MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

December 10, 2015

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

Planning Commission members present – Mike Owens, Chair; Mike Cravens; Carolyn Plumlee; Bill Wilson; Will Berkley (arrived at 1:32 p.m.); David Drake; Karen Mundy; Carolyn Richardson; Joe Smith and Frank Penn. Patrick Brewer was absent.

Planning Staff members present – Acting Director James Duncan; Bill Sallee; Barbara Rackers; Tom Martin; Cheryl Gallt; Dave Jarman; Denice Bullock; Brandi Peacher, and Meghan Jennings. Other staff members in attendance were: Hillard Newman, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services and Tracy Jones, Department of Law.

II. APPROVAL OF MINUTES – There were no minutes to consider at this time.

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

a. DP 2015-99: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD) (1/3/16)*- located at 3650 Boston Road. (Council District 9) **(The Roberts Group)**

Note: The Planning Commission postponed this item at their November 12, 2015, meeting. The purpose of this amendment is to add 1,200 sq. ft., revise the parking to add eight (8) covered spaces, add a pharmacy drive-through, correct parking calculations and add a new access to Man o' War Boulevard.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the zoning of the property proposed for the new access location.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Addition of sidewalks and crosswalks to Man o' War Boulevard.
12. Correct owner's certification.
13. Provided the Planning Commission approves a waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations.
14. Remove business names from plan.
15. Discuss A-U zoning on property to be used as access point.

Representation – Nick Nickolson, attorney, was present on behalf of his client. He requested postponement of DP 2015-99: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD) to the December 17, 2015, Planning Commission meeting.

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Berkley and Brewer absent) to postpone DP 2015-99: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD) to the December 17, 2015, Planning Commission meeting.

Note: Mr. Berkley arrived at this time.

b. PLAN 2015-137F: BOONESBOROUGH MANOR SUBDIVISION, UNIT 1 (AMD) (1/31/16)* - located at 5354 Athens-Boonesboro Road. (Council District 12) **(Fred Eastridge/Wes Witt)**

Note: The purpose of this amendment is to create Section 2, Lot 1 and dedicate Doe Run Trail right-of-way.

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

The Subdivision Committee Recommended: **Postponement**. The acceptance of a private street into the public system must follow a formal procedure, including review by the Chief Administrative Officer prior to Planning Commission consideration. Documentation of that review has not yet been provided to the staff.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
9. Addition of Athens-Booneboro Road cross-section.
10. Denote building line for Lot 1, Section 2.
11. Addition of maintenance note per Article 5-4(g).
12. List all private utility providers per Article 5-4(e).
13. Denote Council Resolution accepting the street as public right-of-way.
14. Discuss right-of-way along the front of Section 2, Lot 1.

Representation – Fred Eastridge, was present representing the applicant. He requested postponement of PLAN 2015-137F: BOONESBOROUGH MANOR SUBDIVISION, UNIT 1 (AMD) to the January 14, 2016, Planning Commission meeting.

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

Action - A motion was made by Mr. Wilson, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to postpone PLAN 2015-137F: BOONESBOROUGH MANOR SUBDIVISION, UNIT 1 (AMD) to the January 14, 2016, Planning Commission meeting.

c. DP 2015-116: PRESTON ADDITION SUBDIVISION (ERIKA STRECKER PROPERTY) (AMD) (1/31/16)* - located at 601-613 W. Third Street, 610 King Street & 256 Newtown Pike. (Council District 2) **(Perkins Landscaping)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to add parking, building square footage and additional property to the Adaptive Reuse Project.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the proposed uses for the expanded area of the Adaptive Reuse Project.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Remove "future patio" from 606 W. 3rd Street (zoned residential).
11. Denote lot coverage, floor area ratio and zoning in site statistics.
12. Remove future zone change information from legend.
13. Correct plan title.
14. Denote: Location of trail to be determined at the time of the final record plat.
15. Addition of stormwater quality note on plan.
16. Discuss proposed uses on expanded area (301-307 W. 3rd Street).
17. Discuss building #2 conflict with significant tree root zone.
18. Discuss compliance with Newtown Pike Corridor Landscape Ordinance.
19. Discuss compliance with public art component of the Adaptive Reuse requirements of the I-1 zone.

Representation – Ericka Strecker, applicant, requested postponement of DP 2015-116: PRESTON ADDITION SUBDIVISION (ERIKA STRECKER PROPERTY) (AMD) to the December 17, 2015, Planning Commission meeting.

