# MINUTES
# URBAN COUNTY PLANNING COMMISSION
# SUBDIVISION ITEMS

**July 9, 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 Cravens; Carolyn Plumlee; Bill Wilson; Will Berkley; David Drake; Karen Mundy; Frank Penn; Joseph Smith and Carolyn Richardson. Patrick Brewer and Mike Owens were absent.

Planning staff members present – Bill Sallee; Barbara Rackers; Tom Martin; Cheryl Gallt; Kelly Hunter; Dave Jarman and Denice Bullock. Other staff members in attendance were: Hillard Newman and Thomas Clements, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

**II. APPROVAL OF MINUTES** – The Vice Chair reminded the Commission members that the minutes of the April 30, 2015 and June 11, 2015, meetings were previously emailed to the Commission for their review; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Wilson, seconded by Ms. Richardson and carried 9-0 (Brewer and Owens absent) to approve the minutes of the April 30, 2015 and June 11, 2015, meetings.

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

1. PLAN 2015-64F: THE GRANGE ESTATES (LOTS 8, 10, 12 & 17) (AMD) (9/22/15)*- located at 501, 601 and 651 The Grange Lane. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to reconfigure three lots in the A-R zone, and create one HOA lot. This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Postponement**. The Paris Pike Corridor Commission is scheduled to review this plan on July 13, 2015.

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. Addressing Office's approval of street names and addresses.
4. Addition of private street and access maintenance note.
5. Denote date of review by Paris Pike Corridor Commission on plat.
6. Denote building, development, maintenance and use restrictions for HOA lot (Lot 17).
7. Correct Owner's Certification.
8. Review by Technical Committee prior to plan certification.

Representation – Al Gross, EA Partners, was present representing the applicant. He explained that the Paris Pike Corridor Commission was scheduled to review this request the following Monday. Therefore, he requested postponement of PLAN 2015-64F: THE GRANGE ESTATES (LOTS 8, 10, 12 & 17) (AMD) to the July 23, 2015, Planning Commission meeting.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 9-0 (Brewer and Owens absent) to postpone PLAN 2015-64F: THE GRANGE ESTATES (LOTS 8, 10, 12 & 17) (AMD) to the July 23, 2015, Planning Commission meeting.

**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: Will Berkley, Frank Penn and Mike Owens. Committee members in attendance were: Thomas Clements, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Traci Wade, Cheryl Gallt, Kelly Hunter, Denice Bullock and Dave Jarman, as well as Captain Greg Lengal and 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.*

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

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

**<u>Criteria:</u>**
(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.

**<u>Requests can be made to remove items from the Consent Agenda</u>:**
(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 Vice 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 these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. <u>PLAN 2015-58F: LANCASTER & KISER PROPERTY, LOTS 2-3 (AMD) (NOLI CDC)</u> (8/30/15)* - located at 156 York Street. (Council District 1) **(Randy Martin)**

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

<u>The Subdivision Committee Recommended:</u> **<u>Approval</u>**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office’s approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality’s approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Correct plan title.
9. Correct Urban County Engineer certification.
10. Correct Engineer’s certification, or denote waiver approval.
11. Denote Zoning Ordinance provision to permit 12’ front yard, and document compliance.

2. <u>DP 2015-51: SEBASTIAN PROPERTY, UNIT 2</u> (8/30/15)* - located at 2826 Leestown Road. (Council District 2) **(EA Partners)**

<u>The Subdivision Committee Recommended:</u> **<u>Approval</u>**, 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. Complete street right-of-way closure (street stub) information prior to plan certification.
11. Denote the Board of Adjustment approval of the clubhouse, pool and daycare prior to plan certification.
12. Identify detention basin necessary for stormwater control.

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.

<u>Consent Agenda Discussion</u> – The Vice 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 Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Brewer and Owens absent) to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee.

