

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

February 14, 2008

- I. **CALL TO ORDER** - The meeting was called to order at 1:34 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Randall Vaughn Chair; Linda Godfrey; Carolyn Richardson; Joan Whitman; Lynn Roche-Phillips (arrived at 1:36 p.m.); Lyle Aten and Frank Penn. Ed Holmes; James Mahan; Mike Cravens and Neill Day were absent.

Planning Staff Present – Chris King, Director; Bill Sallee, Barbara Rackers, Tom Martin, Cheryl Gallt, Chris Taylor, and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Ed Gardner, Department of Law; and Captain Charles Bowen, Division of Fire & Emergency Services; and Tim Queary, Division of Streets, Roads and Forestry.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Whitman, seconded by Ms. Godfrey and carried 6-0 (Roche-Phillips, Holmes; Mahan; Cravens and Day absent) to approve the minutes of November 29, 2007 and January 17, 2008.

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

- a. **PLAN 2008-9P: HILLENMEYER PROPERTY (AMD.) (4/17/08)*** - located on Lucille Drive and Sandersville Road.
(Council District 2) **(VanderWier and Associates)**

Representation – Jerry VanderWier, VanderWier and Associates, was present representing the applicant, and requested postponement of PLAN 2008-9P to the March 13, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Godfrey, seconded by Ms. Richardson, and carried 6-0 (Roche-Phillips, Holmes; Mahan; Cravens and Day absent) to postpone PLAN 2008-9P to the March 13, 2008, Planning Commission meeting.

Note: Ms. Roche-Phillips arrived at this time.

- b. **PLAN 2007-52P: TUSCANY, UNIT 5 (2/14/08)*** - located at 1970 Winchester Road (a portion of).
(Council District 6) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2007-52P to the March 13, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Godfrey, seconded by Ms. Richardson, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to postpone PLAN 2007-52P to the March 13, 2008, Planning Commission meeting.

- c. **ZDP 2007-111: THE GLEN AT LOCHDALE, UNIT 4 (AMD.) (2/14/08)*** - located at 3600 and 3652 Winthrop Drive.
(EA Partners)

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of ZDP 2007-111 to the March 13, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Godfrey, seconded by Ms. Richardson, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to postpone ZDP 2007-111 to the March 13, 2008, Planning Commission meeting.

- d. **PLAN 2007-201F: NDC PROPERTY, UNIT 1-A, LOT 16 (WELLINGTON) (AMD.) (2/14/08)*** – located at 249 Ruccio Way.
(Council District 9) **(Strand Associates)**

Representation – Steve Ruschell, attorney, was present representing the applicant, and requested postponement of PLAN 2007-201F to the March 13, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Penn, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to postpone PLAN 2007-201F to the March 13, 2008, Planning Commission meeting.

- e. **DP 2008-20: THE LANDINGS (AMD.) (4/28/08)*** – located at 2414 Lake Park Drive.
(Council District 5) **(Foster – Roland, Inc.)**

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

Staff Comments – Mr. Martin stated that the staff had received a letter from the applicant, requesting postponement of DP 2008-20 to the March 13, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Aten, seconded by Ms. Whitman, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to postpone PLAN 2007-201F to the March 13, 2008, Planning Commission meeting.

- f. DP 2006-137: PROVIDENCE PLACE & INTERSTATE SERVICE CENTER, UNIT 6 (4/29/08)* - located at 2200 Newtown Pike and 1931 Stanton Way. (Council District 12) **(EA Partners)**

Staff Comments – Mr. Sallee stated that unfortunately, the staff must recommend that DP 2006-137 be postponed. He said that this plan required the posting of a sign on the property. It is the staffs' understanding the sign has been down for more than a week. He then said that the best course of action would be to postpone this request for one month.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He explained that on February 13, 2008, he was informed at 1:00 p.m. that the sign had come down; by 4:00 p.m. that afternoon he had reattached a second sign to the horse plank fence using 7 nails. Mr. Kahly said that as soon as he was aware of the problem he had corrected it, and unless he drives the area everyday, he does not know how to fix this problem. He further explained that when he had visited the site, the original sign had disappeared, so under those circumstances he found and used a nearby older sign and changed the meeting date to read: February 14, 2008. Mr. Kahly then stated that this is the second time this has happened on this property, and asked what the ruling is for this type of situation. He noted that this request had also been advertised in the Lexington Herald-Leader.

Planning Commission Questions and Comments – Mr. Vaughn asked by what means was the sign verified as not being posted on the site. Mr. Sallee stated that he had received an e-mail on February 12, stating that the sign had been down since the 7th of February. He said that that afternoon, he drove to the site for a visual confirmation, and at that time, he did not see the original posting, but he did see the older sign that was previously mentioned by Mr. Kahly. He noted that the morning of February 13, 2008, he had informed Mr. Kahly of the situation via e-mail. He said that the staff's standard operating procedure for a zone changes is to repost the sign the same day the staff is made aware of it being down.

Mr. Vaughn noted that the staff is recommending for this request be postponed for one month. He then noted that, as stated by Mr. Kahly, this issue has happened twice on this property.

Ms. Godfrey asked what is the required time frame for posting the sign on the property. Mr. Sallee stated that the Zoning Ordinance requires a sign to be posted, within the Expansion Area, within 2 weeks from the filing date. He said that for this case, the sign was posted a day or two after the filing date (January 29, 2008), and apparently the week before the meeting the sign had disappeared. He then said that the Zoning Ordinance also requires the sign to be posted continually after the filing date.

Ms. Roche-Phillips asked if this request could be postponed for two weeks. Mr. Vaughn referred to the Law Department for a response. Mr. Gardner referred the question to the staff.

Mr. Kahly asked if the Commission would like to see the photographs of the original sign posting, and the Commissioner's agreed. He then submitted the required signed affidavit and photograph to the staff.

Ms. Godfrey commented that the sign has been down for 6 days. Mr. Aten asked how many times has this happened in the past. Ms. Godfrey replied twice.

Ms. Richardson asked if the signs whereabouts were known. Mr. Kahly said that he had walked the area and could not find the original sign. He then said that the first time the sign had come off the fence it was in the nearby ditch so he was able to reattach it at that time. He explained that the size of the sign is four foot by four foot, it is made out of wood and there is a plastic coating on top. He said that he used a similar sign from the nearby property, noting that it has never come off the fence since it had been posted.

Ms. Godfrey asked if the sign could have blown away due to the recent storm. Mr. Kahly said that he was unsure, but there were other signs in the area that were still posted.

Mr. Gardner stated that a two-week postponement is appropriate, given the fact that the sign had been previously posted. He said that the posting of the sign is not time specific other than it must be posted within fourteen days of the meeting and continuously posted until the case is heard by the Planning Commission. If the sign was reposted on February 13, 2008, then postponing this case to the February 28, 2008, meeting would be appropriate.

Mr. Vaughn asked if the sign itself has been reattached to the fence. Mr. Kahly replied yes, and said that he had written in the correct meeting date on an older sign that was found nearby.

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

Mr. Vaughn noted that the Law Department had stated that a two-week postponement is appropriate. Mr. Gardner stated that the meeting date on the sign would need to be changed to February 28, 2008.

Mr. Kahly stated that he was advised, by Steve Ruschell, attorney, to read the following section from the Article 23B-5(b) of the Zoning Ordinance: "The applicant shall provide an affidavit to the Planning Commission at the hearing, stating that the sign was posted as required and has been maintained on the property during the notice period to the best of the applicant's knowledge and ability," which is what he had done. He said that if the sign was gone for a week before the meeting and they wait until the day before the meeting to report this then he could not help them. It is not feasible to drive out Newtown Pike everyday to make sure the sign is still posted. Mr. Vaughn stated that the Zoning Ordinance is written to recognize and represent, to the best of its ability, the people who are requesting zone changes and who are not residents of the area. He said that he understood there was a bad windstorm, which could be the reason for the sign being down. The Planning Commission recognizes the dilemma that the applicant is in, however, the staff has requested that the Commission consider postponing this item for one month.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Godfrey, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to postpone DP 2006-137 to the February 28, 2008, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, February 7, 2008, at 8:30 a.m. The meeting was attended by Commission Members: Carolyn Richardson, Neill Day, Lyle Aten, Linda Godfrey, James Mahan, and Mike Cravens. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Cheryl Galt, Denise Bullock, Bill Sallee, and Tom Martin; as well as Ed Gardner, Department of Law; Captain(s) Bill Woodward and Charles Bowen, Division of Fire & Emergency Services; Tim Queary, Division of Streets, Roads and Forestry; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

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

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

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

Criteria: (1) the petitioner agrees with the Subdivision Committee's recommendation as listed on this agenda, and
(2) no discussion of the item or of the Committee's recommendation is desired by the Commission, and
(3) no one present at this meeting objects to the Commission acting on the matter without discussion.

NOTE: Items mentioned at this time are noted as "**Sounded Items**" in these minutes.