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

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone DP 2015-116: PRESTON ADDITION SUBDIVISION (ERIKA STRECKER PROPERTY) (AMD) to the December 17, 2015, Planning Commission meeting.

Note: The following three items were acted on simultaneously.

d. PLAN 2006-250P: HILLENMEYER PROPERTY, UNIT 1 (3/1/16)* – located on Sandersville Road (a portion of).
(Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on December 14, 2006, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection’s approval of landscaping and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester’s approval of tree preservation plan.
6. Greenspace Planner’s approval of the treatment of greenways/bike trails.
7. Environmental Planner’s approval of environmentally sensitive area(s).
8. Complete labeling of street cross-sections.
9. Kentucky Transportation Cabinet’s approval of Greendale Road right-of-way and/or improvements.
10. Delete note #19.
11. Denote: There shall be no access to Greendale Road and Sandersville Road except at approved street intersections.

This plan was certified on January 5, 2007, but its approval had since expired. The Planning Commission reapproved this plan on September 13, 2012, subject to the original conditions, revising the following:
3. Building Inspection’s approval of landscaping ~~and required street tree information~~.
5. Urban Forester’s approval of tree preservation plan and required street tree information.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the “progress … made in the physical construction of improvements” for this development over the past year.

e. PLAN 2012-99P: HILLENMEYER PROPERTY, UNIT 2 (3/1/16)* - located at 2405 Sandersville Road.
(Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 11, 2012, subject to the following conditions:
1. Urban County Engineer’s acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer’s approval of street cross-sections and access.
3. Building Inspection’s approval of landscaping.
4. Addressing Office’s approval of street names and addresses.
5. Urban Forester’s approval of tree protection plan and required street tree information.
6. Department of Environmental Quality’s approval of environmentally sensitive areas.
7. Greenspace Planner’s approval of the treatment of greenways and greenspace.
8. Denote greenway/floodplain area per note #10 from ZDP 2005-161.
9. Denote record plat reference for adjacent properties (Non Building Minor “N-10”).
10. Denote that KU pole line easement will be relocated by underground electric service.
11. Denote access to detention basins to the approval of the Division of Water Quality.
12. Resolve the scope of building permit restrictions in relation to access to Greendale Road and Sandersville Road.
13. Resolve stone walls in relation to proposed road improvements.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the “progress … made in the physical construction of improvements” for this development over the past year.

f. PLAN 2012-100P: SFH PROPERTY (3/1/16)* - located at 2373 Sandersville Road.
(Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 11, 2012, subject to the following conditions:
1. Urban County Engineer’s acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer’s approval of street cross-sections and access.
3. Building Inspection’s approval of landscaping.
4. Addressing Office’s approval of street names and addresses.
5. Urban Forester’s approval of tree protection plan and required street tree information.
6. Department of Environmental Quality’s approval of environmentally sensitive areas.
7. Greenspace Planner’s approval of the treatment of greenways and greenspace.

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

8. Addition of note #10 from the Preliminary Development Plan referencing the Division of Emergency Management and fuel tanks.
9. Correct note #7 to the approval of the Division of Water Quality.
10. Resolve proposed widening of Sandersville Road in relation to existing stone wall.
11. Denote ~~that~~ access to detention basin on adjacent property to the approval of the Division of Water Quality.
12. Resolve the scope of building permit restrictions in relation to access to Greendale Road and Sandersville Road (requiring two access points for emergency services).
13. Resolve landscaping and trail location at the time of Final Record Plat.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the "progress … made in the physical construction of improvements" for this development over the past year.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He requested postponement of PLAN 2006-250P: HILLENMEYER PROPERTY, UNIT 1; PLAN 2012-99P: HILLENMEYER PROPERTY, UNIT 2 & PLAN 2012-100P: SFH PROPERTY to the December 17, 2015, Planning Commission meeting.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone PLAN 2006-250P: HILLENMEYER PROPERTY, UNIT 1; PLAN 2012-99P: HILLENMEYER PROPERTY, UNIT 2 & PLAN 2012-100P: SFH PROPERTY to the December 17, 2015, Planning Commission meeting.

g. PLAN 2012-102P: TUSCANY, UNITS 2 & 3 (AMD) (3/1/16)* - located at 1970 Winchester Road.
(Council District 6) **(EA Partners)**

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

Note: The Planning Commission originally approved this plan on October 11, 2012, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan and required street tree information.
6. Provide acreage of street right-of-way in site statistics.
7. Denote Lots 1 – 9 will not be recorded until a revised flood study is submitted.
8. Addition of notes #13 & #14 from DP 2011-86.

