

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

June 11, 2015

- 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; Karen Mundy (arrived at 1:42 P.M.); Carolyn Plumlee; Joseph Smith; Bill Wilson; Frank Penn; Carolyn Richardson and David Drake. Will Berkley and Patrick Brewer were absent.

Planning staff members present – Chris King; Bill Sallee; Traci Wade; Jimmy Emmons; Barbara Rackers; Tom Martin; Cheryl Gallt; Kelly Hunter, Dave Jarman and Denice Bullock. Other staff members in attendance were: Casey Kaucher, Division of Traffic Engineering; Lieutenant Joshua Thiel, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

- II. APPROVAL OF MINUTES** – The Chair reminded the Commission members that there were no minutes to be considered at this time.

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

- a. DP 2015-29: POOLE & JEFFERSON PROPERTY (BRUCE GLEN PROPERTY) (AMD) (7/5/15)* - located at 3390 Richmond Road. (Council District 7) **(Midwest Engineering)**

Note: The Planning Commission postponed this item at their meeting on May 14, 2015. The purpose of this amendment is to revise the parking and circulation on Lot 1A and to add square footage on Lot 1B.

The Subdivision Committee Recommended: **Postponement**. There is a significant difference between the plan and the improvements already on the subject site.

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 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. Addition of bearings and distances for entire property.
11. Correct plan title.
12. Denote name and address of developer on plan.
13. Addition of record plat designation.
14. Clarify area of amendment on vicinity map.
15. Dimension existing access points, driveways and walkways.
16. Denote construction access point location.
17. Denote height of building in feet.
18. Denote use of existing and proposed buildings.
19. Denote both required and proposed parking.
20. Addition of notes #2, #4, #12 & #13 from previous development plan (DP 99-39).
21. Correct Purpose of Amendment note.
22. Discuss existing vehicular use area adjacent to Cove Lake, Unit 2.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting an indefinite postponement of DP 2015-29: POOLE & JEFFERSON PROPERTY (BRUCE GLEN PROPERTY) (AMD).

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

Action - A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 8-0 (Berkley, Brewer and Mundy absent) to indefinitely postpone DP 2015-29: POOLE & JEFFERSON PROPERTY (BRUCE GLEN PROPERTY) (AMD).

- b. DP 2015-30: HIGH POINT SUBDIVISION (MONON, INC.) (7/5/15)* - located at 1123 Winchester Road. (Council District 5) **(Myke Robbins)**

Note: The Planning Commission postponed this item at their meeting on May 14, 2015.

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

The Subdivision Committee Recommended: **Postponement.** There are concerns that the proposed use may not be allowed in the B-3 zone.

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 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. Addition of building heights in feet.
10. Denote name and address of developer on plan.
11. Addition of contour intervals.
12. Addition of tree protection plan and tree canopy information.
13. Denote name and address of plan preparer on plan.
14. Remove new pavement/parking areas within 3' of side property lines.
15. Identify interior landscaping areas on the face of plan.
16. Delete parallel parking spaces proposed next to existing building.
17. Dimension entrance details.
18. Discuss compliance with Art. 8-20(b)(28) for proposed uses.
19. Discuss apparent drainage area in rear of property.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting an indefinite postponement of DP 2015-30: HIGH POINT SUBDIVISION (MONON, INC.).

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

Action - A motion was made by Ms. Plumlee, seconded by Mr. Smith, and carried 8-0 (Berkley, Brewer and Mundy absent) to indefinitely postpone DP 2015-30: HIGH POINT SUBDIVISION (MONON, INC.).

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, June 4, 2015, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Joe Smith, and Frank Penn. 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 Gallt, Kelly Hunter, Denice Bullock and Dave Jarman, as well as Lieutenant Joshua Thiel, Division of Fire & Emergency Services; C.D. Schnelle, Division of Police 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.

At the request of the Chair, 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 for most of these items, and the staff is recommending approval of a one-year extension for two of the items and reapproval for the remaining. (A copy of the Consent Agenda is attached as an appendix to these minutes).

- a. PLAN 2015-48F: GREENDALE HILLS, UNIT 2-B (8/2/15)* - located at 2930 Spurr Road.
(Council District 2) **(EA Partners)**

Note: The purpose of this plan is to create 43 lots for single-family residential dwellings.

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. 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Denote flood protection elevation for lots 1 & 2.
10. Denote parent Plat (Cab. R, Sl.133) on face of plan or in title block.

- b. PLAN 2015-49F: COVENTRY (BELMONT FARM), LOT 6 (AMD) (8/2/15)* - located at 2350 Georgetown Road.
(Council District 2) **(EA Partners)**

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

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

1. Urban County Engineer's acceptance of drainage, 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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote address and/or location of detention basin off site.
7. Addition of note regarding future construction on Lot 6.

- c. PLAN 2015-50F: MAHAN PROPERTY, UNIT 1-L, LOT 23B (AMD) (8/2/15)* - located at 245 Manitoba Lane. (Council District 9) **(EA Partners)**

Note: The purpose of this plan is to create two lots for single-family residential dwellings.

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. Addressing Office's approval of street names and addresses.
4. Urban Forester's approval of tree protection area(s) and required street tree information.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
7. Reference parent Plat (Cab. R, Sl. 284) on face of plan or in title block.

- d. PLAN 2014-32F: THE FAIRWAYS AT ANDOVER, UNIT 1-C (8/17/15)* - located at 3435 McFarland Lane. (Council District 6) **(EA Partners)**

Note: The Planning Commission approved this plan at their June 12, 2014, 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.
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. Correct FEMA map reference (2014 map date).
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

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

10. Denote width of sanitary sewer easement across Lots 9 - 12.
11. Denote width of storm and sanitary sewer easement across Lots 56 - 60.
12. Provided PLAN 2014-31F is recorded prior to this plat.
13. Resolve status of required LOMR.
14. Denote: These lots may need flood insurance until such time the LOMR is completed.

Note: The applicant now requests approval of a one-year extension of the Commission's prior approval.

The Subdivision Committee Recommended: **Approval of a one-year extension**, subject to the conditions previously approved at the June 12, 2014, Planning Commission meeting, revising #14 as follows:

14. Denote that these lots may need flood insurance until such time the LOMR is completed, as necessary.

- e. PLAN 2013-53F: 300 WEST VINE, LLC PROPERTY (9/2/15)* - located at 307-315, 317-331 and 343 South Broadway.
(Council District 3) **(Strand & Associates)**

Note: The Planning Commission originally approved this plan on June 13, 2013, and granted a one-year extension on June 12, 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.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
6. Correct vicinity map (northern property).
7. Addition of building lines (10') as required by Article 8-18(h).
8. Addition of survey monument information.
9. Correct Engineer's certification to the approval of the Division of Engineering.
10. Resolve access and pedestrian easements from Lot 1 to serve Lot 2.

Note: The applicant now requests an extension of the Commission's original approval.

The Staff Recommends: **Approval of a one-year extension**, subject to the original conditions.

- f. DP 2015-39: WILLIAMS PROPERTY, LOT 1 (AMD) (8/2/15)* - located at 3400 Todds Road.
(Council District 7) **(EA Partners)**

Note: The purpose of this amendment is to relocate the access point to Todds Road, and add detached housing.

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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Kentucky Transportation Cabinet's approval of access location to Todds Road.
11. Identify cross-section "C-C" location on plan.
12. Clarify yard requirements and setbacks for detached housing units.
13. Addition of note "No access to Todds Road from Lots 18 & 19".

- g. DP 2015-40: CHESAPEAKE EQUINE (AMD) (8/2/15)* - located at 1024 Greendale Road.
(Council District 2) **(EA Partners)**

Note: The purpose of this amendment is to revise the apartment layout, add two building types, and reduce the number of townhouses.

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.

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

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. Denote length of street frontage in site statistics.
11. Improve legibility of contours and intervals on face of plan.
12. Denote spring location on planned site improvements.