**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.

**1. FINAL SUBDIVISION PLANS**

a. PLAN 2015-59F: HAMBURG PLACE FARM (TUSCANY, UNIT 1, LOT 169) (8/30/15)* - located at 2681 Old Rosebud Road. (Council District 6) **(Endris Engineering)**

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Denote: This property shall be developed in accordance with the approved final development plan.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Addition of adjacent property information.
12. Identify adjacent property with dashed lines.
13. Resolve street cross-section discrepancies with approved development plan.
14. Addition of tree protection area(s) to match currently approved development plan.
15. Provided the Planning Commission grants a waiver to Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations.

Staff Presentation – Ms. Gallt directed the Commission's attention to the final record plat for Hamburg Place Farm, (Tuscany, Unit 1, Lot 169), located at 2681 Old Rosebud Road. She oriented the Commission to the location of the subject property on the rendering, and explained that the site is located off Old Rosebud Road at Pascoli Place. She added that this is the site for a new YMCA.

Ms. Gallt directed the Commission's attention to the agenda, and said that the Technical Committee and staff had reviewed the applicant's request, and recommended approval subject to the conditions noted on the agenda. She briefly explained that conditions #1-10 are typical 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. She noted that the applicant had requested waivers for Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations, which pertain to the construction of the sewer line.

Waiver Presentation - Mr. Martin directed the Commission's attention to the rendering to further orient them to the subject property. He explained that the Planning Commission previously approved the final development plan for this site, which had been certified; and the new YMCA is currently under construction.

Mr. Martin directed the Commission's attention to the staff exhibit on the overhead projector, and said that the subject property is located north of a regulated 100-year FEMA floodplain. He explained that with the location of the floodplain, it does impact how this development connects with the main sanitary sewer line. He said that there are two types of sewer lines in the area surrounding this development: a gravity sewer line and a force main sewer line. He explained that the applicant had initially planned and submitted plans to the Division of Engineering showing the sewer connection going

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across the creek to the force main. However, during their investigation, the applicant had determined that going across the creek would not be feasible, and revised their infrastructure plan to provide the sewer line connection going north toward the existing gravity sewer line. The property to the north is not developed; and by using the gravity line, it becomes a much simpler and easier construction project. He said that the staff does anticipate, when the vacant property to the north is developed, that it would be similar to the single family homes in the nearby neighborhood. He added that when the vacant property does develop, the sewer line connection could be dealt with.

Mr. Martin said that this property is also impacted by the financing of the project, and the applicant needs the final record plat to be recorded in order to secure the financing needed for it.

Mr. Martin stated that the staff was recommending approval of the requested waiver, for the following reasons:
1. Granting the requested waivers will not adversely affect public health and safety, as the property is currently being developed under the approved final development plan and the sanitary sewer will be provided prior to occupancy of the facility.
2. Not granting the requested waivers would constitute an exceptional hardship to the applicant, by requiring the applicant to pursue state and federal permitting procedures to cross the stream when an acceptable alternative route is more readily available to serve the property.

Mr. Martin then said that this recommendation was subject to the following condition:
a. There shall be no Zoning Compliance Permit issued (to permit occupancy) for this facility until construction of the new sewer line has been completed.

Representation – Kevin Phillips, Endris Engineering, was present representing the applicant. He explained that originally they had proposed to take the sewer line across the creek; but after their investigation, it was determined that going through the floodplain would create a hardship. Therefore, the applicant had spoken with Mr. Haymaker, who owns the property to the north, and it was decided that the sewer line would run through Mr. Haymaker's property to the gravity line. This direction would be less of an ordeal on this YMCA project. He indicated that the subject site is under construction, the grading work is underway, and the sewer line will be in place and operational prior to the YMCA opening.

Mr. Phillips said that the YMCA does own this property and they are securing financing for this project. With that being said, he noted that the applicant was in agreement with the staff's recommendations, and requested approval of PLAN 2015-59F.