Note: This plan was certified on December 21, 2012, and now the applicant is requesting an extension of that approval.

The Staff Recommends: **Postponement**. There has been no documentation provided by the applicant as to the "progress … made in the physical construction of improvements" for this development over the past year.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He requested postponement of PLAN 2012-102P: TUSCANY, UNITS 2 & 3 (AMD) to the January 14, 2016, Planning Commission meeting.

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

Action - A motion was made by Mr. Cravens, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to postpone PLAN 2012-102P: TUSCANY, UNITS 2 & 3 (AMD) to the January 14, 2016, Planning Commission meeting.

h. PLAN 2015-135F: BOGIE ESTATE, LOT 2 (AMD) (1/31/16)* - located at 5898 Old Richmond Road.
(Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to subdivide the property into two lots.

The Subdivision Committee made no recommendation at the request of the applicant.

The Technical Committee and Staff Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.

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

6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Provided the Planning Commission grants a waiver to Article 6-6(a) of the Land Subdivision Regulations.
8. Clarify information shown on site at corner of the intersection (easements).

Representation – Rory Kahly, EA Partners, was present representing the applicant. He requested postponement of PLAN 2015-135F: BOGIE ESTATE, LOT 2 (AMD) to the January 14, 2016, Planning Commission meeting.

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone PLAN 2015-135F: BOGIE ESTATE, LOT 2 (AMD) to the January 14, 2016, Planning Commission meeting.

i. DP 2015-114: BROOKHAVEN SUBDIVISION (AMD) (1/31/16)* - located at 2434 and 2450 Nicholasville Road & 100 Malabu Drive. (Council District 4) **(Banks Engineering)**

Note: The purpose of this amendment is to increase the buildable area for Buildings A, B & C and to revise the parking and circulation.

The Subdivision Committee Recommended: **Disapproval**. The proposed plan does not comply with Articles 21-7(d) and 21-7(e) of the Zoning Ordinance, for the following reasons:

1. The plan lacks any description of the proposed amendment, as there is no purpose of amendment note provided as required by Article 21-7(d)(2) of the Zoning Ordinance.
2. Compared to the current plan (approved by the Planning Commission on May 14, 2015), the proposed amended plan substantially alters the character of the entire development by reducing open space, detrimentally altering building orientations.
3. The well-organized and efficient vehicular and pedestrian circulation approved on the current development plan has been significantly altered on the amended plan.
4. The attractive landscaped areas and pedestrian plaza shown on the current plan have been eliminated on the proposed amended plan.
5. Building square footage has increased, thereby intensifying the proposed uses above those on the approved development plan.

Representation – Jacob Walbourn, attorney, was present representing the applicant. He requested postponement of DP 2015-114: BROOKHAVEN SUBDIVISION (AMD) to the January 14, 2016, Planning Commission meeting.

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

Action - A motion was made by Mr. Wilson, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to postpone DP 2015-114: BROOKHAVEN SUBDIVISION (AMD) to the January 14, 2016, Planning Commission meeting.

j. DP 2015-100: INTERCHANGE SERVICE CENTER, LOT 4 (AMD) (1/3/16)*- located at 2250 Elkhorn Road. (Council District 6) **(Abbie Jones Consulting PSC)**

Note: The purpose of this amendment is to redevelop the site for a 5-story hotel.

The Subdivision Committee Recommended: **Postponement**. There were concerns about the need for cross access with the adjoining property.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Correct owner's certification.
11. Remove Urban County Engineer's certification.
12. Remove surveyor's certification.
13. Improve plan legibility.
14. Addition of written scale.

15. Dimension all buildings.
16. Addition of building height in feet.
17. Addition of waiver information to notes.
18. Remove note #14.
19. Remove “X’s” along Buena Vista Road.
20. Addition of all existing and proposed utility easements.
21. Addition of purpose of amendment note.
22. Denote in title block that this is a Preliminary Development Plan for the lot at 2250 Elkhorn Road.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant’s representative, requesting postponement of DP 2015-100: INTERCHANGE SERVICE CENTER, LOT 4 (AMD) to the January 14, 2016, Planning Commission meeting.

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

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee and carried 10-0 (Brewer absent) to postpone DP 2015-100: INTERCHANGE SERVICE CENTER, LOT 4 (AMD) to the January 14, 2016, Planning Commission meeting.