- h. DP 2015-43: KIRKLEVINGTON NORTH, TRACT B (AMD) (8/2/15)* - located at 858 Malabu Drive.
(Council District 4) **(Vision Engineering)**

Note: The purpose of this amendment is to add a building to the site and to add 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, landscape buffers and arterial screening.
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. Document encroachment agreement for building/easement conflict along the lot boundary.

- i. DP 2015-46: WALLER PROPERTY (NORTHWOOD SUBDIVISION) (POPEYE'S) (AMD) (8/2/15)* - located at 115 E. New Circle Road. (Council District 6) **(Civil Engr. Services)**

Note: The purpose of this amendment is to add a new restaurant and revise the parking layout.

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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Clarify site statistics for subject property, and add site statistics from previous plan.
11. Correct note #4 to reflect current requirements.
12. Re-label notes #14-17 as A-D (under note # 13).
13. Provide sidewalk along New Circle Road frontage.
14. Resolve parking circulation between amended area and existing property.

- j. DP 2015-47: EXECUTIVE PARK, LOT 1 (AMD) (8/2/15)* - located at 2845 Palumbo Drive.
(Council District 7) **(Fred Eastridge, P.E.)**

Note: The purpose of this amendment is to add a small office and maintenance building to an existing apartment complex.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Addressing Office's approval of street names and addresses.
3. Urban Forester's approval of tree preservation plan.
4. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
5. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
6. Dimension access points to Palumbo Drive.
7. Denote construction access location on plan.

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

8. Addition of new building height, in feet.
 9. Correct notes #4, #6, #7 and #9.
 10. Clarify the difference between the pedestrian facilities on the development plan and the actual site development.
 11. Clarify the increase in lot coverage and floor area ratio in the site statistics.
- k. DP 2015-48: SOUTH BROADWAY PLACE (SONIC) (AMD) (8/2/15)* - located at 1026 S. Broadway.
(Council District 3) **(James T. Mann, Arch.)**

Note: The purpose of this amendment is to add building floor area to an outlot.

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. Clarify Virginia Avenue roadway information (from adjoining DP) to the approval of the Division of Traffic Engineering.
10. Remove "Preview Board" from plan.
11. Delete note that requires elevations to be submitted for the proposed building addition (per the note on the approved development plan).

In conclusion, Mr. Sallee said that the items identified on the Consent Agenda could be considered for 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. Penn, seconded by Ms. Richardson, and carried 8-0 (Berkley, Brewer and Mundy absent) to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee and the staff.

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

The procedure for these hearings is as follows:

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

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

Note: Ms. Mundy arrived at this time. The Chair indicated that a request had been made by Mr. Simpson for the Commission to take DP 2015-44 out of order of the agenda due to his client having a personal family situation. Therefore, the Commission would hear DP 2015-44 prior to the remaining items listed on today's agenda.

1. DEVELOPMENT PLANS

- a. DP 2015-44: THISTLE STATION (8/2/15)* - located at 308-310, 312 and 330 Newtown Pike.
(Council District 2) **(Vision Engineering)**

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding compliance with the supplemental information required in the Special Provisions section of the B-1 zone.

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

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 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. Delete note #7.
11. Discuss compliance with notes #13, #14 and #15 on the zoning development plan.
12. Discuss compliance with the Newtown Pike Landscape Ordinance.
13. Discuss orientation and access of the development to W. 4th Street.

Staff Presentation – Mr. Martin directed the Commission's attention to the final development plan for Thistle Station, located at 308-310, 312 and 330 Newtown Pike. He oriented the Commission to the site and the surrounding area on the plan rendering, and briefly explained that the subject property is located off Newtown Pike, near its intersection with Third Street and is adjacent to the L & N Railroad track. He then said that access to the subject property will be provided via both W. Fourth Street and Newtown Pike.

Mr. Martin said that the Planning Commission recently approved the zone change for this property to a B-1 zone and now the applicant has submitted the final development plan for this site for the Commission's approval, under the form-based Special Provisions section of that zone. He noted that, for the most part, the final development plan resembles the version (including the rendering) that was presented at the zone change hearing. He began to explain the layout of the subject property and said that the building next to Newtown Pike would provide retail on the first floor and apartments on the remaining 15 floors, as well as have an open plaza/outdoor gathering area at the front of the building.

Mr. Martin then directed the Commission's attention to the building proposed along W. Fourth Street, and explained that this building was originally located near Bluegrass Cremation Services building and access was proposed on the opposite side. Now the applicant is proposing to switch the building and access by changing the orientation of the building to be in line with W. Fourth Street and have the access next to the Bluegrass Cremation Services building. There would also be a public area and specialty area between the side of the building and the access. He said that the revised layout does comply with the form based code provisions by improving both vehicular and pedestrian access into the subject site. Mr. Martin explained that it was important that this development matches the recent zoning study completed for the W. Fourth Street area, and the revised submittal is now more in tune with that character study.

Mr. Martin said that, in terms of the numbers, the site statistics for this proposal have not changed since the zone change hearing. He explained that the minimum parking requirement for this site is 261 spaces and the applicant is to provide 264 parking spaces. He then said that there will be approximately 171,790 sq. ft. of residential floor area for 202 dwelling units; and 30,664 sq. ft. of retail space.

Mr. Martin said that, when the Planning Commission approved the zoning development plan for this site, they also approved the design character study that was submitted at that hearing. He then said that, during their zone change hearing, the staff had expressed as to whether or not the applicant could meet the W. Fourth Street Character Study, as well as comply with the supplemental landscaping that is required in the Special Provisions section of the B-1 zone. He indicated that the staff had received a layout of the supplemental landscape material and, as shown on the rendering, the applicant has demonstrated that there would be interior landscaping with additional landscaping provided throughout the subject property. Mr. Martin said that the applicant would also need to comply with the Newtown Pike Landscape Ordinance, which requires one tree for every 50' of lot frontage. The applicant has demonstrated this compliance on their final development plan. He then said that the applicant has also indicated a pedestrian connection would be made from W. Fourth Street to the center of the property, as well as an open, public area and bee keeping specialty areas in two specific locations.

Mr. Martin said that the Subdivision Committee had recommended postponement of this request due to questions regarding compliance with the supplemental information required in the Special Provisions section of the B-1 zone. However, based upon the new information provided by the applicant, the staff can now offer the Planning Commission a revised recommendation on the conditions of approval for this Development Plan. He said that the staff is now recommending 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. ~~Delete note #7~~ Denote: This property shall be developed in compliance with the character and context study submitted and approved at the time of the zoning development plan.
11. ~~Discuss compliance with notes #13, #14 and #15 on the zoning development plan~~ Denote: King Street right-of-way must be closed prior to plan certification.
12. ~~Discuss compliance with the Newtown Pike Landscape Ordinance.~~
13. ~~Discuss orientation and access of the development to W. 4th Street.~~

Mr. Martin directed the Commission's attention to the list of conditions noted on the staff handout, and briefly explained that conditions #1-9 are standard sign-off requirements from the different divisions of the LFUCG, and the remaining conditions are "cleanup" items that will be addressed prior to the plan being certified. He then directed the Commission's attention to conditions #10 and #11, and explained that prior to the plan being certified, the applicant would be required to denote on the plan that this property shall be developed in compliance with the character and context study submitted and approved at the time of the zoning development plan. He concluded his presentation by explaining that the King Street right-of-way outside this development had been closed by Council action. However, the section that is inside the development remains open right-of-way. He said that, prior to the plan being certified, the applicant would need that portion of King Street to be closed, and it is the staff's understanding from an email correspondence, that the initiation of this process has begun with Department of Public Works. With that being said, Mr. Martin said that the staff is recommending approval of the applicant's request.

Representation – Bruce Simpson, attorney, was present representing the applicant. With his client's need to leave for a family emergency, he thanked the Commission for allowing this case to be heard first. He said that they are in agreement with the staff's recommendations, and requested approval of DP 2015-44.