Commission Questions - Mr. Penn asked if the sewer line connection to the north would be serving the entire area or just the YMCA property. Mr. Phillips explained that the sewer line connection would be made public, and any development between the YMCA and the gravity line could make a connection to that line. Mr. Penn confirmed that the entire piece of property would be sewered. Mr. Phillips said that the vacant piece of land between the YMCA and northern properties would be served by this line.

Mr. Berkley said that he was involved in the appraisal of this land and would be abstaining from voting on this item.

Mr. Phillips explained that at the time the YMCA had acquired this lot from Mr. Haymaker, they did not realize there was a note on the plat restricting development until the title was being researched. He said that their primary focus was to remove that note to move forward with financing. He added that the sewer line connection was the secondary item that needed to be addressed.

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. Smith and carried 8-0 (Berkley disqualified; Brewer and Owens absent) to approve PLAN 2015-59F, subject to the conditions, as presented by the staff.

Action - A motion was made by Mr. Penn, seconded by Mr. Smith and carried 8-0 (Berkley disqualified; Brewer and Owens absent) to approve the waivers to Articles 6-2(a) and 6-6(b) of the Land Subdivision Regulations, for the following reasons:
1. Granting the requested waivers will not adversely affect public health and safety, as the property is currently being developed under the approved final development plan and the sanitary sewer will be provided prior to occupancy of the facility.
2. Not granting the requested waivers would constitute an exceptional hardship to the applicant, by requiring the applicant to pursue state and federal permitting procedures to cross the stream when an acceptable alternative route is more readily available to serve the property.

**2. DEVELOPMENT PLANS**

a. DP 2015-55: BLUEGRASS BUSINESS PARK, LOT 4 (PEMBERTON FARM) & BURKE, HOCKENSMITH & MAGGARD PROPERTY, UNIT 5 (AMD.) (8/30/15)*- located at 2151 and 2221 Georgetown Road.

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

(Council District 2) **(Arnold Consulting)**

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

The Subdivision Committee Recommended: **Postponement**. The applicant still has not clarified the provision of sanitary sewer service to the proposed development, and resolved the access proposed to future lots.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping 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. Division of Water Quality's approval of crushed rock/recycled asphalt surface for equipment storage areas and dust control measures.
12. Kentucky Transportation Cabinet's approval of access to Georgetown Road.
13. Dimension all proposed buildings.
14. Clarify labeling for street cross-sections shown.
15. Clarify bounds of proposed storm water detention areas.
16. Correct plan title.
17. Denote all proposed and existing easements.
18. Clarify uses proposed in I-1 zone (to prevent a "machinery storage yard").
19. Demonstrate compliance with Art. 21-4(e)(2) of the Zoning Ordinance, prior to certification.
20. Change street/access easement information to match previous plan, or discuss the phasing of construction.
21. Discuss phasing of development.
22. Discuss details of Boyd Drive access to Georgetown Road, including timing of full construction, and previous development plan.
23. Discuss fencing and use (display area) shown.
24. Discuss easement conflict with proposed building and resolution of same.
25. Discuss sanitary sewer service status for the property.
26. Discuss Royal Spring Aquifer protection measures.
27. Discuss recorded stormwater easement conflict with proposed Jaggie Fox Way southern access location.
28. Discuss notes #12 & #15.

Staff Comment – Mr. Sallee directed the Commission's attention to the amended final development plan for Bluegrass Business Park, Lot 4 (Pemberton Farm) & Burke, Hockensmith & Maggard Property, Unit 5 on today's agenda. He said that this plan was recommended for postponement by the Subdivision Committee, and it was also recommended for postponement by the Technical Committee and staff. He then said that the staff did not believe the applicant was being represented at today's meeting and suggested that this plan be postponed to the August 13, 2015, Planning Commission meeting.

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Brewer and Owens absent) to postpone DP 2015-55: BLUEGRASS BUSINESS PARK, LOT 4 (PEMBERTON FARM) & BURKE, HOCKENSMITH & MAGGARD PROPERTY, UNIT 5 (AMD.) to the August 13, 2015, Planning Commission meeting.

b. DP 2008-11: LOUIS HILLENMEYER PROPERTY (AMD) (9/30/15)* – located at 4550 and 4560 Nicholasville Road. (Council District 9) **(Barrett Partners)**

Note: The purpose of this amendment is to add building square footage, a canopy and parking. The Planning Commission approved this plan at their February 14, 2008, meeting, 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 parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of the tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Waste Management's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.