Commission Comment – The Chair asked if there were any more postponement requests from the staff. The staff indicated that there were none remaining. The Chair then asked if anyone else in the audience wished to request postponement of any item listed on today’s agenda.

k. PLAN 2015-139F: ELLERSLIE PLACE (MIDLAND CROSSING) (AMD) (1/31/16)* - located at 222 Midland Avenue & 225 Walton Avenue. (Council District 3) **(Milestone Engineering)**

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

The Subdivision Committee Recommended: **Postponement**. There is concern with the drainage improvements provided on the rear of Lots 14-19.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office’s approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner’s approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality’s approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Delete Lots 1 & 3-9 from this plan.
10. Complete bearings and calls for Lots 14-19.
11. Addition of Engineer’s and Land Surveyor’s stamp on plan.
12. Correct sanitary sewer easement through Lot 2.
13. Discuss need for designated tree protection area on Lot 2.
14. Discuss drainage improvements provided on rear of Lots 14-19.

Audience Comment – Mr. Jim Griggs, adjoining property owner, said that he was present representing the neighborhood that backs up to this property. He then said that there is a drainage issue in this area, and the developer has agreed to produce information on the “as-built” drawing to them in the next week. He said that a one-week postponement was not sufficient time to review that information and requested postponement of this item to the January 14, 2016, meeting.

Planning Commission Comment – The Chair asked if the applicant was present to discuss this postponement request. There was no response. The Chair then asked if Mr. Griggs was speaking on behalf of the applicant. Mr. Griggs replied negatively.

Staff Comment - Mr. Sallee said that the staff had received an email correspondence from the applicant requesting a one-week postponement.

Planning Commission Comment - The Chair replied that the applicant was not present, noting that they are trying to provide the neighbors with the requested information.

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

Planning Commission Comments – Mr. Penn said that the applicant requested a one-week postponement, but the neighborhood was requesting a one-month postponement, which puts the Commission in a quandary. The Chair said that the Commission has until January 31st to consider this item.

Ms. Richardson asked if the staff was agreeable to either a one-week or one-month postponement. Mr. Sallee indicated that the staff was agreeable to either one. He said that, at the last Subdivision Committee meeting, there was considerable discussion on this plan, and he confirmed with Mr. Martin that the applicant has not submitted any revisions or additional information since that time.

Mr. Penn indicated that a one-week postponement would not be sufficient time, considering the amount of discussion from the Subdivision Committee meeting last week.

Action - A motion was made by Mr. Penn, seconded by Mr. Wilson and carried 10-0 (Brewer absent) to postpone PLAN 2015-139F: ELLERSLIE PLACE (MIDLAND CROSSING) (AMD) to the January 14, 2016, Planning Commission meeting.

l. DP 2015-94: ELLERSLIE PLACE (THE MIDLANDS) (AMD) - located at 222 Midland Avenue and 225 Walton Avenue.
(Council District 3) **(Milestone Engineering)**

Note: The purpose of this minor amendment is to add cantilever decks to six units and concrete patios to 17 units.

The staff is referring this plan to the Commission under Article 21-7(b)(2) of the Zoning Ordinance.

The staff will report at the meeting.

Commission Comments - The Chair directed the Commission's attention to DP 2015-94: ELLERSLIE PLACE (THE MIDLANDS) (AMD) and said that this minor development plan was in association with PLAN 2015-139F: ELLERSLIE PLACE (MIDLAND CROSSING) (AMD) and could also be postponed to the January 14, 2016, Planning Commission meeting.

Staff Comment - Mr. Sallee said that the minor development plan involves the same property as previously discussed, and suggested that this item should also be postponed to the January 14, 2016, Planning Commission meeting. He then said that, since this plan is a minor development plan, the issues pertaining to this request could be resolved by the applicant before the January 14th meeting.

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

Action - A motion was made by Ms. Plumlee, seconded by Mr. Wilson and carried 10-0 (Brewer absent) to postpone DP 2015-94: ELLERSLIE PLACE (THE MIDLANDS) (AMD) to the January 14, 2016, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, December 3, 2015, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Joe Smith, Mike Owens, Carolyn Plumlee and Frank Penn. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Traci Wade, Cheryl Gallt, Denice Bullock, Kelly Hunter, Dave Jarman, Scott Thompson, Harika Suklun, and Brandi Peacher, as well as Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.
1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

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

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

Requests can be made to remove items from the Consent Agenda: (1) due to prior postponements and withdrawals,
(2) from the Planning Commission,
(3) from the audience, and
(4) from Petitioners and their representatives.