- a. **PLAN 2007-03F: FAITH COMMUNITY HOUSING (4/29/08)*** - located at 108 East Loudon Avenue.
(Council District 1) **(Foster - Roland)**

Note: This plan was approved by the Planning Commission at its January 11, 2007, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote Board of Adjustment approval of variance or denote required zone-to-zone screening.

Note: The applicant now requests reapproval of the plan.

The Staff Recommended: Reapproval, subject to the previous conditions.

(Sounded Item)

Representation – Myke Robbins, Foster – Roland, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested reapproval of PLAN 2007-03F.

Action - A motion was made by Ms. Godfrey, seconded by Ms. Whitman, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to reapprove PLAN 2007-03F, subject to the conditions as listed by the staff.

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

- b. DP 2008-23: WHITE TOWERS (AMD.) (4/29/08)* - located at 915 South Limestone and 123-125 Transcript Avenue.
(Council District 3) **(Sherman/Carter/Barnhart)**

Note: The purpose of this amendment is to increase the building square footage, add 16 motel rooms and revise the parking garage configuration, as well as add egress to Gazette Avenue.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation area.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Review by Technical Committee prior to certification.
10. Addition of Division of Fire's note from the approved development plan.
11. Revise purpose of amendment note.

(Sounded Item)

Representation – Mark McCain, Sherman/Carter/Barnhart, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-23.

Action - A motion was made by Mr. Aten, seconded by Ms. Whitman, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-23, subject to the conditions as listed by the staff.

- c. DP 2008-11: LOUIS HILLENMEYER PROPERTY (AMD.) (4/17/08)* – 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 Subdivision Committee Recommended: Approval, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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.

(Sounded Item)

Representation – Tony Barrett, Barrett Partners, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-11.

Action - A motion was made by Mr. Penn, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-11, subject to the conditions as listed by the staff.

- d. PLAN 2008-8P: HOUGHAM SUBDIVISION (4/17/08)* - located at 1100 Alexandria Drive.
(Council District 12) **(Eagle Engineering)**

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner's approval of environmentally sensitive areas (sinkholes and ponds).
7. Correct site statistics.
8. Add note number 16 from the approved Preliminary Development Plan concerning access to Lots 11 and 12.
9. Resolve note number 15 regarding access designs to Alexandria Drive.

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

10. Resolve improvements to Alexandria Drive.

(Sounded Item)

Representation – Jason Banks, Eagle Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2008-8P.

Action - A motion was made by Ms. Godfrey, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve PLAN 2008-8P, subject to the conditions as listed by the staff.

- e. PLAN 2007-07F: LOCHMERE ESTATES, UNIT 1-B (MAPLE RIDGE) (4/24/08)* - located at 645 Chilesburg Road (a portion of). (Council District 7) **(Eagle Engineering)**

Note: This plan was approved by the Planning Commission at its January 11, 2007, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation area(s).
6. Environmental Planner's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of HOA maintenance note.
9. Correct conditional zoning notes.
10. Greenspace Planner's approval of pedestrian access.
11. Division of Fire's approval of emergency access and fire hydrant locations.
12. Division of Solid Waste's approval of refuse collection.
13. Correct vicinity map.
14. Locate tree planting easements on street cross-sections.
15. Complete exaction information.
16. Addition of public pedestrian easement.

Note: The applicant now requests reapproval of the plan, and a continued discussion to revise the access location to one lot.

The Staff Recommended: Reapproval, subject to the previous conditions, adding two conditions:

17. Certification of amended final development plan prior to certification of this plan.
18. Clarify lotting, frontage and addresses of all HOA and/or Open Space lots.

(Sounded Item)

Representation – Jason Banks, Eagle Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, including the two additional conditions and requested reapproval of PLAN 2007-07F.

Planning Commission Questions – Mr. Penn asked if condition number 6 had been approved by the Environmental Planner. Mr. Banks replied that it had.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to reapprove PLAN 2007-07F, subject to the conditions as listed by the staff, including the following two conditions:

17. Certification of amended final development plan prior to certification of this plan.
18. Clarify lotting, frontage and addresses of all HOA and/or Open Space lots.

Note: The next four items were heard simultaneously.

- f. PLAN 2008-13F: DENTON FARM, INC., UNIT 3A, LOTS 31-34 (AMD.) (4/17/08)* - located at 280-288 Somersly Place. (Council District 7) **(Strand Associates)**

Note: The purpose of this amendment is to revise the lotting pattern.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

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3. Building Inspection's approval of landscape buffers and required street tree information.
 4. Approval of street addressing by e911 staff.
 5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
 6. Denote: This property shall be developed in accordance with the approved final development plan.
 7. Certification of amended final development plan prior to certification.
 8. Provided utility easements are released prior to certification.
 9. Correct purpose of amendment note.
 10. Correct exaction information.
 11. Delete all lots not affected.
- g. PLAN 2008-14F: DENTON FARM, INC., UNIT 3B, LOTS 27-30 (AMD.) (4/17/08)* - located at Somersly Cove and Somersly Place. (Council District 7) **(Strand Associates)**

Note: The purpose of this amendment is to revise the lotting pattern and to add one lot.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscape buffers and required street tree information.
 4. Approval of street addressing by e911 staff.
 5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
 6. Denote: This property shall be developed in accordance with the approved final development plan.
 7. Correct purpose of amendment note.
 8. Certification of amended final development plan prior to certification of plan.
 9. Provided utility easements are released prior to certification.
 10. Correct exaction information.
 11. Delete all lots not affected.
- h. PLAN 2008-15F: DENTON FARM, INC., UNIT 4A, LOTS 19 AND 20 AND 23-26 (AMD.) (4/17/08)* - located at Weston Park. (Council District 7) **(Strand Associates)**

Note: The purpose of this amendment is to revise the lotting pattern and add one lot.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscape buffers and required street tree information.
 4. Approval of street addressing by e911 staff.
 5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
 6. Denote: This property shall be developed in accordance with the approved final development plan.
 7. Certification of amended final development plan prior to certification.
 8. Provided utility easements are released prior to certification of plan.
 9. Correct exaction information.
 10. Delete all lots not affected.
- i. PLAN 2008-16F: DENTON FARM, INC., UNIT 4B, LOTS 12-18, 21 AND 22 (AMD.) (4/17/08)* - located at Weston Park and Branham Park. (Council District 7) **(Strand Associates)**

Note: The purpose of this amendment is to revise the lotting pattern and to add three lots.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street addressing by e911 staff.
5. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Certification of amended final development plan prior to certification.
8. Provided utility easements are released prior to certification of plan.
9. Correct exaction information.
10. Delete all lots not affected.

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

(Sounded Items)

Representation – Carol Goes, Strand Associates, was present representing the applicant. She stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2008-13F, PLAN 2008-14F, PLAN 2008-15F and PLAN 2005-16F.

Action - A motion was made by Ms. Whitman, seconded by Ms. Godfrey, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve PLAN 2008-13F, subject to the conditions as listed by the staff; PLAN 2008-14F, subject to the conditions as listed by the staff; PLAN 2008-15F, subject to the conditions as listed by the staff; and PLAN 2005-16F, subject to the conditions as listed by the staff.

- j. **DP 2007-139: LANSLOWNE-SHADELAND, UNIT 3 (AMD.) (4/27/08)*** - located at 1143-1153 Turkey Foot Road.
(Council District 5) **(Wheat and Ladenburger)**

Note: The Planning Commission indefinitely postponed this plan at its November 8, 2007, meeting. On January 28, 2008, the applicant requested reconsideration of this development plan. The purpose of this amendment is to add buildable area and modify parking.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation area.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Review by Technical Committee prior to certification.

(Sounded Item)

Representation – Roger Ladenburger, Wheat and Ladenburger, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2007-139.

Action - A motion was made by Mr. Aten, seconded by Ms. Whitman, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2007-139F, subject to the conditions as listed by the staff.

- k. **DP 2008-18: HAMBURG PLACE, B-5P AND B-6P AREA HIGHWAY COMMERCIAL (AMD.) (4/17/08)*** –
located at War Admiral Way. (Council District 6) **(Vision Engineering)**

Note: The purpose of this amendment is to revise development of outlots 4 and 5 and alter the building configuration on Lot 3.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation area.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Addition of building dimensions.
10. Identify area contiguous to outlot 5 building.
11. Update the tree protection notes.
12. Addition of typical parking space dimensions.
13. Correct plan title.
14. Graphically depict compliance with 100' façade setback requirement per Article 12-7(b) of the Zoning Ordinance.
15. Certification of consolidation plat prior to certification.
16. Denote the Board of Adjustment's approval, including the date and extent of setback variance granted.
17. Resolve pedestrian access and circulation.

(Sounded Item)

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

Representation – Matt Carter, Vision Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-18.

Action - A motion was made by Mr. Aten, seconded by Ms. Godfrey, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-18, subject to the conditions as listed by the staff.

- l. DP 2008-19: INGLESIDE APARTMENTS (4/17/08)* – located at 1201 Devonshire Avenue.
(Council District 11) **(Vision Engineering)**

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation area.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Delete note numbers 2 and 5.
10. Correct zoning designation on property boundary.
11. Addition of conditional zoning restrictions.
12. Document compliance with open space requirements.
13. Resolve tree protection measures.