8. Clarify canopy height.
9. Correct note number 6.
10. Revise purpose of amendment note.

Note: This plan was certified by the Commission's Secretary on March 28, 2008, meeting all 10 conditions. However, under Article 21-4(f) of the Zoning Ordinance, no additional building permits may be issued for this plan until the plan is reapproved by the Commission. The applicant now requests reapproval of the development plan.

The Staff Recommends: **Reapproval**, subject to the added conditions listed below:
1. Approval of addresses per e-911 staff.
2. Addition of a second Commission's certification to this plan.
3. Document Division of Water Quality's approval of the Capacity Assurance Program requirements prior to plan certification.

Staff Presentation – Mr. Sallee presented the amended final development plan for the Louis Hillenmeyer Property, located at 4550 and 4560 Nicholasville Road. He directed the Commission's attention to a couple of aerial photographs on the overhead projector to orient them to the location and layout of the subject property. He briefly explained that the subject property is located on Nicholasville Road, a very short distance north of the county line with Jessamine County, and south of the signalized intersection at South Point Drive. He added that some of the uses in the general vicinity include a small veterinary clinic and a school to the south and portions of the South Point Neighborhood is located to the rear and to the north of the site. He noted that this site was formerly known as the King's Garden Center for several years.

Mr. Sallee directed the Commission's attention to a closer aerial view of the property, and further explained that there is a single access point just off Nicholasville Road, with no other access points from the veterinary clinic or the residential neighborhood. He said that the subject property does have a number of greenhouses and canopies, as well as a permanent structure at the rear and a temporary structure at the front along Nicholasville Road. He noted that temporary structures are allowed on a property for up to 60 days; but after that time, it would require the approval of a conditional use permit or that structure being added to the development plan.

Mr. Sallee directed the Commission's attention to the rendering, and said that the development plan being presented was approved by the Commission in 2008, and then later certified in the same year. He said that the many of the same facilities shown on the aerial photograph were also depicted on the 2008 rendering. He explained that the rendering shows the single access point on Nicholasville Road, the off-street parking generally in the front of the property, and it depicts the addition of a 2,800 sq.-ft. greenhouse and two additional canopies to the north (5,200 sq. ft. total). He noted that, since the approval of this development plan, the greenhouse has been constructed.

Mr. Sallee stated that under Article 21-4(f) of the Zoning Ordinance, once a plan has been certified, building permits can only be obtained for five years. The applicant now wishes to obtain other permits and has requested the Commission to reapprove this development plan. He noted that this plan was approved by the Commission and later certified by the Commission's Secretary on March 28, 2008. At that time, the applicant had met all 10 conditions that are listed on today's agenda. Mr. Sallee directed the Commission's attention to the agenda, and said that the staff is recommending reapproval of this development plan, subject to the conditions listed below:
1. Approval of addresses per e-911 staff.
2. Addition of a second Commission's certification to this plan.
3. Document Division of Water Quality's approval of the Capacity Assurance Program requirements prior to plan certification.

Mr. Sallee briefly explained that condition #1 is a normal plan requirement for any new development plan. He noted that the e911 staff has indicated to the Planning staff that they want to review minor amendments, as well, to ensure that the e911 addressing is consistent throughout the community. Referencing condition #2, he said that the staff has requested that an additional certification be placed on the plan to reference the Planning Commission's consideration of this plan at today's meeting. Referencing condition #3, he added that it is a typical condition (for most new construction) to document the Division of Water Quality's approval of that type of request. He said that if, in fact, the only additions to the site are the two canopies, the staff anticipates there should be no impact to the sanitary sewer. He then said that condition #3 is mainly for any internal square footage that has not yet been built that would be subject to the permitting issue that had been previously explained.

