighborhood Association, who resides at 584 Mitchell Avenue, was present. He said that they are in support of the Hill 'N Dale Neighborhood Association's opposition to the location of this cell tower. He then said that they believe this proposal represents a visual infringement upon the residential character on the adjoining homes. Additionally, it is counter to the efforts of the Southland Association Merchants and the residential members to beautify the Southland Drive corridor with their efforts at planting trees, establishing rain gardens and other efforts.

To address the photo simulation points that were previously displayed, Mr. Galbraith said that while motorists' skyward vista is blocked by their cars' rooftops, for those pedestrians and bicyclists who use the Southland Drive corridor, their infringement on the sky line vista represented by this tower is much greater and is seen for a much longer time. He then said that to allow this tower at this location represents a permanent infringement on the visual character of this area and is contrary to the Southland Association Merchants and residential efforts to beautify the corridor. It is also contrary to the intent of Article 25 of the Zoning Ordinance to protect the character through visual enhancement.

Nancy Stallard, 346 Stratford Drive, was present and said that right now the view out her front window is lovely and she does not want it to change to a big cell phone tower.

Diana Cory indicated that she and her family own a few houses on Eastway Drive, as well as at the corner of Sheridan Drive. She said that her son resides in the duplex on Sheridan Drive, and he would have a direct path of the cell tower. They asked for this request not to be approved.

Mr. Graddy said that they have a video recording from Sandy Shaffer, who resides in this area. (A copy of the video is attached as an appendix to these minutes). The Chair indicated that neither the Commission members nor the audience members could hear the recording; therefore, the video would not be admissible.

Representation Rebuttal – Mr. Pike directed the Commission's attention to the PowerPoint presentation, and said that it is important to note that a floodplain is not the only limiting factor when selecting a cellular tower location. He then said that, under the LFUCG regulations, all accessory structures associated with a cellular tower must be more than 25' from a floodplain, which eliminates the entire Fire station lot. He then said that he objects to all testimony on health issues and he applauded the Commission for refusing to consider that issue, as well as any introduction of evidence on alleged expert testimony, when they are not present to be cross-examined. He added that he is entitled to cross-examine any testimony given under the due process standards and the Commission's bylaws and regulations.

Mr. Pike said that, as far as the setbacks are concerned, those rules are dictated by the Planning Commission and the Lexington-Fayette Urban County Council. He then said that it is no accident that this site does not require a variance because they have followed the rules to the letter, and it meets all of the requirements as outlined in the regulations. He added that, in looking at the Federal Telecommunications Law (Tab V), there is not one speck of evidence that has been presented by the opponent that can serve as a basis to deny this application for this site. He said that everything that has been introduced by them falls within the area that does not constitute substantial evidence under the federal standard applicable to this proceeding in this federal circuit.

Mr. Pike said that he recognizes that cellular tower cases are controversial cases, and he knew there would be opposition considering the number of residents living within the 500' radius. However, there has been nothing said that could alter the fundamental fact that this case meets the requirements that have been set by the Planning Commission. Also, none of the expert reports or documentation that they have tendered have been effectively challenged.

Opposition Rebuttal - Mr. Graddy objected to Mr. Pike's comments that his evidence is not admissible, and the Planning Commission can consider all evidence that has been presented today. He then said that some of that evidence directly corresponds to the staff report, which acknowledges the impact on the view from the residential area, as well as the impact on the character of the area. He added that the information provided in the staff report, along with his clients' factual testimony from real estate agencies regarding their property values, is sufficient and can be considered. The Planning Commission allowed that evidence into the record, and it can be used to support the denial of this application for this location.

Mr. Graddy requested that the Planning Commission reject Mr. Pike's attempt to omit their evidence and instruct AT&T to find a better site for their cellular tower request out of the residential areas.

Staff Rebuttal - Ms. Rackers said that the staff understands that this cell tower application is within a residential area, but there are several other towers that are located within the residential areas of Lexington. She then said that the staff has reviewed the property values of those other areas, and the tower has not altered the property values for those homes. At first people will see a new tower, but after awhile the tower becomes less visible as people become accustomed to its presence. She added that this tower will be smaller in diameter than most in Lexington, and the impact will be minimized as much as possible without the alternative design.

Planning Commission Questions - Mr. Drake asked if telecommunication towers are subject to the regulatory compact like the electric utility industry. Mr. Pike asked for clarification to the term "regulatory compact." Mr. Drake asked if, for providing a public service under the protection of a regulatory authority, if AT&T is obligated to provide a certain quality of service. Mr. Pike said that the provisions are that AT&T holds an FCC license, and the FCC evaluates corporations to ensure that those corporations are suitable candidates to receive those licenses. He then said that there are two sides to obtaining those licenses: 1) AT&T has right to provide service in these areas and that service is based on certain frequencies for the different geographical areas; and 2) AT&T is obligated to provide better service, or AT&T loses their license.

Mr. Drake then asked if AT&T is subject to a least cost standard in the FCC evaluation. Mr. Pike replied negatively, and said that AT&T is kind of a "new age" utility, in that their rates are not regulated and they do not have eminent domain authority. In order for AT&T to obtain a new infrastructure location, AT&T must have a willing landowner with whom to conduct business.