(Sounded Item)

Representation – Matt Carter, Vision Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-19.

Action - A motion was made by Mr. Penn, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-19, subject to the conditions as listed by the staff.

- m. PLAN 2008-11F: PALUMBO PROPERTY, TRACT "A," LOTS 1 AND 2 (AMD.) (4/17/08)* - located at 250 West Loudon Avenue. (Council District 1) **(Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Include Lot 14 on plat.
8. Correct street cross-section to include sidewalk (per approved development plan).
9. Correct Engineer's certification note.

(Sounded Item)

Representation – John Napora, Endris Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2008-11F.

Action - A motion was made by Ms. Godfrey, seconded by Ms. Whitman, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve PLAN 2008-11F, subject to the conditions as listed by the staff.

- n. PLAN 2008-12F: WEIL AND BAKER PROPERTY (AMD.) (4/17/08)* - located at 1124 Russell Cave Road.
(Council District 1) **(Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

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

3. Building Inspection's approval of landscape buffers and required street tree information.
4. Division of Fire's approval of emergency access and fire hydrant locations.
5. Approval of street names by e911 staff.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Kentucky Transportation Cabinet's approval of access to Russell Cave Road.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Correct vicinity map.
10. Correct Planning Commission certification note.
11. Addition of building lines.
12. Addition of existing sanitary sewer easements.
13. Addition of sidewalk and drainage improvements to Russell Cave Road cross-section.
14. Denote right-of-way dedication.

(Sounded Item)

Representation – John Napora, Endris Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, with the exception of condition number 8. He requested that condition number 8 be deleted from the recommendation. He then requested approval of PLAN 2008-12F.

Staff Comment - Mr. Martin agreed that condition number 8 could be deleted. He said that there are no development plans on the subject property nor is there a need for one.

Action - A motion was made by Ms. Godfrey, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve PLAN 2008-12F, subject to the conditions as listed by the staff, including the deletion of condition number 8.

- o. DP 2008-12: HOPE CENTER APARTMENTS (4/17/08)* – located at 1518 Versailles Road.
(Council District 11) **(Carman Engineering)**

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Environmental Planner's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Approval of street names and addresses per e911 staff.
10. Correct site statistics (zoning).
11. Remove extraneous information from plan.
12. Certification of consolidation plat prior to plan certification.
13. Clarify street cross-section information.
14. Add pedestrian improvements to cross-section.
15. Resolve tree protection area.
16. Resolve parking lot reconfiguration and shared parking.

(Sounded Item)

Representation – Chris Howard, Carman Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-12.

Action - A motion was made by Mr. Aten, seconded by Ms. Godfrey, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-12, subject to the conditions as listed by the staff.

- p. DP 2008-10: RK MANAGEMENT (AMD.) (4/17/08)* – located at 601 Adcolor Drive.
(Council District 1) **(Allen Engineering)**

Note: The purpose of this amendment is to revise the site layout and to increase the building square footage.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.

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

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. Kentucky Transportation Cabinet's approval of the removal of the ramp right-of-way note.
9. Revise purpose of amendment note.
10. Resolve utility easement prior to plan certification.

(Sounded Item)

Representation – Andrew Cattoi, Allen Engineering, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-10F.

Action - A motion was made by Ms. Godfrey, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-10F, subject to the conditions as listed by the staff.

- q. PLAN 2007-198F: MYERS PROPERTY, UNIT 1-A (4/29/08)* - located at 1055 Greendale Road.
(Council District 2) **(VanderWier and Associates)**

Note: This plan was approved by the Planning Commission at its October 11, 2007, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and finished floor elevations.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner's approval of environmentally sensitive areas (stone fences, fuel tanks, sinkholes, steep slopes).
7. Greenspace Planner's approval of the treatment of greenways.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Place site statistics within a box.
10. United States Postal Service (USPS) approval of mailbox location.

Note: The applicant now requests a continued discussion to eliminate the emergency access from Unit 1-C, and to accommodate an emergency vehicle access on Unit 1-A.

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

The Staff Recommended: Approval, subject to the previous conditions, adding an additional condition:

11. Kentucky Transportation Cabinet's approval of access to Greendale Road.

(Sounded Item)

Representation – Jerry VanderWier, VanderWier and Associates, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, including the additional condition, and requested approval of PLAN 2007-198F.

Action - A motion was made by Ms. Godfrey, seconded by Ms. Whitman, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve PLAN 2007-198F, subject to the conditions as listed by the staff, including the following additional conditions:

11. Kentucky Transportation Cabinet's approval of access to Greendale Road.

- r. PLAN 2007-200F: MYERS PROPERTY, UNIT 1-C (4/29/08)* - located at 1055 Greendale Road.
(Council District 2) **(VanderWier and Associates)**

Note: This plan was approved by the Planning Commission at its October 11, 2007, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner's approval of environmentally sensitive areas.

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

7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Place site statistics within a box.
9. Addition of temporary access information.
10. United States Postal Service (USPS) approval of mailbox location.
11. Resolve boundary between Lots 29 and 30.
12. Resolve maintenance of temporary access easement.
13. Resolve Citation Boulevard right-of-way and construction easement.

Note: The applicant now requests a continued discussion to eliminate the emergency access from Unit 1-C, and to accommodate an emergency vehicle access on Unit 1-A.

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

The Staff Recommended: Approval, subject to the previous conditions, adding an additional condition:

14. Kentucky Transportation Cabinet's approval of access deletion to Greendale Road.

(Sounded Item)

Representation – Jerry VanderWier, VanderWier and Associates, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, including the additional condition, and requested approval of PLAN 2007-200F.

Action - A motion was made by Ms. Whitman, seconded by Ms. Godfrey, to approve PLAN 2007-200F, subject to the conditions as listed by the staff, including the following additional conditions:

14. Kentucky Transportation Cabinet's approval of access deletion to Greendale Road.

Planning Commission Questions – Mr. Penn said that the applicant had requested a continued discussion to eliminate the emergency access from Unit 1-C, and asked if this continued discussion had been resolved. Ms. Godfrey said that condition number 14 resolves that issue.

Mr. Penn verified that condition number 14 addresses that note. Mr. Martin replied that it does. Mr. Sallee stated that condition number 14 was suggested because Greendale Road is, technically, a state highway.

The motion carried 7-0 (Holmes; Mahan; Cravens and Day absent).

- s. DP 2008-17: SUNNY SLOPE FARM, AREA D (4/17/08)* – located at 350 Waveland Museum Lane.
(Council District 9) **(VanderWier and Associates)**

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation area.
5. Greenspace Planner's approval of the treatment of greenways.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Addition of group residential site statistics per Article 9.
10. Remove extraneous information.
11. Denote timing of construction and dedication of Silver Bell Lane.
12. Certification of preliminary subdivision plan prior to certification.
13. Denote timing of construction and dedication of Waveland Museum Lane.

(Sounded Item)

Representation – Jerry VanderWier, VanderWier and Associates, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-17.

Action - A motion was made by Ms. Godfrey, seconded by Mr. Aten, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-17, subject to the conditions as listed by the staff.

- t. DP 2008-14: RICHMOND/TODD, LTD (AMD.) (FRENCH QUARTER SQUARE) (4/17/08)* – located at 2601 Richmond Road. (Council District 7) **(EA Partners)**

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

Note: The purpose of this amendment is to add 625 square feet of buildable area.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Building Inspection's approval of landscape buffers.
3. Urban Forester's approval of the tree preservation plan.
4. Division of Fire's approval of emergency access and fire hydrant locations.
5. Approval of street names and addresses per e911 staff.
6. Correct plan title.
7. Correct site statistics.
8. Clarify extent of restaurant uses.

(Sounded Item)

Representation –Rory Kahly, EA Partners, was present representing the applicant. He stated that he had spoken with Tim Queary, Urban Forester, and that Mr. Queary does not need to be listed on the signoffs. He said that the applicant is adding a covered walkway to the pool area, and there is no need for Mr. Queary to be listed on the recommendations. Mr. Kahly said that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2008-14, but including the deletion of condition number 3.

Staff Comments – Mr. Martin agreed that condition number 3 could be deleted from the recommendation for approval.

Action - A motion was made by Mr. Aten, seconded by Mr. Penn, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-14, subject to the conditions as listed by the staff, including the deletion of condition number 3.

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

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. Final Subdivision Plans

- a. PLAN 2008-10F: PROVIDENCE PLACE PARKWAY (4/17/08)* - located at 2200 Newtown Pike (a portion of).
(Council District 12) **(EA Partners)**

The Subdivision Committee Recommended: Approval of the original submission, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Kentucky Transportation Cabinet's approval of Newtown Pike access and right-of-way.
8. Identify lot line as a solid line, and clarify adjacent property information.
9. Division of Planning's approval of the exaction calculations.