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. Wilson, seconded by Ms. Mundy and carried 9-0 (Berkley and Brewer absent) to approve DP 2015-44, as presented by the staff.

- b. DP 2015-41: HARVEY PROPERTY (AMD) (8/2/15)* - located at 2200 Tracery Oaks Drive.
(Council District 10) **(EA Partners)**

Note: The purpose of this amendment is to revise the building footprint and apartment unit mix and to narrow Tracery Oaks Drive.

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. Provided the Planning Commission grants a waiver to Art. 6-8(a).
10. Document apartment open space in site statistics to account for increased lot coverage.

Staff Presentation – Mr. Martin directed the Commission's attention to the amended final development plan for Harvey Property, located at 2200 Tracery Oaks Drive. He oriented the Commission to the site and the surrounding area on the plan rendering, and briefly explained that the subject property is located near South Elkhorn Creek and the shopping center where Ramsey's Restaurant is situated. He further explained that the subject property is located directly across from Military Pike on Harrodsburg Road, noting that parallel to Harrodsburg Road is Old School House Lane. He pointed out on the rendering that Old School House Lane intersects with English Station Drive, which then intersects with the Agape Drive stub. He said that Old School House Lane also connects to Tracery Oaks Drive, and terminates at the rear of the site near the greenway. He noted that across the greenway is Twain Ridge Drive, which is a residential collector street that extends to Clays Mill Road.

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

Mr. Martin then explained the layout of the development, and said that the applicant is proposing both apartments and single family homes, while protecting the large Bur Oak tree at the front of the property along Tracery Oak Drive. He then said that the applicant had submitted a revised plan that adjusted the apartment building footprint and slightly changed the unit types. He noted that the site statistics have not changed and the applicant is still proposing 196 units, 344 bedrooms and 401 parking spaces for the apartment side.

Mr. Martin said that, what is interesting about the applicant's request is now they are requesting two waivers for this property – one for the sidewalk construction and one for the streets' pavement depth. He directed the Commission's attention to the waiver report associated with the required sidewalk, and explained that this waiver is associated with the planned and partially constructed Tracery Oaks Drive. He said that this specific waiver request is to remove the 4' sidewalk from the north side of Tracery Oaks Drive along its entire length. He then said that the applicant is citing hardship as their justification, due to the slope of the land and the need to protect the Bur Oak tree, as the significant factors inhibiting construction of a standard cross-section street. The applicant has placed a lot of effort in protecting the Bur Oak; and if the standard cross-section is constructed, the sidewalk would pose a risk to the health of the tree.

Mr. Martin said that, in reviewing the applicant's request, it was originally suggested to have a "break" in the sidewalk to help protect the tree; but since there are no lots or homes planned north of Tracery Oaks Drive, it was determined that there was no need for pedestrian access on that side of Tracery Oaks Drive. He said that the applicant agrees to construct a 6' sidewalk on the south side of Tracery Oak Drive, which would then provide a safe and sufficient pedestrian facility through this neighborhood, ending at the greenway at the rear of the site.

Mr. Martin said that the staff is recommending approval of the requested waiver to Article 6-8(a) [and Exhibits 6-1 and 6-3] of the Land Subdivision Regulations, for the following reasons:

1. The waiver will have no significant impact on public safety, which is consistent with the overall intent of the Land Subdivision Regulations.
2. Strict enforcement of the Land Subdivision Regulations street geometric requirements would constitute a hardship for the applicant in addressing the steep slope and preventing the effective protection of an environmentally sensitive area, and a significant and historic Bur Oak tree.

Mr. Martin then directed the Commission's attention to the waiver report associated with the required pavement depth, and explained that the applicant had requested a waiver to Article 6-8(o) and Exhibit 6-3 of the Land Subdivision Regulations, which govern street geometrics. He said that the applicant had requested to construct Tracery Oaks Drive and Agape Drive, which are collector streets, to local standards for the pavement depth. He then said that Agape Drive was designated as a residential collector street on past Comprehensive Plans; but it has been built to local street standards, with the exception of its width just north of the intersection with Dogwood Trace Boulevard. He added that, at the request of the Dogwood Trace residents, the Urban County Council had passed a resolution closing Agape Drive south of the Camic property.

With that being said, Mr. Martin said that the staff is recommending disapproval of the requested waiver for Tracery Oaks Drive, for the following reason:

1. This waiver request does not meet the requirements of Article 1-5 of the Land Subdivision Regulations governing the granting of waivers by the Planning Commission.

Mr. Martin directed the Commission's attention to the staff Exhibit 6-6 in the Subdivision Regulations, and explained that a residential local street is built with a 1" asphalt surface, 3" asphalt base course and 9" granular base. He then said that a residential collector/connector street is built with a 1" asphalt surface, 6" asphalt base course and 8" granular base. The applicant is requesting relief from the residential collector/connector street standards in order to build Agape Drive to residential local street standards. He said that the staff is recommending approval of the requested waiver for Agape Drive, for the following reasons:

1. The waiver will have no significant impact on public safety, which is consistent with the overall intent of the Land Subdivision Regulations, since it appears to have been constructed to local street standards south of the subject property.
2. Strict enforcement of the Land Subdivision Regulations street geometric requirements would constitute a hardship for the applicant by requiring a standard in excess of what has previously been approved and constructed.

Mr. Martin added that the staff had spoken with the applicant and they are agreeable to the staff's terms on both waiver requests.

Mr. Martin concluded by saying that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He directed the Commission's attention to the list of conditions, and briefly explained that conditions #1-8 are standard sign-off requirements from the different Divisions of the LFUCG, and the remaining conditions are "cleanup" items that will be addressed prior to the plan being certified.

Planning Commission Questions - Mr. Penn asked, since the connection of Twain Ridge Drive and Tracery Oaks Drive would not be connected, if Tracery Oaks Drive would be built to collector street standards. Mr. Martin said that Tracery

Oaks Drive is a collector street and it needs to be built to collector street standards. He then said that, as for connecting the two streets, that is the public's responsibility and would be budgeted through the public body. He added that when that would happen is unknown, and it may be based upon priorities of it; but eventually it would be built.

The Chair asked, if Tracery Oaks Drive were terminated, if there would be a turnaround provided. Mr. Martin replied negatively, and said that that has not been discussed with the applicant at this point. He then said that the end of Tracery Oaks Drive is part of the single family home section; and, if submitted, it would be presented to the Commission for their review. The Chair said that there is always a concern for the larger vehicles to be able to turn around or maneuver through an area. Mr. Martin said that the Commission would have an opportunity to discuss that concern when the single family homes are submitted for approval.

Mr. Cravens asked if Agape Drive would be permanently closed, preventing a connection to the Dogwood Trace neighborhood. Mr. Martin said that the Urban County Council had passed a resolution closing Agape Drive south of the Camic property. Mr. Cravens confirmed that Agape Drive would never be connected, to which Mr. Martin replied that Agape Drive was closed by a resolution and it would take the Urban County Council to pass a resolution to reopen it. Mr. Cravens said that as Agape Drive stands, it is closed, to which Mr. Martin replied affirmatively. Mr. Sallee elaborated by saying that Agape Drive was approved for a barricade at the north end of Dogwood Trace subdivision. He said that there has not been a physical closure approved, but it was approved for a barricade to be placed at that location. Mr. Cravens asked why the resolution was passed by Council. Mr. Sallee explained that, the Dogwood Trace residents petitioned the Urban County Council to close Agape Drive, for which the Council passed resolution for the barricade within the last six months.

Representation – Rena Wiseman, attorney, and Rory Kahly, EA Partners, were present representing the applicant. She said that they are in agreement with the staff's recommendations, including the disapproval of the Tracery Oaks Drive waiver. She said that they would rather withdraw their request for the waiver on Tracery Oaks Drive than have the Commission disapprove the request.