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

1. PLAN 2015-138F: ZANDALE SHOPPING CENTER, LOTS 2 & 4 (AMD) (1/31/16)* - located at 2220 & 2230 Nicholasville Road. (Council District 4) **(Endris Engineering)**

   Note: The purpose of this amendment is to subdivide one lot into two lots and create a utility easement.

   The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
   1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
   2. Urban County Traffic Engineer's approval of street cross-sections and access.
   3. Building Inspection's approval of landscaping.
   4. Addressing Office's approval of street names and addresses.
   5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
   6. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
   7. Correct plan title by adding "Amended."
   8. Resolve location of "as-built drainage easement" that crosses the property not included as part of this plat.
   9. Resolve timing of release of existing "20' drainage easement – PC 'F', Sl. 532" prior to recording.

2. PLAN 2014-52F: GRASMERE SUBDIVISION, UNIT 5 (3/1/16)* - located at 916 Bravington Way. (Council District 9) **(Banks Engineering)**

   Note: The Planning Commission originally approved this plan on August 14, 2014, subject to the following conditions:
   1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
   2. Urban County Traffic Engineer's approval of street cross-sections and access.
   3. Building Inspection's approval of landscaping.
   4. Addressing Office's approval of street names and addresses.
   5. Urban Forester's approval of tree protection area(s) and required street tree information.
   6. Department of Environmental Quality's approval of environmentally sensitive areas.
   7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
   8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
   9. Identify all adjacent property with dashed lines.
   10. Denote proposed and existing easements and building lines.
   11. Addition of private utilities on plat.
   12. Denote alluvial soils on rear of lot.
   13. Denote tree protection areas.
   14. Denote steep slopes.
   15. Resolve timing of right-of-way closure and rejection from both adjoining properties prior to plan certification.
   16. Resolve limits of proposed buildable area.

   Note: This plan has not been certified and its approval has since expired. The applicant is now requesting reapproval of the plan.

   The Staff Recommends: **Reapproval**, subject to the original conditions approved at the August 14, 2014, meeting.

3. DP 2015-113: DISTILLERY DISTRICT – WEST, UNIT 1 (AMD) (1/31/16)* - located at 1151 and 1158 - 1225 Manchester Street. (Council District 2) **(2020 Land Surveying)**

   Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise the parking layout and the uses in the largest building.

   The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
   1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
   2. Urban County Traffic Engineer's approval of street cross-sections and access.
   3. Building Inspection's approval of landscaping and landscape buffers.
   4. Addressing Office's approval of street names and addresses.
   5. Urban Forester's approval of tree preservation plan.
   6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
   7. Greenspace Planner's approval of the treatment of greenways and greenspace.
   8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
   9. Division of Waste Management's approval of refuse collection locations.
   10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

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

11. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
12. Denote dimensions of building and deck at 1178 Manchester Street.
13. Provide typical parking space and drive aisle dimensions.
14. Denote that any spring(s) on site shall be addressed per the Division of Environmental Quality's approval.
15. Denote easements on plan from recorded plats.
16. Resolve timing of removal of garden center use, and provision of off-street parking.

Mr. Sallee noted that DP 2015-113: DISTILLERY DISTRICT – WEST, UNIT 1 (AMD) requires the posting of a sign and an affidavit for this property. He said that the affidavit was presented to the staff prior to the meeting, but there was a question with the date listed on the sign. He then said that that affidavit has not been returned to the staff for their review; therefore, before the Commission takes action on this item, that affidavit would need to be returned to the staff for their full review.

4. DP 2015-115: GIBSON PARK SUBDIVISION (1/31/16)* - located at 1201 S. Broadway & 402, 406 and 408 Pyke Road. (Council District 11) **(Eagle Engineering)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Addition of name and address of developer on plan or in title block.
10. Denote record plat designation on plan or in title block.
11. Provide dimensions on building and remove black shading.
12. Denote height of building in feet.
13. Correct note #7 to reference "Chapter 16 of the Code of Ordinances."
14. Remove purpose of amendment note.
15. Addition of conditional zoning restrictions approved in 2015.
16. Addition of 20' rear landscape buffer per conditional zoning restrictions.
17. Remove pavement from 20' landscape buffer area.
18. Clarify note #15 on reciprocal access.

5. DP 2015-117: BIG RUN INDUSTRIAL PARK (SCW STONE ROAD, LLC) (1/31/16)* - located at 550 - 560 Stone Road. (Council District 10) **(MLH Civil Engineering)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
10. Clarify extent of access paving (asphalt and concrete) construction along south and east property boundaries.
11. Resolve tree canopy to be maintained.