With that being said, Mr. Sallee said that the staff can answer any questions on the staff recommendation or about this development plan listed on today's agenda.

Commission Questions – The Vice Chair asked if condition #7 (listed on the previous approval) and condition #1 (the same condition listed on the staff recommendation) was required for both recommendations. Mr. Sallee explained that the first 10 conditions the staff was not recommending because those 10 have already been satisfied since the Commission's earlier approval. The Vice Chair then asked if the first 10 would be removed. Mr. Sallee replied affirmatively, and said that the three new conditions would replace the first 10 conditions. The Vice Chair then asked if the motion would be based upon the three new conditions. Mr. Sallee replied affirmatively, and said that that is the staff's recommendation to the Commission.

Representation – Joey Svec, Barrett Partners, was present representing the applicant. He said that the applicant was in agreement with the staff's new recommendations, and requested reapproval of DP 2008-11.

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

Action - A motion was made by Ms. Plumlee, seconded by Mr. Wilson and carried 9-0 (Brewer and Owens absent) to reapprove DP 2008-11, subject to the conditions, as presented by the staff.

c. ZDP 2009-86: BRYAN PROPERTY (9/30/15)* - located at 1810 Bryant Road.
(Council District 6) **(Vision Engineering)**

Note: The Planning Commission approved this plan at their December 17, 2009, meeting, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of building dimensions.
8. Label construction entrance(s).
9. Addition of existing and proposed utility easement(s).
10. Delete note number 7 and correct note number 11.
11. Label building canopies.
12. Addition of bearings and distances for lot line on lots 1 & 2.
13. Denote: Mitigation for the loss of significant trees (per Article 26 of the Zoning Ordinance) will be identified at the time of final development plan.
14. Denote: Screening requirements and lighting adjacent to residential property will be resolved at the time of final development plan.
15. Identify internal pedestrian connection from proposed hotel to trail.
16. Addition of conditional zoning restrictions.

Note: This plan was certified by the Commission's Secretary on December 29, 2009. However, the plan has since expired, according to Article 21-4(f)(1) of the Zoning Ordinance. The applicant now requests reapproval of this plan.

The Staff Recommends: **Postponement**. The staff is unsure as to whether the applicant wants reapproval of the zoning development plan or approval of an amended preliminary development plan.

Staff Presentation – Mr. Sallee presented the amended final development plan for the Bryan Property, located at 1810 Bryant Road. He directed the Commission's attention to an aerial photograph on the overhead projector to orient them to the location and layout of the subject property. He briefly explained that Bryant Road runs parallel to Man o' War Boulevard, and is near the traffic signal (light) at the intersection of Sir Barton Way to the north of Man o' War Boulevard, and Pleasant Ridge Drive to the south of Man o' War Boulevard. He noted that Bryant Road extends across Pleasant Ridge Drive and runs parallel to I-75.

Mr. Sallee said that the subject property is located immediately next to Monkey Joe's Entertainment, which is zoned Light Industrial; and the Ashley Furniture Store, which is zoned Highway Service Business, on the opposite side of the site. He then said that the subject property is mostly vacant and has a very short bit of frontage at the rear of the property along the new Rails-to-Trails trail that has been constructed. He noted that the new Trails terminates at Man o' War Boulevard, runs through the Timber Creek Subdivision and borders the Andover Subdivision to the south. He noted that homes on Timber Creek Drive are located to the rear of the subject property and there are several existing homes abutting this site.

Mr. Sallee directed the Commission's attention to the plan rendering, and said that this is a zoning development plan that was submitted in 2009. It was approved by the Planning Commission, in conjunction with the zone change of the property from Agricultural Urban (A-U) to Highway Service Business (B-3). He identified the subject property's frontage on Bryant Road, as well as the frontage on the Rails-to-Trail, which is parallel to the rear of the property. He noted that the applicant had proposed a single access easement off of Bryant Road, to be constructed to service several off street parking areas. He said that a hotel use was proposed at the front and various retail uses were proposed at the rear of the property, with corresponding off-street parking.