Ms. Wiseman said that to reassure the Commission, the sidewalk is being omitted to help further protect the Bur Oak tree. She then said that they have been working with Tom Kimber, who had submitted the Spring report to them, indicating that the tree is in good health and continues to grow, and that the wildlife is thriving. She added that additional measures, such as lighting rods, have been added to help protect the tree.

With that being said, Ms. Wiseman requested approval of DP 2015-41.

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, seconded by Mr. Cravens and carried 9-0 (Berkley and Brewer absent) to approve DP 2015-44, as recommended by the staff.

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson and carried 9-0 (Berkley and Brewer absent) to approve the requested waiver to Article 6-8(a) [and Exhibits 6-1 and 6-3] of the Land Subdivision Regulations (sidewalk), for the following reasons:

1. The waiver will have no significant impact on public safety, which is consistent with the overall intent of the Land Subdivision Regulations.
2. Strict enforcement of the Land Subdivision Regulations street geometric requirements would constitute a hardship for the applicant in addressing the steep slope and preventing the effective protection of an environmentally sensitive area, and a significant and historic Bur Oak tree.

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 9-0 (Berkley and Brewer absent) to withdraw the requested waiver for Tracery Oaks Drive and to approve the requested waiver for Agape Drive, for the following reasons:

1. The waiver will have no significant impact on public safety, which is consistent with the overall intent of the Land Subdivision Regulations, since it appears to have been constructed to local street standards south of the subject property.
2. Strict enforcement of the Land Subdivision Regulations street geometric requirements would constitute a hardship for the applicant by requiring a standard in excess of what has previously been approved and constructed.

- c. DP 2015-42: WYNNDALE SUBDIVISION, LOT 1 (8/2/15)* - located at 3757 Kings Glen Park.
(Council District 9) **(EA Partners)**

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, landscape buffers and arterial screening.
4. Addressing Office's approval of street names and addresses.

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

5. Urban Forester's approval of tree preservation plan.
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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Document required open space per lot for R-1T zone.
13. Addition of written scale on plan.
14. Addition of sidewalks to Man o' War cross-section.
15. Discuss cul-de-sac design proposed, parking prohibitions, and possible need for a median.

Staff Presentation – Mr. Hunter directed the Commission's attention to the combined preliminary subdivision plan and final development plan for Wynndale Subdivision, Lot 1, located at 3757 Kings Glen Park. He oriented the Commission to the site and the surrounding area on the plan rendering, and briefly explained that the subject property is south of Man o' War Boulevard and parallel to Clays Mill Road. He said that access to the subject property will be through Abbington Hill and Kings Glen Park. Mr. Hunter then explained that the subject property is zoned R-1T, and the applicant has proposed to construct 22 townhouse units (3 bedrooms, each) and provide 59 parking spaces. He then said that all of these units will have a 2-car garage and there will have no parking along the rear, adjacent to Man o' War Boulevard.

Mr. Hunter said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He directed the Commission's attention to the list of conditions, and briefly explained that conditions #1-11 are standard sign-off requirements from the different Divisions of the LFUCG, and the remaining conditions are "cleanup" items that will be addressed prior to the plan being certified. He then said that, after the Subdivision Committee meeting, the applicant filed a revised submission of this plan with the staff, which addressed conditions #12, #13 and #14. He noted that the remaining condition to be discussed is condition #15, which involves the cul-de-sac design being proposed, the parking prohibitions, and the possible need for a median in the cul-de-sac.

Mr. Hunter directed the Commission's attention to the plan rendering and explained that the applicant had proposed a median in the center of the cul-de-sac; and the concern was with people parking around the median, which would cause problems with emergency or larger vehicles navigating in the cul-de-sac.

Planning Commission Questions – The Chair asked if the staff had any recommendations on condition #15. Mr. Hunter said that the staff is recommending that the cul-de-sac have a radius of 40' and the median to have a radius of 10'. Mr. Sallee clarified that the staff was more concerned with having a median in the cul-de-sac versus the actual dimension of the median. He then said that in speaking with Lieutenant Thiel, Division of Fire and Emergency Services, they are concerned with the 10' dimension. Their preference would be to have no median. However, the staff believes Fire and Emergency Services may be agreeable to a smaller median of less than 10', and the applicant could provide those dimensions.

The Chair asked for comments from the Division of Fire and Emergency Services. Lieutenant Thiel said that they would prefer to have no median in the cul-de-sac. He directed the Commission's attention to a series of photographs, and said that, in reviewing other cul-de-sacs within the community, each of these cul-de-sacs had varying degrees of problems. He explained that if there is an emergency, the fire trucks will use quite a bit of the cul-de-sac to set up their equipment. He said that, if there is a median in the cul-de-sac, it would pose an issue for the fire trucks servicing those houses.

The Chair clarified that the Division of Fire and Emergency Services would prefer no median in the cul-de-sac. Lieutenant Thiel replied affirmatively. The Chair then asked if the overall width/radius of the cul-de-sac is sufficient. Lieutenant Thiel replied that there is not a cul-de-sac, in Lexington, similar to what is proposed for their staff to make a comparison. He then said that the applicant would need to show that the fire trucks would have plenty of room to maneuver.

Mr. Penn asked, if the median is not installed, what would happen if the vehicles were to park in the center of the cul-de-sac. Lieutenant Thiel said that, without a median, it is easier for the ladders to go over the vehicles, versus trying to go over the median.

Representation – Richard Murphy, attorney, along with Rory Kahly, EA Partners, and Steve Perry were present representing the applicant. He explained that, in the beginning, the applicant did not show a median in the cul-de-sac; but after speaking with the staff, they felt that parking could pose an issue, so the applicant added the median to their development plan.

Mr. Murphy explained that each of these units will have a two-car garage and there will be 15 visitor spaces provided; so there will be plenty of on-site parking and there should be no parking on the cul-de-sac. He said that they are agreeable with placing signage or adding yellow striping to prevent any parking in the cul-de-sac, which would be dictated by Traffic Engineering; but they would prefer not to have the median because it does not add anything to the development. He then said that the staff felt that a median would prevent any parking in the center of the cul-de-sac; but in looking at the photographs presented by Lieutenant Thiel, there is a concern with people parking around the median. He said that they do not need the median, and they feel parking can be controlled through signage.

Mr. Murphy said that these units are being designed with the master bedroom on the first floor, and this type of design is more appealing to empty nesters. He indicated that they want to create a safe development for the empty nesters, who are the largest consumers of public safety services; therefore, they are agreeable with removing the median to eliminate any issues with the Division of Fire and Emergency Services, as well as prohibiting parking around the median.

Mr. Murphy said that they are in agreement with the staff's recommendations, and requested approval of DP 2015-42.

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

Planning Commission Questions – The Chair indicated that it sounds like the applicant was agreeable with the staff's recommendations. He noted that conditions #12, #13 and #14 have been addressed. Mr. Hunter said that he previously mis-spoke and noted that condition #12 needs to remain as part of the recommendation, but conditions #13 and #14 could be deleted.

Mr. Wilson asked what the staff's recommendation for condition #15 was for which the Chair asked for guidance from the staff. Mr. Penn said that, at the Subdivision Committee meeting, making a right turn or left turn into the cul-de-sac had been discussed, and the applicant felt that a median would hinder those movements. He asked if the applicant still felt the same. Mr. Kahly explained that, in reviewing the auto turn calculations, if the dumpster were to be relocated, making the traffic flow to the right only, the larger vehicles were able to maneuver around their proposed (10') median.

Action - A motion was made by Mr. Wilson, and seconded by Ms. Richardson to approve DP 2015-42, subject to the 13 conditions outlined by the staff, including the modification to condition #15 to read: "Parking prohibitions in or around circle, striking the possible need for median."

Discussion of Motion - The Chair stated that there was a motion on the floor, and it had been seconded, to approve DP 2015-42, and asked if Mr. Wilson would like to clarify his motion after hearing discussion among the Commission members. Mr. Wilson replied negatively, and said that he was explaining to his colleague that after removing conditions #13 and #14, only 13 conditions would be remaining.