Mr. Drake said that he got the impression that AT&T analyses for the search area perimeter that all other sites were omitted. Mr. Pike said that that was correct and that information was provided by experts in this field and provided to the Commission in the packets. He then said that the first set of criteria that is utilized to determine what constitutes an available site is the LFUCG regulations and the requirements within those regulations. He added that the vast majority of the search area can not be considered due to being in a floodplain or being a residential property. He said that, under the terms of the LFUCG regulations, if there is an available commercial lot that means a residential property can not be utilized.

Mr. Drake said that AT&T has technical experts present today and asked if they could address the comment of providing better service from an alternate site, such as the Zandale area. Mr. Pike said that this is not an "either/or" situation, but rather it is a two site issue. He then said that there are multiple new cellular tower applications in the works for this community, which would dramatically improve service. He then said that it is not a matter of which area to place the tower; but, rather, both the Southland Drive and the Zandale area will have a cellular tower installed to fill in the gaps. You can not place just one tower to fill in the service gap for this area; it will require two towers to fill in that gap.

Ms. Plumlee said that federal guidelines were announced at the beginning of this case and she thought this would be a five hundred pound gorilla and wondered where the Commission could go with this case. She then said that her only conclusion was perhaps it is possible to reach an alternate arrangement on the design of the tower. She thanked the neighborhood for their commitment and involvement with this proposal.

Mr. Cravens said that this application meets all of the requirements in the Zoning Ordinance. He then said that he lives 150' from a cellular tower, and that tower was there before he built his house. He added that the tower has no impact on his home or the surrounding homes when it comes to their property values. He does not even think about the tower being that close to his home until an application is made through the Planning Commission, and he believes that the fear of the tower is worse than the reality of the tower. He said that he is in support of this application and does not believe it should be camouflaged

with a pine tree or any other alternative design, especially if it impedes the tower's ability to properly work. He added that if an alternative design were to be used, such as a steeple, then it could be considered a building, which would require permits.

Mr. Brewer asked if the Law Department was agreeable with the case file study presented in the packet. Ms. Jones replied that she had not read every case file, but she had read case files from the 6th Circuit Court, and what was presented today is consistent with those studies.

Mr. Brewer asked the staff what their thoughts are on the alternative design. Ms. Rackers indicated that there are some alternative designs that could resemble real trees, if the tower were to be grouped with other trees. She explained that some towers are hidden in plain sight and not everyone would be able to see them if they do not know what to look for. She added that she believes the pine tree design is not a good idea because it would be more visible than the monopole because pine trees do not grow to a 130-foot height. There are no trees native to this area that grow that tall. As for a building, the staff does not know what the height would be in order for service to be provided. One example of an alternative design might be a column of some sort then have a sign placed on it to identify the Southland neighborhood. It was Mr. Brewer belief that the pine tree is more of an eyesore, and a building with a sign on it would be more intrusive to the area than the tower itself. He said that, with all due respect to the neighborhood, this is a classic N.I.M.B.Y; and when reviewing the map, there are already existing towers in people's back yards. This tower proposal is smaller than most in Lexington, and the Commission is hamstrung by the rules at both the federal and state levels. He explained that there is a cellular tower in his back yard; and before buying his home, his family thought long and hard on that issue; but after awhile, they didn't see the tower anymore. He said that, with all due respect, he believes that this is something that the Commission will go forward with.

Ms. Mundy thanked everyone for coming to the hearing and providing their research on this subject. She said that both sides have educated the Commission, bringing them closer to the mark; but when looking at the number of dropped calls for emergency personnel and emergency services, that is a safety issue. She indicated that it would bother her if someone needed help and their call got dropped.

Mr. Berkley also thanked everyone for coming to the hearing. He said that the last cell tower case he heard was the one in his neighborhood; and due to the level of service, he was in favor of that application. He then said that the Commission members were charged with considering that proposal, as well as the federal rules and regulations; but as for the property values, he tends to go along with the experts. He added that the level of service in this area will be what determines his decision.

Mr. Penn said that he heard what has been said, but this area needs service; and other than using the fake pine tree, there is no other creative way to hide the tower. He said that he did not hear one person object to the pine tree design, and he believes that if the pine tree is used, it would make a joke of this neighborhood. He said that his hope has always been for Lexington to stand out from any other town he has visited. He said that he does not agree with the staff alternative design; but at the same time, he can not go against this application because the tower is needed for service.

The Chair thanked everyone for attending today's hearing, and said that the Commission needs to hear the residents' voices, even if the outcome is not always favorable. He then said that the staff has provided a thorough staff report for this application and AT&T's representative has presented their case. He added that there are many items to be checked off, which AT&T has done, and they do not require any type of variance for this application. The Chair said that the tower can impact the character of the neighborhood as well as the immediate neighbors. He said that, from a distance, the fake pine tree does blend into the horizon and becomes hidden in the landscape. He then said that he is in agreement with providing an alternative design for this application, as the staff had recommended.

Action - A motion was made by Ms. Richardson, seconded by Mr. Cravens and carried 9-2 to approve (Owens and Plumlee opposed) CT 2014-1: NEW CINGULAR WIRELESS PCS, LLC (dba AT&T MOBILITY), as recommended by the staff, removing condition #1.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. NEXT MEETING DATES

Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 17, 2014
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 18, 2014
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	January 8, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	January 8, 2015
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	January 15, 2015

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 5:08 PM.

Mike Owens, Chair

Will Berkley, Secretary