Mr. Sallee said that this is a preliminary development plan; and, as such, it does not allow any building permits to be issued under the Zoning Ordinance. In fact, there is a note on the plan that states there will be no building permits issued until a final development plan is approved. He said that, in looking at the agenda, this request was originally approved, subject to 16 conditions. The plan was certified just before the close of 2009, which meant that this plan met all of those 16 conditions.

Mr. Sallee said that, initially, the staff had some confusion with the applicant's submission because it was not just a letter requesting reapproval, but the staff received new prints of this plan. He said that in reviewing those prints, the staff determined it was too different from the preliminary development plan that was certified in 2009. He then said that raised the question as whether staff was being asked to reapprove a previously approved plan or an amendment to that plan, leading to a recommendation of postponement for this request. He noted that the Subdivision Committee did not review this plan; but since that time, the staff had communicated with the applicant, who understood that the staff received those prints in error. It is the applicant's intention to reapprove the previously certified development plan. Mr. Sallee said that, with that in mind, the staff believes this plan can be reapproved by the Commission with the same conditions that were presented (on the agenda) for DP 2008-11. However, since this plan does not involve any construction, there is no need for documentation of the Division of Water Quality's approval for the Capacity Assurance Program. That condition would ordinarily come at the time a final development plan is submitted for this property. The staff understands from the engineer that a new submission may be submitted in the next few months. He said that the staff does recommend reapproval of the certified development plan with two of the same three conditions previously reviewed on DP 2008-11. Mr. Sallee explained that those two conditions would include e911 staff approval of addresses, which would allow them the opportunity to re-evaluate and approved addressing for the property, especially given that there are multiple buildings being proposed; and secondly, to have another Commission certification added to the plan to document the Commission's review today at this meeting.

Representation – Tom Lambdin, Vision Engineering, was present representing the applicant. He said that the applicant was in agreement with the staff's new recommendations, and requested reapproval of ZDP 2009-86.

Audience Comment – The Vice 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. Berkley and carried 9-0 (Brewer and Owens absent) to reapprove ZDP 2009-86, subject to the conditions, as presented by the staff.

## 4. MINOR PLAN

a. PLAN 2015-60CE: EMERGE DEVELOPMENT, LLC. - located at 412, 422 and 424 E. Third Street.
(Council District 1) **(2020 Land Surveying)**

Note: The staff is referring this minor plan to the Commission due to the request to consolidate Parcel 2 with Parcel 3 and Parcel 4 with Parcel 5, and to create a parking and access easement.

The Staff Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of Board of Adjustment's approval date for the side yard variance.
9. Denote: Property shall be developed in accordance with the site plan approved by the Board of Adjustment on May 29, 2015.
10. Change Planning Commission certification language to reflect Planning Commission approval date.

Staff Presentation – Mr. Sallee said that the staff was referring PLAN 2015-60CE: Emerge Development, LLC, located at 412, 422 and 424 E. Third Street (a minor plan) to the Planning Commission for their consideration. He noted that the "CE" notation in the title refers to this involving a consolidation and easement minor subdivision plan.

Mr. Sallee distributed the Board of Adjustment site plan of the subject property to the Commission, and directed their attention to an aerial photograph on the overhead projector to orient them to the location and layout of the subject property. He noted that this property was presented to the Board of Adjustment on May 29, 2015. It received approval of a dimensional variance, which was the reason this plan had been filed with the staff. Mr. Sallee briefly explained that the three lots are located on the south side and within the 400 block of E. Third Street, between Race Street, which is signalized and Eastern Avenue, which is not signalized. He said that the lots are vacant and have frontage not only on

E. Third Street, but also on Flads Alley to the south. He noted that there is not currently a driveway access on Flads Alley, but there is a paved area that does cut through the entire block from Eastern Avenue to Race Street.