The Chair asked for clarification to the language for (new) condition #13. Mr. Wilson said that he was suggesting that there would be parking prohibition in and around the circle, and striking the need for the median. The Chair noted that the median would be eliminated. Mr. Wilson replied affirmatively. The Chair then asked if the motion on the floor included yellow curbing, to which Mr. Wilson replied that it would. Mr. Cravens said that the striping of the cul-de-sac would be left up to Traffic Engineering.

Action - Mr. Wilson amended his motion and said that the language for (new) condition #13 should include the parking prohibited, and striping would be subject to the approval of Traffic Engineering.

The Chair asked Ms. Richardson if she was agreeable to the amended motion, to which she indicated that she was.

The Chair said that the amended motion is to approve DP 2015-42, subject to the conditions as outlined by the staff, deleting conditions #13 and #14, renumbering condition #15 to a new condition #13, modifying condition #13 language to include: "Parking prohibitions in or around circle, omitting the median in the cul-de-sac, and striping would be subject to the approval of Traffic Engineering."

The Motion carried 9-0 (Berkley and Brewer absent).

- d. DP 2015-45: HEADLEY SUBDIVISION, NORTH BROADWAY PARK ADDITION & CARR BUILDERS (EMBRACE UNITED METHODIST CHURCH) (8/2/15)* - located at 1015 N. Limestone.
(Council District 1) **(Vision Engineering)**

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

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding compliance with the approved conditional zoning restrictions, with Art. 28-6 of the Zoning Ordinance and with the Central Sector Small Area Plan

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 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. Clarify proposed configuration of building B relative to the approved Preliminary Development Plan, including building height.
11. Clarify location of bike racks shown near existing church building.
12. Clarify painted islands versus landscape islands.
13. Demonstrate compliance with interior landscape requirements in site statistics.
14. Document tree canopy on plan in front of Building B.
15. Clarify termination of sidewalk on 10th Street.
16. Discuss compliance with Art. 28-6 of the Zoning Ordinance for new buildings.
17. Discuss compliance with conditional zoning restrictions on cross access & proposed gate.
18. Discuss parking configuration along North Broadway Park per note #18 on the Preliminary Development Plan.
19. Discuss compliance with the Central Sector Small Area Plan streetscape recommendations on North Limestone Street.

Staff Presentation – Mr. Martin directed the Commission's attention to the final development plan for a portion of the Headley Subdivision, North Broadway Park Addition & Carr Builders (Embrace United Methodist Church), located at 1015 N. Limestone. He noted that the Planning Commission recently approved a zone change on this property for a mixed-use project. He oriented the Commission to the subject site and the surrounding area on the plan rendering, and briefly explained that the subject property is located between N. Limestone Street and N. Broadway Road; and adding that 10th Street is to the west of the property and N. Broadway Park is to the east, splitting the subject property.

Mr. Martin pointed out the location of the existing church building, and two proposed structures - Building B and Building A. He explained that Building B is proposed to have four floors with residential units in the top floors and commercial, and community uses on the first floor. He then said that Building A is being proposed to have three floors with residential units in the top floors and the same type of uses as Building B on the first floor. He noted that the site statistics have not changed since the property was rezoned; and the applicant is still proposing 80 dwelling units combined, and 139 parking spaces are being provided. Access will be provided off 10th Street and N. Broadway Park. He said that there will be underground detention provided at the rear of Buildings A & B under the parking lot. He then said that, during the zone change hearing, there were discussions concerning the detention for this area and the attempts as to how to address the long-term drainage issues. The applicant is providing two detention basins in an attempt to help the church and any potential drainage issues that may occur along N. Limestone Street.

Mr. Martin said that the applicant and staff had met to discuss the concerns that were identified; and afterward the applicant filed a revised submission of this plan, addressing additional concerns. He explained that primarily those concerns were twofold; that included addressing the mixed use requirements, as required by the Zoning Ordinance, such as the N. Limestone Street orientation, as well as the streetscape and façade, among other items that had been outlined in the adopted Central Sector Small Area Plan. He directed the Commission's attention to the staff exhibit, and said that the Central Sector Small Area Plan was designed to make N. Limestone Street the gateway to the redevelopment of this neighborhood. He said that the revised submission had addressed many of the staff's concerns; and based upon that new information, the staff can now offer the Planning Commission a revised recommendation on the conditions of approval for this Final Development Plan. He then said that the staff is recommending 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. Clarify proposed configuration of Building B relative to the approved Preliminary Development Plan, including building heights.
- ~~11. Clarify location of bike racks shown near existing church building.~~
- ~~12. Clarify painted islands versus landscape islands.~~
- ~~13. Demonstrate compliance with interior landscape requirements in site statistics.~~
- ~~14. Document tree canopy on plan in front of Building B.~~
- ~~15. Clarify termination of sidewalk on 10th Street.~~
11. ~~16.~~ Discuss Resolve compliance with Art. 28-6 of the Zoning Ordinance, required for new buildings.
12. ~~17.~~ Discuss Ensure compliance with conditional zoning restrictions on cross access & proposed gate by enhancing landscape island and eliminating turning radius.
13. ~~18.~~ Discuss Resolve parking configuration along North Broadway Park per note #18 on the Preliminary Development Plan, to the approval of the Division of Traffic Engineering.
14. ~~19.~~ Discuss compliance with the Central Sector Small Area Plan streetscape recommendations on North Limestone Street.

Mr. Martin said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He directed the Commission's attention to the list of conditions, and briefly explained that conditions #1-9 are standard sign-off requirements from the different Divisions of the LFUCG, and the remaining conditions are "cleanup" items that will be addressed prior to the plan being certified. He then said that the staff wants the applicant to clarify the proposed configuration of Building B relative to the approved Preliminary Development Plan. This should include the building heights (condition #10). He then said that, as far as the mixed use requirements, the applicant had provided a perspective sketch, as well as verbiage and notes to the development plan. He explained that some of the information added included balcony heights, pedestrian facilities, lighting and so forth, and said that what the applicant has shown does comply with the Central Sector Small Area Plan. He then said that the applicant's proposal is pedestrian friendly and indicated that this proposal is setting the stage for a successful gateway for this neighborhood. Mr. Martin said that the applicant did submit a compliance statement, outlining the implementation of the requirements of the Central Sector Small Area Plan.

Mr. Martin directed the Commission's attention to the development plan rendering, and pointed out that the area at the rear of Building B, next to the church, will have a one-way gate and a sizeable landscape island constructed. He said that this would help prevent any cut-through traffic behind the church, as well as relieve any traffic burden from this development on N. Broadway Park. He then said that the gate was part of meeting the conditional zoning restrictions that were approved by the Urban County Council.

Mr. Martin said that the staff was concerned with the parking configurations along N. Broadway Park and the issue with it being in the public right-of-way. He then said that the church believed it was part of their property and was told that that area can not be restricted to only them. He added that the staff was concerned with traffic backing into the right-of-way, so the applicant has proposed reverse-angled parking, which has been used on several occasions. The staff believes that parking configurations along N. Broadway Park can be resolved to determine what can appropriately function in a safe manner and not create additional traffic through the nearby neighborhood.

Mr. Martin concluded by saying that, since the Commission approved the zone change, in terms of the site statistics, the development plan has not changed. He said that Building A will be 3 stories and approximately 17,757 sq. ft., and Building B will be 4 stories and approximately 42,848 sq. ft. in size.

Planning Commission Questions – Mr. Penn asked if this development is still being proposed to have 300-sq. ft. units and no elevators. Mr. Martin said that it's the staff's understanding that the applicant was conducting a market study, and there could be some adjustments to the size of these units, in terms of the square footage; but the applicant would be able to address that question in more detail.