Staff Presentation – Mr. Sallee presented the final record plat to the Commission, and stated that the applicant is proposing to subdivide the property, and dedicate a public street. He briefly oriented the Commission to the location of the property, located off Newtown Pike, just north of the I-75 and I-64 interchange. He noted that there is a commercial area on Stanton Way that is north of the I-75 and I-64 interchange, and the property directly abuts this area immediately to the north. Referencing the zoning map, Mr. Sallee said that part of the subject property is designated an Economic Development (ED) zone, while the rear portion is designated a Community Center (CC) zone. He added that a small portion of the plat shows a public street.

Referencing the final record plat, Mr. Sallee noted that Providence Place Parkway has been constructed and is in place, and he said that the applicant is proposing to dedicate that street, as well as subdivide the property located at 2150 Newtown Pike into three lots. The larger lot will have a split zone that consists of both ED and CC zones,

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while the two smaller lots will only be located in a CC zone, noting that there will be frontage along Providence Place Parkway. Mr. Sallee said that initially this plat was only to dedicate the right-of-way, noting that this proposal had been reviewed by the Technical Committee. He said that based on the original submission, the Technical Committee, as well as the Subdivision Committee, had recommended approval of the applicant's request.

Mr. Sallee said that during the Subdivision Committee meeting, the staff had pointed out an issue with the proposed plat that superseded the original submission. He said that the problem is the proposed dedication of the public improvements on land that has not yet been approved as a preliminary subdivision plan. Referring the Commission to Article 4-2(a) and Article 4-3 of the Land Subdivision Regulations, Mr. Sallee said that the Subdivision Regulations prevent the recording of a plat on land that is not part of a preliminary subdivision plan. For this case it is the land to the north of the proposed dedication of Providence Place Parkway. He then said that the proposed three lots are within the area that has been approved for both a preliminary subdivision plan and a development plan, which has been approved, but not certified. Mr. Sallee said that since this area does have land that has been approved as a preliminary subdivision plan, those three lots will not have the same violation of the Land Subdivision Regulations as would the proposed creation of the drainage and storm easements on the northern portion.

In conclusion, Mr. Sallee stated that this is what prompted the staff to recommend that the land north of the roadway be deleted from this plat, and this is what also led them to the following revised recommendation for approval, subject to these original conditions listed on the agenda:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Kentucky Transportation Cabinet's approval of Newtown Pike access and right-of-way.
8. Identify lot line as a solid line, and clarify adjacent property information.
9. Division of Planning's approval of the exaction calculations.

He said that the staff is recommending approval for the three proposed lots located on the southern portion of Providence Place Parkway, in addition to the street dedication. However, the staff recommends the following conditions be added:

10. Delete all information shown as Lot 3, including existing and proposed easements, for all land north of the dedicated Providence Parkway right-of-way.
11. Delete utility easements in proposed right-of-way on eastern edge of this plat.

He said that since Lot 2 is not part of the plat, nor is it under the same ownership, the staff recommends the following condition:

12. Remove new easements proposed on Lot 2 (as this is not owned by applicants).

He then said that there is currently a legally platted access through the property toward the adjacent property to the south. He said that the staff believes it is premature to create this off-site easement until that issue can be resolved, which is what led the staff to recommend the following condition:

13. Remove off-site easements proposed for Anderson-Ramsey, LLC property (as this easement will conflict with an existing, platted access easement serving adjacent property).

Planning Commission Questions and Comments – Mr. Aten asked who is responsible for development of the roadway. Mr. Sallee said that the roadway had been constructed by the developer. Mr. Aten then asked if the roadway is existing. Mr. Sallee replied that it does exist, and the original submission would have dedicated the right-of-way that is associated with the construction of that road. He said that there were no technical issues with the conditions listed on the agenda, but rather the inclusion on either side of the road, which had resulted in the conflict with the Land Subdivision Regulations.

Mr. Vaughn clarified that the three lots being created are the ones marked with the red dots on the rendered plat. Mr. Sallee agreed, and said that the larger lot consists of both an ED zone and a CC zone, and it comprises 6.2 acres. The remaining two lots are both in the CC zone, one of which is to be 0.8 acres, while the other is to be 0.35 acres.

Mr. Penn asked where the Providence house is located in the CC zone. Mr. Sallee submitted two photographs of the subject site, and explained that the subject property is located north of intersection of Stanton Way and Newtown Pike. He pointed out the location of the house and which lot will be zoned CC and ED, as well as the location of the roadway leading to the rear.

Ms. Whitman clarified that this request is for lots 1-A, 1-B and 1-C. Mr. Sallee said that when looking at the recommendation, the staff believes the three lots could be approved for recording, as well as the dedication of the right-of-way, without violating the Land Subdivision Regulations.

Ms. Roche-Phillips asked if the land on the opposite side of the proposed road is under common ownership. She then asked if the goal is to record the three lots; but due to the dedication of the infrastructure, if it requires a different approach. Mr. Sallee said that the plat also proposes to dedicate the easements north of the parkway, which is the issue.

Petitioner – Rory Kahly, EA Partners, was present representing the applicant. He said that on the original filing the ribbon road was used as a reference only, and it can be taken off; this plat. As for Lot 3, it was added to show the remaining section of the property. He then said that the plat will dedicate the roadway, noting that Lots 1-A, 1-B and 1-C are already on an approved development plan. He also noted that when this was consolidated, there were easements on Lot 2, and the easements that do not belong will be deleted from this plat. In conclusion, Mr. Kahly stated that the applicant is in agreement with the staff's recommendations and requested approval of PLAN 2008-10F.

Planning Commission Questions and Comments – Mr. Vaughn asked if the applicant agrees with the revised recommendations submitted by the staff. Mr. Kahly replied that they were in agreement.

Ms. Whitman asked if the applicant was in agreement with condition number 12. Mr. Kahly said that he will have to check the consolidation plat; but he believes there are some easements, some of which may not be recorded, noting that there will be no new easements added to this plat.

Ms Roche-Phillips asked if the Providence Place house is historic. Mr. Sallee responded that the staff is unaware of the house being on the National Historic Register, noting that the property is not within an H-1 Overlay zone. Mr. Kahly said that the house will remain "as is" on the property.

Mr. Penn said that there is always a concern with alluvial soils and how water flows toward the drainage area. He asked if there is a problem with building on Lot 1-A. Mr. Kahly replied that there is no problem, and said that a road can be built on alluvial soils. Mr. Penn asked if houses could be built on alluvial soils. Mr. Kahly said that in the past, this has never been a problem. He then said that their proposal is to build in the rear not the front. Mr. Penn clarified that construction would be in the yard of the house. Mr. Kahly replied yes affirmatively.

Citizen Comments – Dr. Poole, residing at 2300 Newtown Pike, was present. She said that her property was originally included on the development plan, and since that time it has been taken off. She then said that her concern is her property being key-holed in.

Mr. Vaughn asked if staff could clarify for the Commission where Dr. Poole property is located. Using the two photographs of the subject property, Mr. Sallee pointed out that her property is located immediately to the north. He said that the access is an issue that would ordinarily be covered on a preliminary subdivision plan, thus the staff's concern with the application being presented to the Commission. He said that should any preliminary subdivision plan or development plan be submitted for this property, the staff would review the need for access to the adjacent property, especially since the parkway is in.

Mr. Vaughn asked if the revised recommendation addresses the future access, and Mr. Sallee responded that it does not. He then said that the land on the plat is a final record plat, and not a development plan or a preliminary subdivision plan. If the applicant were to file either a development plan or a preliminary subdivision plan for Lot 3, then the staff would address the access issue at that time.

Mr. Vaughn asked Dr. Poole if she understood that the portion of the property nearest to her will be removed from this particular request; and should a development plan or a preliminary subdivision plan be filed, the staff and the Planning Commission would address the access issue. Dr. Poole confirmed that she understood, and she said that she wanted this issue to be noted for the record.

Action - A motion was made by Ms. Whitman, seconded by Ms. Godfrey, and carried 7-0 (Holmes, Mahan, Cravens and Day absent) to approve PLAN 2008-10F, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Kentucky Transportation Cabinet's approval of Newtown Pike access and right-of-way.

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8. Identify lot line as a solid line, and clarify adjacent property information.
9. Division of Planning's approval of the exaction calculations.
10. Delete all information shown as Lot 3, including existing and proposed easements, for all land north of the dedicated Providence Parkway right-of-way.
11. Delete utility easements in proposed right-of-way on eastern edge of this plat.
12. Remove new easements proposed on Lot 2 (as this is not owned by applicant).
13. Remove off-site easements proposed for Anderson-Ramsey, LLC property (as this easement will conflict with an existing, platted access easement serving adjacent property).

2. Development Plans

- a. DP 2008-13: GOO GOO CAR WASH (4/17/08)* – located at 1537 North Limestone.
(Council District 1) **(CDP)**

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Identify any proposed easements.
10. Provided the Commission grants a waiver to Article 6-8(g)(3)(b) of the Land Subdivision Regulations regarding access spacing.