Mr. Sallee said that the site plan presented to the Board of Adjustment is what's driving this consolidation and easement plat. He said that the applicant has shown a reconfiguration of the three lots with a more uniform lotting width. He then said that the dimensional variance approved by the Board of Adjustment does not impact the perimeter dimensions, but rather the dimensions between these buildings. He noted that the Zoning Ordinance requires a minimum of 5' from a wall to the property line; and the applicant had requested, and was granted, a decrease from 5' to 3' from the wall to the property line. He said that 3' was a significant number because the State Building Code would allow construction that close to a property line, whereas the Zoning Ordinance requires a minimum of 5', which is a more restrictive requirement. Mr. Sallee directed the Commission's attention to the elevation exhibit, and explained that the applicant had provided this schematic to the Board of Adjustment to illustrate the type of construction they were proposing on these three lots. He said that, since the property at 412 E. Third Street is much larger than the other two lots, the consolidation plat would allow the lot lines to be moved, making each lot more uniform, and would allow three buildings to be constructed.

Mr. Sallee directed the Commission's attention to Article 2 of the Land Subdivision Regulations, and said that the staff had no issue with the consolidation plat or moving the property line as requested by the applicant. The reason this item was being referred is the parking and access easement that is proposed at the rear of the property and the staff's limitation as to what can be approved at staff level. He explained that, according to the minor classes noted in the Subdivision Regulations, the staff can approve parking and access easements on only one or two lots. Once the number reaches three or more lots, the staff is precluded from approving those requests. He noted that, in this case, the property lines for each of these lots are being shifted and the access easement was crossing all three properties. Therefore, the staff can not approve this request. He said that the staff debated as to how to proceed with this request and determined that the easiest, simplest and quickest way for the applicant was to refer it to the full Planning Commission. He then said that part of Article 2 states that the Commission must approve this type of easement, and added that, from the staff's perspective, there are no issues with the creation of the easement because it matches the site plan that was presented to and approved by the Board of Adjustment. He said that because it does require the full Planning Commission's review and action, the staff can recommend approval, subject to the following conditions, many of which are typical of major plans:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of Board of Adjustment's approval date for the side yard variance.
9. <u>Denote</u>: Property shall be developed in accordance with the site plan approved by the Board of Adjustment on May 29, 2015.
10. Change Planning Commission certification language to reflect Planning Commission approval date.

Mr. Sallee briefly explained that conditions #1-5 are typical sign-off requirements from the different Divisions of the LFUCG. He said that condition #7 will require documentation of approval from the Division of Water Quality for the Capacity Assurance Program, and the remaining conditions can be considered as "cleanup" items. He then said that the applicant will need to add the Board of Adjustment's approval date to the plat for future record searches, as well as placing a note stating that the property will be developed in accordance with the site plan approved by the Board of Adjustment on May 29, 2015. He then said that the Planning Commission certification language needs to reflect the Planning Commission approval date as well.

Mr. Sallee directed the Commission's attention to condition #6, and said that a standard utility easement for the new property line would most likely vary more than 6' in width. He then said that the staff believes there would no benefit in providing new electric, sewer or any other utility easement to these lots because this area is a fully developed area. These lots have two street frontages; and there is a large parking area at the rear, which could also accommodate utility extensions if needed. He then said that, in reviewing and preparing for today's meeting, the staff would recommend that the Commission delete condition #6.

With that being said, Mr. Sallee said that the staff is recommending approval of this plan with the nine conditions, deleting condition #6. He then said that the staff can answer any questions on the staff recommendation or as to why this request was referred to the Commission.

<u>Planning Commission Questions</u> – Ms. Mundy asked, since these lots will be so close together, if there will be a requirement for a fire wall between these units. Mr. Sallee said that there will be fire separation requirements, but the staff was unsure if each individual building will have what is called a "fire wall" installed. He then said that he is not familiar enough with the Building Codes to know if that would be a requirement; but he does know that if a building is closer than

3' to a property line, there are many more fire prevention requirements. He said that this is why the applicant chose the 3' separation, and that is why in all of our residential zones 3' is the closest a detached residential structure can be built to a property line. He said that the staff can not say whether or not there will be a fire wall between these units. The Vice Chair said that it is a requirement to have some sort of fire protection on the outside of the walls, such as drywall.