Representation – Chris Westover, attorney, along with Jihad Hallany, Vision Engineering, and Brice Nicol were present representing the applicant. She indicated that there was concern with the parking along N. Broadway Park; but before the plan is certified, the safest configuration would be determined, then approved by Traffic Engineering.

Ms. Westover directed the Commission's attention to an exhibit on the overhead projector and said that their rendered development plan displays how they intend to comply with the Central Sector Small Area Plan. She pointed out the location of the underground detention basins that would help with the ongoing flooding in this area; and said that, in addition, sidewalks, curbs and gutters will be installed on the portion of the subject property that is abutting the right-of-way. These improvements would be done on 10th Street and N. Broadway Park. Ms. Westover indicated that they would be providing rain gardens and tree wells on the site to help accommodate the drainage for this area.

In conclusion, Ms. Westover said that the developer has been meeting and working with a committee of concerns citizens on the final design of this development, and this proposal will fully comply with Art. 28 of the Zoning Ordinance. She said that they are in agreement with the staff's revised recommendations, and requested approval of DP 2015-45. She asked that condition #14 be changed to read: "~~Discuss~~ Resolve or document compliance with the Central Sector Small Area Plan streetscape recommendations on North Limestone Street."

Planning Commission Questions – Mr. Penn said that the applicant had made a lot of improvements since the zone change was approved. He asked if the unit size is still being proposed for 300 sq. ft and if this project will have an elevator or stairwells for three-and four-story buildings. Ms. Westover said that the original design had external access, but this proposal now has internal access. She then said that, in terms of the size of the units, these units would be built at different sizes. She noted that the size of the building is not being changed; but depending on the market study that is being done, they would be providing a variety of units with different square footage to address the different housing needs.

Mr. Penn asked if the applicant was still proposing no elevators for the three and four stories. Ms. Westover said that there would be interior elevators provided.

Ms. Plumlee asked if the buildings are three or four stories tall. Ms. Westover said that Building A is three stories and Building B is a combination of three and four stories.

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. Cravens to approve DP 2015-45, as outlined by the staff, changing condition #14 to read: "Resolve compliance with the Central Sector Small Area Plan streetscape recommendations on North Limestone Street."

Discussion of Motion – Mr. Penn said that the façade and the exterior portion were not discussed, and this is the first restructuring that has been approved along N. Limestone Street, and it will set the tone for future development. He then said that the Commission has discussed that this is an infill and redevelopment project, but the Commission needs to know what this project would look like from the street. Mr. Martin said that the staff has not seen the detailed version of the project and agrees that that should be resolved. He then said that the staff does not want to preclude the use of modern materials and/or historic materials; and if it can be done, there should be a variety of materials used. He added that the staff would like for the applicant to submit, as part of the resolution, the information complying with that requirement. Mr. Penn then asked if the staff would be reviewing this project again, to which Mr. Martin replied that the staff can work with the applicant. Mr. Penn commented that this is a concern with him. Mr. Martin agreed and said that it is a valid concern.

The Chair said that there is a motion on the floor to approve DP 2015-45, subject to the conditions as outlined by the staff, changing condition #14 to read: "Resolve compliance with the Central Sector Small Area Plan streetscape recommendations on North Limestone Street".

The Motion carried 9-0 (Berkley and Brewer absent).

- e. DP 2015-50: JAMES W. ATKINS PROPERTY (8/25/15)* - located at 3939 Tates Creek Road.
(Council District 3) **(Vision Engineering)**

Note: The purpose of this amendment is to revise the building, parking and circulation layout.

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Denote plan is "amended" in title block.
12. Denote tree protection areas (per previous plan).
13. Label post-development floodplain and 25' floodplain setback (per previous plan).
14. Denote record plat designation (Cab. J, Sl. 420) on plan or in title block.
15. Denote height of building for credit union, in feet.

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

16. Denote width of emergency access lane on plan.
17. Review by Technical Committee prior to plan certification.
18. Document that encroachment of building into required front yard meets averaging limitations.
19. Discuss required parking calculations for proposed restaurant (seating) use.
20. Discuss loss of sidewalk connection to Tates Creek Road right-of-way.

Staff Presentation – Mr. Jarman directed the Commission's attention to the amended final development plan for James W. Atkins Property, located at 3939 Tates Creek Road. He oriented the Commission to the site and the surrounding area on the plan rendering, and briefly explained that the subject property is located at the intersection of Tates Creek Road and Wilson Downing Road. He said that the West Hickman Creek is located directly behind the property, and runs under Wilson Downing Road toward Tates Creek Centre. He noted that the subject property is partly within the associated floodplain for this creek.

Mr. Jarman said that the purpose of this amendment is to revise the building, parking and circulation layout. He explained that both of these buildings and the parking have been slightly adjusted, adding that the orientation of the buildings is now toward the parking area. He noted that the site is being proposed for a 3,400 sq.-ft. credit union, and 2,000 sq.-ft. coffee shop. He said that two-way accesses will be provided off Wilson Downing Road, as will an emergency access. He noted that there will be one-way traffic circulation throughout the site.

Mr. Jarman said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. However, yesterday, the applicant submitted a revised development plan that has addressed several of the concerns outlined last week by the Subdivision Committee. As a result of that revision, the staff can offer a revised recommendation to the Planning Commission for consideration of this final development plan. He said that the staff is recommending 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~11. Denote plan is "amended" in title block.~~
- ~~12. Denote tree protection areas (per previous plan).~~
- ~~13. Label post-development floodplain and 25' floodplain setback (per previous plan).~~
- ~~14. Denote record plat designation (Cab. J, Sl. 420) on plan or in title block.~~
- ~~15. Denote height of building for credit union, in feet.~~
- ~~11. 16. Denote width of Relocate gate for emergency access lane from right-of-way to private property. on plan.~~
- ~~12. 17. Review by Technical Committee prior to plan certification.~~
- ~~13. 18. Document that encroachment of building into required front yard meets averaging limitations, or denote variance approval on plan.~~
- ~~19. Discuss required parking calculations for proposed restaurant (seating) use.~~
- ~~14. 20. Discuss loss of sidewalk connection to Tates Creek Road right-of-way.~~

Mr. Jarman directed the Commission's attention to the revised staff recommendation, and briefly explained that conditions #1-10 are standard sign-off requirements from the different Divisions of the LFUCG, and the remaining conditions are "cleanup" items that will be addressed prior to the plan being certified. He directed the Commission's attention to condition #14, and explained that on the previous development plan, the Commission had approved a pedestrian feature for a sidewalk spur to come off Tates Creek Road, connecting to an island at the edge of the subject property leading into the parking lot. He said that the staff felt it was necessary for the applicant to explain why the sidewalk connection was removed from the development plan. He then said that the surrounding area is mainly multi-family residential, and this pedestrian feature would have greatly benefitted this area.

Mr. Jarman noted that the applicant had depicted the West Hickman Creek, along with the tree protection & riparian areas, as well as the post development floodplain and the new 25' floodplain setback. He then noted that the applicant has also shown the retaining wall at the rear of the property that is being constructed.

Planning Commission Questions – Ms. Plumlee asked if there was a drive-through associated with the proposed coffee house. Mr. Jarman replied affirmatively, and explained the layout of the drive-through lanes and how traffic would move through the development.

Mr. Wilson confirmed that there would be a credit union in the other building, to which Mr. Jarman replied that there would.

Representation – Matt Carter, Vision Engineering was present representing the applicant. He said that they are in agreement with the staff's revised recommendations, and requested approval of DP 2015-50.

Mr. Carter explained that the sidewalk was removed from this plan due to the steep slope of the land from Bates Creek Road down to the subject property, potentially creating a safety issue. He said that there is an elevation difference of 10' between the top and bottom; and in order to make the sidewalk grade safe, it would have reached nearly 300' long. Instead of having the sidewalk come off the Bates Creek Road sidewalk, they added a sidewalk access off the Wilson Downing Road sidewalk to create a better solution for pedestrian movement and to be ADA compliant.