Staff Presentation – Mr. Martin presented the final development plan to the Commission, and stated that the applicant is requesting to add a carwash for property located at 1537 North Limestone, just prior to its intersection with New Circle Road. He briefly oriented the Commission to the layout of the proposal, noting the location of the canopy for the vacuum areas, the existing access point and the building where the vehicles will enter and exit the car wash. He then pointed out the location of the existing access point, and said that the applicant is requesting to add a new access point on the corner of the property, which is 90 feet from the New Circle Road intersection. He noted that the existing access point is approximately 40 feet from the edge of the proposed access point, and each access entrance is 24 feet in width. Mr. Martin then stated that the new access point will lead to the rear of the property where the gates are located. He then said that once the vehicles are through the gates, they will then be directed into the carwash, and allowed to exit back onto North Limestone.

Mr. Martin said that there was a considerable amount of discussion concerning the emergency access and solid waste collection; however, those issues have been addressed. He then said that the applicant has reduced the canopy size, which will allow the larger vehicles to drive through the subject property, and they are also proposing to have the solid waste collection at the front of the property for easier access.

Mr. Martin stated that the Subdivision Committee had recommended approval of the applicant's request, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Identify any proposed easements.
10. Provided the Commission grants a waiver to Article 6-8(g)(3)(b) of the Land Subdivision Regulations regarding access spacing.

Mr. Martin then directed the Commission's attention to the previously distributed waiver request, and said that condition number 10 pertains to the new access point at the corner of the property. He said that the proposed access point will be 90 feet from the New Circle Road and North Limestone intersection; however, the Land Subdivision Regulations require a minimum of 400 feet from an arterial intersection. He said that the applicant had acknowledged that for the carwash to function efficiently, the new access point is vital to the internal function and design layout. Mr. Martin then said that the staff had reviewed the applicant's request, as well as spoken with Traffic Engineering, and it was determined that there are conflicting access points directly across from the subject property. In response to the staff's concerns, the applicant had offered to add a right turn lane from New Circle Road down to the subject property,

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

as well as construct a sidewalk and curb and gutter along the frontage of the property. He said that the staff had reviewed this idea, and concluded that these improvements would be beneficial for public safety.

In conclusion, Mr. Martin stated that the staff is recommending approval of the waiver request, for the following reasons:

- 1) Not granting this waiver will impose a hardship on the applicant by requiring a redesign that would reduce the overall efficiency and safe function of the site relative to the function of the car wash and provision of public services.
2. The granting of the waiver will not negatively impact public health and safety, due to the planned improvements commensurate with this development.

This recommendation is made subject to the following additional requirements:

1. That the applicant construct a turn lane from New Circle Road to the proposed access point to the approval of Traffic Engineering.
2. That the applicant construct a six-foot sidewalk, curb and gutter along the entire frontage of the site to the approval of the Division of Traffic Engineering.

Planning Commission Comments and Questions – Mr. Aten asked for clarification concerning the turning lane. Mr. Martin said that the turn lane has not been delineated on the cross-section, but the applicant is proposing a full size turn lane to run down North Limestone into the subject property.

Mr. Vaughn asked if the 6-foot sidewalk is being shown on the development plan. Mr. Martin said that the applicant is showing a 4-foot sidewalk on the development plan. He said that the staff had a concern with this size; and to resolve this concern, the applicant has verbally agreed to provide a 6-foot sidewalk.

Petitioner – Seth Farmer, CDP Engineers, was present representing the applicant. He clarified that the right turn lane will begin to taper into the subject property from the intersection of New Circle Road and North Limestone. He said that the turn lane will be 22 feet in width, which will allow enough room for vehicles to maneuver around the turning vehicles.

Planning Commission Comments and Questions – Mr. Aten said that currently North Limestone has two turn lanes, as well as a through lane, and asked if the applicant will be adding more pavement to accommodate the turn lane leading into the subject property. Mr. Farmer replied yes. He said that the pavement would taper inward toward the subject property.

Mr. Aten clarified that the tapering will begin on property that the applicant does not own. He said that the turn lane is within the right-of-way.

Mr. Aten asked for comments from Traffic Engineering. Jeff Neal, Traffic Engineering, was present. He said that the applicant is adding enough width to get 22 feet of pavement. He then said that the pavement will begin to taper back and continue on past the dry cleaner entrance. He said that this will act as a bypass lane, allowing the vehicle to move around other vehicles. The staff is not anticipating a lot of traffic going into the subject property, and they believe this will help an existing problem.

Mr. Vaughn clarified that this is widening a section of the pavement, as opposed to the turning lane. Mr. Neal replied yes, and said that it will allow more options for the traffic to move away from the New Circle Road area.

Mr. Penn asked if a vehicle would be allowed to turn left into the subject property when a vehicle travels down North Limestone going toward New Circle Road. Mr. Neal replied yes, and said that there is a left turn lane that vehicles can use.

Mr. Aten asked what amount is needed for the additional pavement. Mr. Neal said that, according to their survey, the applicant will make sure that there is 22 feet of pavement where the double yellow line is located. He said that this will create two 11-foot lanes, and the road will then taper back to the normal width after their property.

Mr. Aten said that there is already a left turn lane going north on New Circle Road. Mr. Neal said that it would not impact that turn lane.

Ms. Roche-Phillips asked if a bike lane is being provided. Mr. Neal replied that one would not be provided for this section of North Limestone, but it could come at a later date when the Small Area Plan is done.

Ms. Roche-Phillips asked if there is enough room to construct a bike lane in the future with the 11 feet of pavement. Mr. Neal said that that could be an option.

Petitioner Comment – Seth Farmer stated that they are in agreement with the staff's recommendations, and requested approval.

Staff Comment – Mr. Martin said that after speaking with Mr. Neal, the following changes are recommended for the waiver report:

1. Not granting this waiver will impose a hardship on the applicant by requiring a redesign that would reduce the overall efficiency and safe function of the site relative to the function of the car wash and provision of public services.
2. The granting of the waiver will not negatively impact public health and safety, due to the planned improvements commensurate with this development.

This recommendation is made subject to the following additional requirements:

1. That the applicant construct ~~a turn lane from New Circle Road to the proposed access point~~ improvements to North Limestone to the approval of Traffic Engineering.
2. That the applicant construct a six-foot sidewalk, curb and gutter along the entire frontage of the site to the approval of the Division of Traffic Engineering.

Action - A motion was made by Ms. Godfrey, seconded by Mr. Penn, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to approve DP 2008-13, subject to the 10 conditions listed, and granting the waiver to Articles 6-8(q)(3)(b) of the Land Subdivision Regulations, for the reasons provided by staff and subject to the recommended conditions.

Roger Beck, property owner of Goo Goo Carwash was present. He thanked the Commission for their consideration, and said that they are looking forward to coming to Lexington.

A recess was declared at 2:55 p.m. and the meeting re-convened at 3:06 p.m.

- b. DP 2008-15: TUSCANY, UNIT 2 (AMD.) (4/17/08)* – located at 1970 Winchester Road (a portion of).
(Council District 6) **(EA Partners)**

Note: The purpose of this amendment is to add 20 condominium units.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. United States Postal Service (USPS) approval of mailbox location.
6. Division of Waste Management's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.
8. Addition of owner's certification.
9. Addition of Planning Commission's certification.
10. Addition of building lines.
11. Addition of purpose of amendment note.
12. Complete vicinity map.
13. Resolve setback relative to the height of building (Article 9).
14. Resolve compliance with parking requirements.
15. Resolve compliance with lot coverage requirements.
16. Provided the Planning Commission provides findings for Article 6-8(m) of the Land Subdivision Regulations regarding the access easement.

Petitioner Presentation – Rory Kahly, EA Partners, was present representing the applicant. He noted that there was an error on the agenda and said that the applicant is requesting 32 condominium units, and not 20 condominium units. He said that condition numbers 13, 14 and 15 fall under condition number 3; therefore, those conditions could be deleted from the staff's recommendations. Mr. Kahly then said that the applicant is in agreement with the remaining recommendations listed by staff, noting that the Planning Commission should make a finding for Article 6-8(m) of the Land Subdivision Regulations, and in that finding it should state that the proposed access easement is acceptable (condition number 16). Mr. Kahly concluded by requesting approval of PLAN 2008-15F.

Planning Commission Comments – Mr. Vaughn stated that the applicant is requesting approval of DP 2008-15: TUSCANY, UNIT 2 (AMD.), which is located on a portion of 1970 Winchester Road. He said that the staff has recommended approval, subject to 16 conditions and adding a 17th condition that reads: "Provided an amendment to Tuscany, Unit 3 to delete a cul-de-sac and associated lots is approved and certified prior to certification of this plan."

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

Mr. Sallee stated that the staff recommended that conditions number 13, 14 and 15 remain listed on the agenda, and be a Commission's action.

Ms. Godfrey asked if this case could be moved to the full hearing portion of the agenda in order to review this request in more detail. The Planning Commission members agreed.

Staff Presentation - Mr. Martin presented the amended development plan to the Commission, and briefly oriented them to the surrounding street system, as well as the overall layout. He stated that the area to the west has already been platted as single family residential; however, there is a gap leaving one lot open. In addition, Unit 3, which is located northeast of the property, has been previously platted as single family residential, as well. He said that adjacent to Unit 3 is Unit 6, which is where the four-plexes are located, as well as the extension of Old Rose Bud Lane, which is a collector street.