Representation – Justin Drury, 2020 Land Surveying, and Benjamin Clements, Emerge Development were present. Mr. Clements said that they were in agreement with the staff's recommendations, and requested approval of PLAN 2015-60CE. He noted that in the area with only 3' of width, the exterior and interior walls would have fire-rated walls.

Audience Comment – The Vice 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 Ms. Mundy and carried 9-0 (Brewer and Owens absent) to approve PLAN 2015-60CE, subject to the conditions, as presented by the staff, deleting condition #6.

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

## III. COMMISSION ITEMS

**A. ELECTION OF OFFICERS** – The Vice Chair said that the Commission's By-laws state that at the first regular meeting in July, the Commission shall elect a Chairperson, Vice-Chairperson, Secretary, and Parliamentarian. He then said that the Nominating Committee had met and would present its slate for consideration by the Planning Commission. He added that nominations may also be made from the floor.

The Vice Chair stated that the Committee made the flowing recommendation for slate of officers:

| | | |
|---|---|---|
| Chairperson | - | Mike Owens |
| Vice Chairperson | - | Mike Cravens |
| Secretary | - | Will Berkley |
| Parliamentarian | - | William Wilson |

Other Nominations – The Vice Chair opened the floor for other nominations from the Commission. There was no response.

Discussion - Ms. Richardson said that she has no intention of not voting for the recommended slate of officers. However, she would like it to be noted for the record that it is important, when slates are presented, that the Commission remembers that there are term limits. She noted that although the Planning Commission has the right to override that decision, it is important that a variety of members of the Commission have the opportunity and the honor of serving as an officer. This is good for the Commission, as well as the public's perception. Ms. Richardson then said that she has no quarrel whatsoever with the job that the current members have done, nor does she anticipate that there would be any problem with those that have been nominated. She said that she does feel that the Commission should regroup at some time in the future to give others the same opportunity to serve. She commented that it is easy for people to get into a habit; but it is important, as a public Commission, to remember that the next time around.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Penn, and carried 9-0 (Brewer and Owens absent) to approve the Planning Commission's Slate of Officers, as presented by the Nominating Committee.

**B. DELEGATION OF SECRETARY'S DUTIES** – The Vice Chair said that the Commission's past procedure for carrying out the Secretary's duties, except for signing minutes, has been to delegate that authority to the Director of the Division of Planning and his staff. The Chair asked that the Commission consider taking similar action at this time. He then asked if Mr. Berkley is agreeable to delegate the secretary's duty to the Director of Planning and his staff. Mr. Berkley replied affirmatively.

Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson, and carried 9-0 (Brewer and Owens absent) to delegate the Secretary's duties, with the exception of signing minutes, to the Director of the Division of Planning and his staff.

**C. WORK SESSION** – Mr. Sallee reminded the Commission members that they do not have a work session on July 16, 2015; but that the next upcoming work session is scheduled for July 30, 2015.

**VII. STAFF ITEMS** – There were none.

**VIII. AUDIENCE ITEMS** – There were none.

## IX. NEXT MEETING DATES

**Zoning Items Public Hearing**, Thursday, 1:30 p.m., 2nd Floor Council Chambers ........ **July 23, 2015**
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) ........ July 29, 2015
**Work Session**, Thursday, 1:30 p.m., 2nd Floor Council Chambers ........ **July 30, 2015**

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

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .......................................... August 6, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .................................................. August 6, 2015
**Subdivision Items Public Meeting**, Thursday, 1:30 p.m., 2nd Floor Council Chambers .......................................... **August 13, 2015**

**X.** **ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 2:18 PM.

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Mike Owens, Chair

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Will Berkley, Secretary