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

Planning Commission Question – Mr. Wilson asked if condition #14 should be changed to "resolve" or if it should be removed from the recommendations. Mr. Cravens said that, in reviewing the subject site, the slope from Bates Creek Road down to the subject property is very steep; and he believed that condition #14 should be deleted from the recommendation for that reason.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 9-0 (Berkley and Brewer absent) to approve DP 2015-50, as outlined by the staff, deleting condition #14.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Penn, seconded by Ms. Plumlee, and carried 9-0 (Berkley and Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated June 11, 2015, from Barry Brock, Division of Engineering.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, June 4, 2015, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments filed for the Commission's June hearing. The meeting was attended by Commission members David Drake, Mike Cravens, Carolyn Richardson, and Bill Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

- a. **MARV 2015-9: ELIZABETH BROOKS BULLEIT a/k/a BETSY BROOKS BULLEIT** – a petition for a zone map amendment from a restricted Neighborhood Design Character Overlay (ND-1) zone to a modified Neighborhood Design Character Overlay (ND-1) zone, for property located at 810 Montclair Drive. A dimensional variance is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan no longer makes a specific land use recommendation, but *Chapter 1: Goals and Objectives* does recommend "enabling existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expanded options for mixed-use and mixed-type housing throughout Lexington-Fayette County. The applicant is requesting that one of the existing Neighborhood Design Character Overlay (ND-1) zone standards (conditional zoning restrictions) be removed from her property in order to install a 6-foot tall fence in the front yard at 810 Montclair Drive.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The requested deletion of the Neighborhood Design Character (ND-1) overlay zone Design Standard #3a for this parcel will not adversely affect the public health, safety or welfare. An existing fence, similar in character, height, materials and location is already standing on property in common ownership. Installing a front yard fence at this location will allow for the continuity of appearance in the neighborhood and will not negatively affect the character of the neighborhood.
2. The special circumstances related to this application are that the subject property is one of three parcels under ownership of the applicant, it remains vacant, and no other 6-foot tall front yard fences exist in the entire neighborhood. This will not set a precedent for other property owners to request special consideration, since it is a truly unique circumstance.
3. Permitting deletion of this design standard for one parcel and allowing extension of a front yard fence will not prevent successfully achieving the Montclair neighborhood's general intent and preservation goals.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is proposed to be modified for the subject property via conditional zoning as follows:
 3. Landscaping Requirements
 - a. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.

Deleting one of the prior fence restrictions is appropriate for the subject property, given the limited impact that continuing an existing fence on property under the same ownership could have on the neighborhood.

- b. **REQUESTED VARIANCE**

1. Increase the maximum allowable height of a front yard fence from 4 feet to 7 feet.

The Zoning Committee Recommended: **Approval**, for the reasons provided by staff.

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

- a. Granting the requested variance will not adversely affect the public health, safety or welfare; nor will it negatively alter the essential character of the general vicinity. The fence will be located outside the required sight triangle; and by extending the existing fence (both in height and in style), it will create a unified appearance for the properties owned by the applicant.
- b. The special circumstances that apply to this property are: 1) three contiguous lots under the same ownership, developed as a single estate lot; and 2) the existing non-conforming fence on the other two properties owned by the applicant, which justifies the requested fence height variance. This property is located in a relatively small area of the Montclair neighborhood, which has several front yard fences
- c. According to the applicant, strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship because the fence would either have to be built behind the 30-foot building line or limited to a maximum of 4 feet in height, neither of which will accomplish the stated goal of creating a unified appearance for the fence around the lots that the applicant owns.
- d. The requested variance is not an unreasonable circumvention of the Zoning Ordinance due to the attributes of the existing fence, but rather a response to the unique nature of how these lots are owned and utilized.
- e. The circumstances surrounding the requested variance are not the result of prior actions taken by this applicant, as no construction has yet occurred on the subject site.

This recommendation of approval is made subject to the following conditions:

1. Provided the Planning Commission changes the restrictions in the ND-1 zone; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the submitted site plan.
3. The columns shall be allowed to be 7 feet tall, but the average height of the pickets shall not exceed 5.5 feet.

Staff Presentation - Ms. Wade presented the staff report for MARV 2015-9: Elizabeth Brooks Bulleit (a/k/a Betsy Brooks Bulleit), a petition for a zone map amendment from a restricted Neighborhood Design Character Overlay (ND-1) zone to a modified Neighborhood Design Character Overlay (ND-1) zone, for property located at 810 Montclair Drive.

Ms. Wade directed the Commission's attention to the zoning map, and oriented them to the surrounding area and the existing street system. She explained that the subject property is located on the south side of Montclair Drive and on the west side of Bates Creek Road, along the southern boundary of the Montclair neighborhood. She noted that Montclair Drive is a local street that connects to Bates Creek Road, as well as stubs in to the KET and UK properties. She said that Cooper Drive runs along the northern edge of Montclair Drive and Bates Creek Road runs north to south along the east side of the neighborhood. She noted that Chevy Chase is to the east across Bates Creek Road. She added that the subject property does have an underlying R-1C zone, but the requested modification to the ND-1 was the reason this case is being presented to the Commission.

Ms. Wade said that, in January 2011, the Planning Commission approved the request of the Neighbors of Montclair Neighborhood Association for a Neighborhood Design Character Overlay (ND-1) zone; and late in 2011, the Planning Commission further amended the ND-1 restrictions in this area to regulate retaining walls. She then said that the applicant is now requesting the Commission to modify the ND-1 restrictions for property located at 810 Montclair Drive to construct a front yard fence. She said that the subject property is 810 Montclair Drive, but the applicant also owns two adjoining parcels at 754 and 760 Montclair Drive. She noted that the Eldemere Road right-of-way adjacent to the subject property had recently been closed by the Urban County Council. The applicant now owns three contiguous parcels as well as the former right-of-way in between. Ms. Wade directed the Commission's attention to an aerial photograph of this area, and said that although there are three parcels associated with this request, there is only one house located in the middle of these lots. The other two lots are vacant.

Ms. Wade said that the applicant has requested to delete restriction #3a from the current ND-1 conditions to construct a fence in excess of 4 feet in height. This would also require a dimensional variance to the front yard for the height of the fence. She directed the Commission's attention to the site plan, and explained that there are two parcels that already have an existing front yard fence, and the applicant is proposing to continue that fence in like material and height along the sidewalk and the new side yard connecting with the rear yard. She said that the applicant has requested to construct a fence up to a 7' with columns along the boundary of their property. However, in this ND-1 Overlay zone area, front yard fences are only permitted on certain street frontages, but not along Montclair Drive. She said that, under the current restrictions, the applicant would be allowed to place a fence 30 feet back at the edge of the required front yard, but that would be undesirable to the applicant, as they would lose 30 feet of their useable fenced yard.

Ms. Wade presented a series of ground-level photographs to the Commission and gave a brief description of each picture. She said that, in looking at the subject property, the applicant is planning to connect the existing fence with the new fence. She noted that, generally, the ND-1 Overlay zone's purpose is to conserve key features or visual and natural characteristics of a neighborhood. She explained that once the ND-1 Overlay zone is established the only way to modify it is through a modified zone change. This is regulated by Article 6-7(c)(2) of the Zoning Ordinance and it identifies that the Planning Commission must consider whether or not a request would adversely affect the public health, safety or welfare; would it alter the essential character of the overlay district; would it cause a hazard or a nuisance to the public; and would it allow an

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

unreasonable circumvention of the requirements of the ND-1 Overlay restrictions. She said that, in making a determination in this case, the Commission must consider the general intent and preservation goals of the Montclair Neighborhood at the time these restrictions were adopted in 2011.

Ms. Wade indicated that a field study of the Montclair neighborhood was conducted by the staff, with the following results:

- Front yard fences are relatively rare within the neighborhood.
- The applicant's property is the only location within the neighborhood with a fence taller than 4 feet in height.
- Since the ND-1 overlay design standards were adopted, several fences have been installed, but all meet the adopted design standards.