Mr. Martin then stated that the applicant is proposing to add 32 condominium units along Pascoli Place. He said that the original submittal had problems meeting Article 9 of the Zoning Ordinance, as well as providing solid waste service. He said that the applicant had then submitted a revised plan, showing Phase II, noting that the access easement off of Pascoli Place will serve the condominium units. He then said that part of the access easement is within Unit 3; therefore, the applicant will need to amend PLAN 2007-175P: Tuscany, Unit 3, as well as have it approved and certified prior to the certification of DP 2008-15.

Mr. Martin said that the Subdivision Committee had recommended approval, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. United States Postal Service (USPS) approval of mailbox location.
6. Division of Waste Management's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.
8. Addition of owner's certification.
9. Addition of Planning Commission's certification.
10. Addition of building lines.
11. Addition of purpose of amendment note.
12. Complete vicinity map.
13. Resolve setback relative to the height of building (Article 9).
14. Resolve compliance with parking requirements.
15. Resolve compliance with lot coverage requirements.
16. Provided the Planning Commission provides findings for Article 6-8(m) of the Land Subdivision Regulations regarding the access easement.

He said that the staff's recommendation does include standard conditions, as well as the conditions to address the staff's concerns that were previously mentioned. He then said that condition numbers 13 through 15 should remain listed as part of the recommendation, and not be deleted, as suggested by the applicant. As for condition number 16, this is in reference to the access easement located off of Coroneo Lane, and it is necessary for the Planning Commission to make a finding for Article 6-8(m) of the Land Subdivision Regulations.

Planning Commission Comments and Questions – Mr. Vaughn clarified that staff is adding a condition number 17. Mr. Martin responded that that was correct, and said that within the Unit 3 development, the plan shows the street pattern with single family residential homes being surrounded by a cul-de-sac off of Coroneo Lane. He then said that in order to meet the area and setback requirements, the applicant has proposed to expand Phase II into Unit 3. This will then require the amendment of Unit 3, resulting in condition number 17 being added. He said that the Planning Commission will need to approve the removal of the cul-de-sac and the lotting pattern.

Petitioner Presentation – Mr. Kahly referenced condition number 17, and said that he had spoken with the staff prior to the meeting, and it was stated that PLAN 2007-175P: Tuscany, Unit 3 would only need to be approved, not certified. He asked why PLAN 2007-175P needs to be approved and certified prior to DP 2008-15. Mr. Martin said that DP 2008-15 will need to be submitted as a continued discussion item, and the staff believes it should be approved and certified due to the prospect of the improvement plans for PLAN 2007-175P. He said that the change needs to be clearly identified on both Unit 2 (DP 2008-15) and Unit 3 (PLAN 2007-175P).

Mr. Aten asked if the original development plan is accessible. Mr. Martin replied affirmatively. Mr. Aten then asked to see what has changed on Unit 3. Mr. Kahly said that on the revised plan the access easement and cul-de-sac were being shown on Unit 3, which is strictly single family homes. He then said that in order to construct the four-plexes with the required setbacks under Article 9, more land was needed; therefore, the cul-de-sac was removed from Unit 3 and placed into Unit 2.

Mr. Kahly said that as soon as DP 2008-15 has been approved, he will resubmit PLAN 2007-175P to staff as a continued discussion item, which will then delete that portion from the plan. He then said that he does not understand why DP 2008-15 has to be certified beforehand. The plans cannot be certified until the Planning Commission approves the requests. He stated that the public street is being shown on DP 2008-15, so there is no infrastructure on Unit 3 being done.

In conclusion, Mr. Kahly again noted that this request is for 32 units and not 20. He then said that condition numbers 13, 14 and 15 resolve the setback issue for Article 9, and the compliance for parking and coverage. He asked if Building Inspection's signoff resolved those conditions or if there was something more specific. Mr. Martin said that those conditions are the responsibility of the Division of Planning, not Building Inspection, and they must make sure that those conditions are being met. Perhaps Building Inspection will also review those items, but ultimately it will fall upon the Division of Planning, and this is why the staff is requesting that those items remain.

Mr. Vaughn clarified that condition numbers 13, 14 and 15 should remain. Mr. Martin said that was true and that the Planning Commission had approved Unit 3 (PLAN 2007-175P), but not certified it; therefore, an amendment could be allowed and the plan could be redocketed as a continued discussion item prior to DP 2008-15 being approved and certified.

Petitioner's Comments – Mr. Kahly said that since the Subdivision Committee meeting they have worked with Solid Waste to discuss how the larger vehicles would maneuver through the site. He said that Solid Waste had sent an email to him, and to the staff, requesting additional parking near the access easement, as well as requesting for areas to be marked as "no parking." Mr. Kahly said that they are in agreement with their request.

Planning Commission Comments and Questions – Ms. Godfrey clarified that condition number 17 does not need to be certified as long as it is approved by the Planning Commission. Mr. Martin replied that is correct. Ms. Godfrey then asked if condition number 17 should be changed. Mr. Martin stated that condition number 17 could be changed to read: "Provided an amendment to Tuscany, Unit 3, to delete a cul-de-sac and associated lots, is approved prior to certification of this plan."

Action - A motion was made by Ms. Godfrey, seconded by Mr. Aten, and carried 7-0 (Holmes, Mahan, Cravens and Day absent) to approve DP 2008-15, subject to the 16 conditions listed, adding condition number 17 to read: "Provide an amendment to Tuscany, Unit 3 to delete a cul-de-sac and associated lots is approved prior to certification of this plan."

Mr. Kahly asked if a motion should be made for the findings listed on condition number 16. Mr. Gardner said that the Planning Commission must make a finding for Article 6-8(m) of the Land Subdivision Regulations regarding the access easement.

Amended motion - A motion was made by Ms. Godfrey, seconded by Mr. Penn, and carried 7-0 (Holmes, Mahan, Cravens and Day absent) to approve DP 2008-15, subject to the 16 conditions listed, changing condition number 16 to read: "Approve the access easement, as it is presented on the revised plan" and adding condition number 17 to read: "Provided an amendment to Tuscany, Unit 3 to delete a cul-de-sac and associated lots is approved prior to certification of this plan."

- c. DP 2008-16: GRIFFIN GATE OFFICE PARK (BLUEGRASS OFFICE PARK) (AMD.) (4/17/08)* – located at 1448 and 1450 Newtown Pike. (Council District 2) **(EA Partners)**

Note: The purpose of this amendment is to add 34 parking spaces.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Environmental Planner's approval of environmentally sensitive areas.
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. Addition of all development plan information from the previous plans.
9. Addition of detailed landscape plan along the Newtown Pike frontage.

Petitioner – Rory Kahly, EA Partners, was present representing the applicant. He said that the applicant is in agreement with condition numbers 1 through 8; and as for condition number 9, this is a separate landscape plan that will be approved by Building Inspection. He then requested approval of DP 2008-16.

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

Staff Comments – Mr. Martin said that the staff has requested that the landscape plan be submitted to both Building Inspection and the Division of Planning. He agreed that the landscape plan is separate, but the staff would like to review the plan as well.

Planning Commission Comments - Mr. Vaughn said that the staff has listed 9 conditions on the agenda, as well as adding a 10th condition that reads: “Denote: This plan supersedes DP 86-25: GRIFFIN GATE OFFICE PARK (AMD. #2).”

Ms. Godfrey asked if this case could be moved to the full hearing portion of the agenda in order to review this request in more detail. The Planning Commission members agreed.

Staff Presentation – Mr. Martin presented this final development plan to the Commission, and stated that the subject site is located at 1448 and 1450 Newtown Pike, which is the Red Cross building. He briefly oriented them to the surrounding street system, as well as to the existing businesses within the area. He said that the purpose of the amendment is to add 34 parking spaces for the portion of the development adjacent to Newtown Pike, noting that the concrete flume will be relocated into the detention basin.

Mr. Martin said that the Subdivision Committee had recommended approval, subject to the requirements listed on the agenda.

He then said that initially this area had been subdivided after two zone changes, and the staff had requested for all the development plan information from those zone changes be added to this development plan. As for condition number 9, the staff had a concern with how the parking area would be landscaped along the Newtown Pike frontage. He said that the Council is in the process of developing a landscape ordinance and a gateway for the Newtown Pike area. The staff recommends that the applicant submit a detailed landscape plan showing this site will meet the Council's Newtown Pike Ordinance.

In conclusion, Mr. Martin said that the staff also recommends that an additional (10th) condition be added that reads: “Denote: This plan supersedes DP 86-25: GRIFFIN GATE OFFICE PARK (AMD. #2).” He said that in 1986 there was an amended development plan approved, but it was not certified, noting that condition number 10 will allow DP 2008-16 to supersede the previous development plan (DP 86-25).

Petitioner – Mr. Kahly said that he had spoken with Mr. Carpenter in Building Inspection to find out what will be needed to meet condition number 9, and in turn, Mr. Kahly had relayed that information to the applicant. He said that the applicant is in agreement with providing a separate landscape plan to Building Inspection, as well as the Division of Planning. He then requested approval of DP 2008-16.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Aten, and carried 7-0 (Holmes, Mahan, Cravens and Day absent) to approve DP 2008-16, subject to the 9 conditions listed, adding condition number 10 to read: “Denote: This plan supersedes DP 86-25: GRIFFIN GATE OFFICE PARK (AMD. #2).”

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Ms. Roche-Phillips, seconded by Mr. Aten, and carried 7-0 (Holmes, Mahan, Cravens and Day absent) to approve the release and call of bonds as detailed in the memorandum dated February 14, 2008, from Rice Lear, Division of Engineering.

D. MINOR SUBDIVISION PLANS – The staff is referring the following Consolidation Plats to the Planning Commission for consideration.

Note: The following plan proposes to delete significant areas for tree preservation that were approved by the Planning Commission previously for this property.

1. PLAN 2008-17C: LEXINGTONIAN ESTATES (SIGNATURE ESTATES) SECTION 1 (AMD.) (4/24/08)* - located on Winners Circle, just south of Versailles Road. (EA Partners)
2. PLAN 2008-18C: LEXINGTONIAN ESTATES (SIGNATURE ESTATES) SECTION 2 (AMD.) (4/24/08)* - located on Winners Circle, just south of Versailles Road. (EA Partners)

The staff recommends that the Planning Commission require the applicant to modify some of the tree protection areas, in a fashion more consistent with its previous approvals regarding this property.

The Staff Recommends: Approval of both plans, subject to the following requirements:

1. Urban Forester's approval of modified tree preservation plan.
2. Re-establish tree preservation areas previously approved as shown in Exhibit presented at Planning Commission meeting.

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

Staff Presentation – Ms. Gallt presented the two consolidation plans (PLAN 2008-17C and PLAN 2008-18C) to the Commission, and stated that the subject sites are located on Winners Circle, just south of Versailles Road and New Circle Road. She said that the applicants are requesting to consolidate two lots on each plan, PLAN 2008-17C and PLAN 2008-18C, in order to create larger lots. By doing this, it will increase the buildable area, as well as lose a portion of the tree protection area that had been previously approved by the Planning Commission. She briefly oriented the Commission to the layout of the two plans, and explained the location of the property lines, the non-buildable areas, the buildable areas, and the tree protection areas. She said that the staff felt that if these lots were to be consolidated, then there would be a decrease in non-buildable areas, which would then result in a decrease in the tree protection areas.

Planning Commission Comments and Questions – Mr. Penn confirmed that 6 out of the 16 lots will be consolidated. Ms. Gallt replied yes, and said that the applicant wants to create larger lots and decrease the density that was originally approved. She said that this request is for a consolidation, and the reason this request is in front of the Planning Commission is due to the tree protection areas being changed.

Mr. Vaughn asked for clarification of the color shown on the plans. Ms. Gallt explained the color coding, noting that the orange color represents the buildable area that the applicant is requesting; the golden line represents where the two lots will be combined; and the green color represents the originally approved tree protection area. She said that the staff felt that if the trees (marked in green) were to be lost, then the outer trees on the edge of the buildable area (marked in pink) could be preserved instead.

Mr. Vaughn said that the non-buildable areas from the previous plan are being swapped out for the non-buildable areas on the revised plan. Ms. Gallt said that the staff wanted to protect the trees on the outer limits of the property.

Mr. Vaughn asked if the trees on the outer portion were being preserved on the original plan. Ms. Gallt said that the ones located closer to the center of the circle were not shown on the previous plan. Ms. Whitman asked if there are any trees already removed. Ms. Gallt said that she is unsure.

Ms. Roche-Phillips said that she understands the buildable area will change, and asked if and when the Tree Ordinance would apply. She asked if the Tree Ordinance would prevent those trees within the non-buildable area from being removed. She said that these lots are large enough to place the house in a location that will not impact tree protection areas. She then said that the Commission could denote that the trees should be preserved. Ms. Gallt said that as part of the conditions listed, a note would be placed on the plan that states: "Those trees, unless diseased or dying, shall be preserved." She then said that this would then be confirmed by the Urban Forester.

Ms. Roche-Phillips then asked for an explanation as to how the Tree Ordinance is applied on a lot-by-lot basis. Mr. Queary, Urban Forester, stated that he was approached by the petitioner after the property had changed hands, and said that he would like Mr. Kahly to explain the situation.

Petitioner's Presentation – Mr. Kahly, EA Partners, was present. He said that Ron Turner had developed this property; and with the recording of these lots, certain trees were removed for the utilities, streets, buildings and for safety reasons. He then said that Mr. McClure came along, liked what he saw and eventually purchased the entire piece of land. Mr. McClure is fixing the existing house for himself and, in doing so; he would like less neighbors and wants to reduce the number of houses that could be constructed. Prior to Mr. McClure purchasing the land, Mr. Turner should have removed more trees than he did. Mr. Turner had planted several trees along the Versailles Road frontage, but he also left several damaged, diseased or dying trees on the property. He then said that Mr. McClure had an arborist identify what trees needed to be removed, and Mr. Queary had confirmed those findings. Although not required, he said that he had sent Mr. Queary all the information relevant to this case for his approval.

Mr. Kahly said that, as for the building envelopes, they are being shown as connected. He said that if there is no longer a property line then there shouldn't be a need for two separate building envelopes. He said that this does not mean the trees within that area will be removed. He said that this allows the property owner to place their house in whatever direction they want, noting that if any trees were to be removed then they would be replaced.

Mr. Kahly then addressed the Tree Protection Ordinance, and he opened that the Ordinance protects the trees from the entire area being scrapped. He said that this area will have custom homes on custom lots, and the tree removal will not be as massive as the Commissioners may believe. He said that there are some very nice large trees, while others are either diseased or dying; and since the layout will be a custom fit, the houses will be positioned to protect the existing trees.

Mr. Kahly said that the original exhibit from the zone change had shown all the trees, whether healthy, diseased or dying. He then said that the staff's rendering seems to be accurate, only showing what is currently on the property. He said that if the issue is for a specific tree, he is unsure if that tree is existing today.

Planning Commission Comments and Questions - Ms. Roche-Phillips asked if the Tree Protection Ordinance addresses each lot individually, and said that there was a restricted covenant that was recorded with the subdivision plat. She said

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that the Planning Commission does not enforce those restrictions since it is a private arrangement between individuals; but it was the spirit and intent of the Commissioners, at the time this was approved, to save those trees. She then said that she does not want the Commissioners efforts to be undermined, especially since the Council had approved the International Council for Local Environmental Initiatives (ICLEI) and Cities for Climate Protection Campaign. She said that this will be reviewing carbon footprint to minimize Lexington's carbon output. Ms. Roche-Phillips said that anything the Commission can do to help the property owners would be in the best interest of everyone. Mr. Kahly said that there were probably covenants done with the original filing, but he does not have those since that was done prior to his involvement with the current proposal. He opened that the Tree Ordinance requires 30 percent canopy coverage for the total acreage after the project is completed. If there are 100 acres of land being developed, then 30 acres of land will need canopy coverage. He said that this includes the trees that are saved or newly planted trees. He then said that depending on the type of tree, a certain amount of credit will be received; for example, an Oak tree will allow for 750 square feet of canopy credit, a Redbud will allow 100 square feet of canopy credit. He said that in the end there must be 30 percent canopy coverage. This is done through notes being placed on the plan, specifically stating how many square feet are required, and whether or not this is meeting the typical canopy rate. Mr. Kahly then said that for a typical building lot, the street trees and one large tree per house would meet the 30 percent requirement.

Tim Queary, Urban Forester, was present. He said that the applicant has been very forthcoming with their proposal for this site. He believes that this is not an attempt in any way to remove the trees that were marked for protection. The fact of the matter is, the former developer was a "tree hugger" and he did not want to remove any trees, even if they were diseased or dying. He said that there are hazardous tree all over this site; and given that the property is well over 100 years old, Mr. Queary had told the property owner some trees needed to be removed. He further noted that the original property owner was planting trees within the building envelope, which made him wonder where the structure would have gone. In conclusion, Mr. Queary stated that reducing the number of lots and providing a lesser density will allow more trees to be preserved. He said that the commercial arborist, who was hired by the applicant, had visited the site and he did mark what trees will be removed. He then said that prior to anything being removed, he will have the opportunity to visit the site and make recommendations. He noted that he completely agrees with the decisions that were made by the arborist, unlike the decisions that were being made by the original property owner. The new property owner recognized that it is a liability to build a house next to hazardous trees since they could be knocked down by a storm. In response to a previous question, Mr. Queary said that the Tree Protection Ordinance does affect the individual lots. He said that a lot could have a designated area set up for protection, but there may be only one tree within that area that is viable.