Ms. Wade said that this is a unique situation and there is no other fence in the general area that is like this one. She then said that, when the ND-1 Overlay was originally adopted, the fence became non-conforming. By completing the fence on the opposite side the applicant believes that it would be providing a continuity of appearance in the neighborhood. However, maintaining the ND-1 Overlay standards would prevent the front portion of the property from being utilized with the remaining property. She said that the applicants believe that installing the fence in conformity to the ND-1 standards would not provide a balance, but rather, disturb the continuity of the neighborhood and may cause a negative affect to the character of this area. She then said that, based upon the existing character of the Montclair Neighborhood, this modification for the subject property would make little change to the overall neighborhood.

In reviewing this request, Ms. Wade said that the Planning Commission should consider the Montclair neighborhood's preservation goals, which were stated in 2011 (in the submitted Design Character Study) as:

1. Preserve the existing neighborhood land use, which is entirely single-family residential;
2. Encourage new construction and additions that are compatible with the predominant massing, height and architectural character of the neighborhood, but recognizing differences in individual streets;
3. Utilize site planning standards reflective of the existing patterns of yards, setbacks and garages; and
4. Encourage community interaction and safety for pedestrians and bicyclists.

Ms. Wade said that the original design standards were developed based upon these goals, and the proposed deletion for one parcel will not prevent successfully achieving the neighborhood's goals.

Ms. Wade said that the Zoning Committee and the staff recommended approval of this request, for the following reasons:

1. The requested deletion of the Neighborhood Design Character (ND-1) overlay zone Design Standard #3a for this parcel will not adversely affect the public health, safety or welfare. An existing fence, similar in character, height, materials and location is already standing on property in common ownership. Installing a front yard fence at this location will allow for the continuity of appearance in the neighborhood and will not negatively affect the character of the neighborhood.
2. The special circumstances related to this application are that the subject property is one of three parcels under ownership of the applicant, it remains vacant, and no other 6-foot tall front yard fences exist in the entire neighborhood. This will not set a precedent for other property owners to request special consideration, since it is a truly unique circumstance.
3. Permitting deletion of this design standard for one parcel and allowing extension of a front yard fence will not prevent successfully achieving the Montclair neighborhood's general intent and preservation goals.
4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is proposed to be modified for the subject property via conditional zoning as follows:
 3. Landscaping Requirements
 - a. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.

Ms. Wade then said that deleting one of the prior fence restrictions is appropriate for the subject property, given the limited impact that continuing an existing fence on property under the same ownership could have on the Montclair neighborhood.

Planning Commission Question - The Chair said that, in looking at the language as noted on the staff report, the striking of the language is only for this parcel, not the entire ND-1 Overlay. Ms. Wade replied affirmatively.

Variance Presentation - Mr. Emmons said that the Zoning Ordinance permits a maximum height of 4 feet for any front yard fence in a residential zone, and the applicant has requested a variance to allow the fence to be up to 7 feet tall. He explained that the entire fence would not be 7 feet in height, but only the areas where there would be columns installed. He said that this type of fence would be a picket fence with picket heights ranging from 5 to 6 feet in height, depending on the slope of the land, and it would allow the same type and style to be used as the existing fence.

Mr. Emmons said that, when reviewing a dimensional variance, one of the main items the staff focuses on, is what are the unique circumstances of the property in question. He then said that for this particular case, the applicant has three separate properties being developed as one large estate lot, comprising a total of 1.4 acres. He said that the staff believes that the combination of how this property is developed and the existing fence in which the applicant desires to continue, does create a unique circumstance, which justifies the height variance for this property.

Mr. Emmons said that the staff had determined that the requested fence would not be located in the sight triangle or cause any hazards to the health, safety or welfare of others. He said that the staff is recommending approval of the requested variance, for the following reasons:

- a. Granting the requested variance will not adversely affect the public health, safety or welfare; nor will it negatively alter the essential character of the general vicinity. The fence will be located outside the required sight triangle; and by extending the existing fence (both in height and in style), it will create a unified appearance for the properties owned by the applicant.
- b. The special circumstances that apply to this property are: 1) three contiguous lots under the same ownership, developed as a single estate lot; and 2) the existing non-conforming fence on the other two properties owned by the applicant, which justifies the requested fence height variance. This property is located in a relatively small area of the Montclair neighborhood, which has several front yard fences
- c. According to the applicant, strict application of the requirements of the Zoning Ordinance would create an unnecessary hardship because the fence would either have to be built behind the 30-foot building line or limited to a maximum of 4 feet in height, neither of which will accomplish the stated goal of creating a unified appearance for the fence around the lots that the applicant owns.
- d. The requested variance is not an unreasonable circumvention of the Zoning Ordinance due to the attributes of the existing fence, but rather a response to the unique nature of how these lots are owned and utilized.
- e. The circumstances surrounding the requested variance are not the result of prior actions taken by this applicant, as no construction has yet occurred on the subject site.

Mr. Emmons then said that this recommendation of approval is made subject to the following conditions:

1. Provided the Planning Commission changes the restrictions in the ND-1 zone; otherwise, any Commission action of approval of this variance is null and void.
2. Should the property be rezoned, it shall be developed in accordance with the submitted site plan.
3. The columns shall be allowed to be 7 feet tall, but the average height of the pickets shall not exceed 5.5 feet.

Planning Commission Questions – The Chair asked if there was any concern with the fence being close to the adjacent properties. Mr. Emmons replied negatively, and said that the staff did analyze whether or not the fence height would impede the sight distance for anyone on the sidewalk or in a vehicle. The fence would be at least 21 feet from the back of the curb, which is more than double the normal setback. The staff determined that there would be no safety problems. The Chair then asked if there would be a safety issue on the adjacent parcel with the fence being so close to their driveway. Mr. Emmons said that it is not uncommon to have a fence next to a driveway and there is no real restriction to prevent that, and that there would be no issue with that sight triangle either.

Representation – Darby Turner, attorney, was present representing the applicant. He said that the adjacent property owners to the east and west are highly in favor of this proposal. He then said that the Neighborhood Association has polled its members and there were no objections received to this request. He added that this is simply an incorporation of a new lot into the existing household and landscaping. He explained that the stub street has been at this location for many years and in speaking with the previous property owners, there was a dispute as to whether or not a driveway could be located in this area. He then said that they had researched past easement and plat documents in effort to resolve the dispute, but his clients ultimately purchased the lot in question, then formally closed the street. He said that they are in agreement with the staff's recommendations, and requested approval.

Planning Commission Questions – Mr. Penn asked if there would be a consolidation plat filed for the three lots. Mr. Turner replied affirmatively and said that his clients want to consolidate the driveway with the larger parcel. Mr. Penn said that that was good to hear, because he would have thought it would have been the opposite. Mr. Turner said that he does not believe the right-of-way area is buildable. Mr. Penn said that if he lived in this area, he would be more comfortable with the applicant consolidating the lots. Mr. Turner said that that is his client's intent.

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. Drake and carried 9-0 (Berkley and Brewer absent) to approve MARV 2015-9: ELIZABETH BROOKS BULLEIT a/k/a BETSY BROOKS BULLEIT, as presented by the staff.

Action - A motion was made by Ms. Richardson, seconded by Mr. Drake and carried 9-0 (Berkley and Brewer absent) to approve the dimensional variance for MARV 2015-9: ELIZABETH BROOKS BULLEIT a/k/a BETSY BROOKS BULLEIT, as presented by the staff.

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

A. **WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for June 18, 2015.

VII. STAFF ITEMS – No such items were presented.

VIII. AUDIENCE ITEMS – No such items were presented.

IX. NEXT MEETING DATES

Work Session , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 18, 2015
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	June 24, 2015
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 25, 2015
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	July 2, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	July 2, 2015
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	July 9, 2015

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 4:30 PM.

Mike Owens, Chair

Will Berkley, Secretary