Planning Commission Comments and Questions – Ms. Roche-Phillips said that she appreciated that Mr. McClure wants to reduce the density of the area through consolidation, and asked if the development could be reconfigured rather than deleting the lot line to accommodate the existing trees. She then asked if it is appropriate for the Commission to add a condition to allow the applicant to work with the existing vegetation.

Mr. Aten said that all trees are within the same value, and he asked if there has been some type of determination to which trees are the most valuable, and whether or not the development plan reflects those trees. He then said that there is a concern with the requirements and placement of a structure or pavement near the protected tree area. A tree could be designated for protection; but if a structure or paved area is built two feet from that tree, it will cause damage. He said that the ecological and mechanical aspect for that tree must be reviewed for the larger scaled plans. He then said that the value of trees needs to be determined; and, if needed, the layout of the development should be reconfigured around those trees. Mr. Queary stated that the marked trees all have some type of hazardous defect associated with them. He said that it was mentioned that the Black Locust is being held up by vines that are growing up the trunk. He said that the applicant does recognize the problem in preserving trees that should not be preserved. Mr. Queary said that he agrees with the applicant's decision on which trees need to be removed and which trees need to remain.

Mr. Aten said that in some cases the Black Locust clusters that are being held up by vines can be a valuable asset to the site. He said that those considerations should be made carefully, considering the Black Locust tree is valuable to Fayette County. Mr. Queary said that after the infrastructure was built, one of the things he noticed while visiting the site was two hollow Sugar Maples in the median. He said that the developer wanted to save those trees, but it is creating a liability for the developer. The developer had good intentions in trying to preserve every tree on the property, but he did not recognize the hazards that were being created in doing this.

Ms. Godfrey clarified that, in terms of the tree preservation, Mr. Queary is listed on the recommendations (condition number 1), which means if Mr. Queary signs off on the plan then the applicant has met the requirements needed. She then said that she believes condition number 2 is not needed for this request. To re-establish the tree preservation areas previously approved, the Commission would only need to assure that there is a tree preservation plan. She said that after the analysis has been completed, the previously approved plan may not be appropriate or safe. Mr. Sallee stated that that condition refers to the exhibit shown by Ms. Galt at the beginning of this case. He said that the areas shown are the areas the staff is recommending to be added back to the tree preservation plan for the two plats. Ms. Godfrey clarified that this is based on the submitted exhibit. Mr. Sallee replied yes, and said that Mr. Queary had stated condition number 2 is not necessary. Ms. Godfrey asked if this will be addressed through a modified tree preservation plan. Mr. Sallee said that condition number 1 could be approved independently of condition number 2.

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

Ms. Roche-Phillips asked if a condition could be added to address the maintenance of the trees, regardless of the lot lines. Ms. Godfrey commented that an additional condition would not be appropriate. She said that there is a full analysis showing what may or may not be appropriate, as well as having the Urban Forester comments. She then said that condition number 1 should remain, and condition number 2 could be deleted. The main issue is to address the tree preservation, not adding restrictions to an area that could create a hazard down the road.

Ms. Roche-Phillips asked if this plan reflects the trees. Mr. Queary said that the Planning Commission has the authority to make any tree removal a conditional note, but it is not the case for this particular plan. He said that the Commission could lock in every tree existing on the property, and if any tree needs to be removed then it would require approval by him (Mr. Queary).

Mr. Vaughn said that it had been pointed out that Mr. Queary can approve what trees should be removed versus what trees should remain. Ms. Godfrey said that Mr. Queary could approve a modified tree preservation plan. Mr. Queary said that the applicant would still need to obtain permission before any tree could be removed from the property and that would also include the home owners. Mr. Kahly said that the note on the existing plat reads: "except for hazardous trees and those recognized as diseased or dying, the trees in non-buildable area shall be preserved." He said that for these consolidation plats he did not visit the site to determine which trees would remain or which trees would be removed; this was left up to the arborist. He then said that if the Commission wants a new tree preservation plan then this would be the most accurate way to provide that information.

Mr. Vaughn asked if condition number 2 should be reworded or deleted from the recommendations. Ms. Godfrey said that condition number 1 could be changed, and condition number 2 could be deleted. Mr. Vaughn asked the staff if they were agreeable with that recommendation. Mr. Sallee stated that given today's testimony, the staff is in agreement.

Mr. Penn said that there was a lot of discussion concerning the original number of lots, and the layout of the area. He said that at one point this property was zoned for a density not to exceed 18 homes. Now the applicant is requesting to combine 3 lots, and asked what will happen if a request were to be made to combine 8 lots. Mr. Penn then asked if there is a density issue with this request. Mr. Sallee relayed that he understood what Mr. Penn was saying; i.e., that at what point does the development result in something far different than what the Planning Commission had approved. Even though this is not related to the tree issues, Mr. Penn said that the property was originally subdivided, and now the request is the opposite of what was approved, and asked at what point should this be reviewed to reevaluate what was supposed to be versus what it is now. Mr. King said that that is a good question, but the subdivision or consolidation of land is a ministerial act. If the requirements of the regulations are being met, then the applicant has the right to move forward. He then said that the Planning Commission could approve the 17 lots, but that does not preclude an individual from purchasing three lots or prevent them from placing a house on the center lot and doing absolutely nothing to the remaining two lots. Mr. King said that Mr. Penn's points are well taken, but the Planning Commission does not have the power to make someone build a house on a lot. He then said that if the character of the area changes, then the Commission does have the right to review those changes.

Mr. Penn said that he is not saying the 3 consolidations will change this; but if the Planning Commission had reviewed the plan, then their decision may not have been the same. He said that the issue is tree protection; but this is a key piece of property in Fayette County, and it is not known whether or not the Planning Commission would have approved the zone change on 3 lots.

Note: Ms. Roche-Phillips departed the meeting at this time.

Mr. Kahly said that the original discussion regarding this property consisted of no through connection and private homes, which is part of the reason for not providing the sidewalks. He said that decreasing the number of people is why this property has a unique layout, and noted that the streets are essentially a driveway.

Mr. Vaughn said that the key word is "character," and he does not see a significant change in character that would warrant any regulations at this point.

Action - A motion was made by Ms. Godfrey, seconded by Mr. Aten, to approve PLAN 2008-17C and PLAN 2008-18C, subject to the conditions listed, deleting condition number 2.

Mr. Vaughn asked at what point does this modify the tree preservation plan being submitted. Mr. Sallee said that that would need to be demonstrated to staff prior to certification. Mr. Kahly clarified that Mr. Queary would need to sign off on the plan, and then it will come back to the staff.

The motion carried 6-0 (Roche-Phillips, Holmes, Mahan, Cravens and Day absent).

VI. COMMISSION ITEMS - The Chairman will announce that any item the staff would like to present will be heard at this time.

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

- A. **BOAR 2007-3: ALLEN R. FOSTER** (2/14/08)* – an appeal of the denial of a Certificate of Appropriateness to allow a deck to remain as built in a Planned Neighborhood Residential/Historic District Overlay (R-3/H-1) zone, on property located at 129 Ransom Avenue.

Note: The Planning Commission postponed this request at its January 17, 2008, meeting.

The Staff Recommends: Disapproval, and that the decision of the BOAR be upheld, for the following reasons:

1. The denial of a Certificate of Appropriateness by the Board of Architectural Review is consistent with their charge in determining appropriateness of requested exterior alterations, based on the design guidelines established by the local Historic Preservation Commission, specifically Guidelines 14-4 and 39-2, as they apply to the deck at 129 Ransom Avenue and the subsequent loss of green space in the rear yard.
2. If a Certificate of Appropriateness had first been requested for the deck, as is required by Article 13 of the Zoning Ordinance for any exterior change to a property in an historic district; and if a permit had been requested from the Division of Building Inspection, as is required by Article 5 of the Ordinance, this situation would likely have been averted.

Representation – Steve Amato, attorney, was present representing the applicant. He said that they were ready to present their case; however, the applicants witness was not able to attend the meeting due to the weather. He said that the witnesses testimony is important for their case, therefore, they are requesting postponement of BOAR 2007-3 to the March 13, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to postpone BOAR 2007-3 to the March 13, 2008, Planning Commission meeting.

VII. **STAFF ITEMS** – Staff items, if any, will be considered at this time.

Director's Comments – Mr. King said that after consulting with Chairman Vaughn, other than the By-law review, the staff does not have any pressing issues to present to the Commissioner's at their work session next week. He said that even though the Commissioner's are in the process of reviewing the By-Law amendments, the staff requests the Commission to cancel their scheduled work session on February 21, 2008 for the following week.

Action - A motion was made by Ms. Richardson, seconded by Ms. Godfrey, and carried 7-0 (Holmes; Mahan; Cravens and Day absent) to cancel the Commission's work session scheduled for February 21, 2008.

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

IX. **NEXT MEETING DATES** -

Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	February 27, 2008
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	February 21, 2008
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	February 28, 2008
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	March 6, 2008
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	March 6, 2008
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	March 13, 2008

X. **ADJOURNMENT** - There being no further business, the meeting was adjourned at 4:03 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

CT/CG/TM/JE/BR/WLS/DB
February 12, 2008

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