In conclusion, Mr. Sallee said that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission, or the audience, in order to permit further discussion.

Mr. Sallee noted that the staff had received and reviewed the sign posting for DP 2015-113: DISTILLERY DISTRICT – WEST, UNIT 1 (AMD) and it appeared to be in order.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn and carried 10-0 (Brewer absent) to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee and staff.

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

The procedure for these hearings is as follows:

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

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

1. FINAL SUBDIVISION PLANS

a. PLAN 2015-106F: DISTILLERY DISTRICT WEST, UNIT 1 (PENDERY FINANCIAL, LLC PROPERTY) (11/29/15)*- located at 1151 Manchester Street. (Council District 2) **(2020 Land Surveying)**

Note: The Planning Commission postponed this item at their October 8, 2015 and November 12, 2015, meetings.

The Subdivision Committee Recommended: **Postponement**, due to the lack of sanitary sewer service.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Addition of maintenance note per Art. 5-4(g).
10. Denote effective date of floodplain map information.
11. Denote flood protection elevation on plat to the approval of Water Quality.
12. Correct plan title.
13. Revise Urban County Engineer's certification.
14. Discuss dedication of right-of-way and possible improvements.
15. Discuss sanitary sewer service and possible waiver request.
16. Discuss certifications per possible need for waiver.

Staff Presentation – Mr. Martin introduced the amended final record plat PLAN 2015-106F: DISTILLERY DISTRICT WEST, UNIT 1 (PENDERY FINANCIAL, LLC PROPERTY), located at 1151 Manchester Street. He directed the Commission's attention to a rendering of this plan to orient them to the location of the subject property and the nearby street system. He indicated that the subject property is located on Manchester Street, near the CSX and Norfolk Railroad crossing, and said that the purpose of this amendment is to create three lots along Manchester Street, across from the Pepper Distillery Development. He added that there a floodplain nearby to this property that is associated with the Town Creek Branch. He said that the applicant is proposing to create three lots ranging from 0.207 acres to 0.655 acres in size.

Mr. Martin directed the Commission's attention the waiver request to Articles 4-7(d)(1), 6-2(a) and 6-6(b) of the Land Subdivision Regulations, and said that the central issue with this plat is the lack of sanitary sewer service to Lot 3. He said that Lots 1 & 2 have two buildings currently on the property, but Lot 3 is vacant. The applicant wants to create a third lot without providing public sanitary sewer. He noted that, in the past the Commission had acted upon a similar request for the Pepper Distillery development and approved the applicant to provide their own private sewer system. He directed the Commission's attention to the sewer line exhibit, and explained that the schematic shows the existing sewer line system for the area around Manchester Street. He said that, in order for Lot 3 to have sanitary sewer, a line would need to be installed and connected to the existing trunk line through an easement on Lot 1. There are two manholes in the general area that Lot 3 could connect with through Lot 1.

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

Mr. Martin said that the staff, along with the Division of Engineering, has reviewed the applicants request and are recommending disapproval of the requested waiver of Articles 4-7(b), 6-2(a) & 6-6(b) for the following reasons:

1. The requested waiver does not meet the intent of the Land Subdivision Regulations in protecting public health and safety as its approval would not provide the required public sanitary sewer service required for this proposed lot.
2. The applicant has not demonstrated that this situation constitutes a hardship as defined under Article 1-5(a) of the Land Subdivision Regulations.
3. The subdivision could proceed (with only two lots) without the need for a variance, which would require no waive of the Land Subdivision Regulations.

Mr. Martin said that, other than this property being in the Infill and Redevelopment area, the applicant has not identified a proposed user or any development on Lot 3. The staff does not consider this to be a justification for the basis of a hardship. With that being said, Mr. Martin said that the final record plat can be approved without the waiver request, at which time; the applicant would need to comply with the standard procedures for installing a sewer line then the plat can be recorded and lots thereafter transferred. He then said that the staff is aware of negotiations between the applicant and the city concerning the city acquiring Lot 3 for the trail system, but that could take several years and should that time come, it could impact the property.

Mr. Martin directed the Commission's attention to the staff revised handout, and said that the staff is recommending approval of the final record plat, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Addition of maintenance note per Art. 5-4(g) of the Subdivision Regulations.
10. Denote effective date of floodplain map information on plat.
11. Denote flood protection elevation on plat to the approval of the Division of Water Quality.
12. Correct plan title.
13. Revise Urban County Engineer's certification.
14. ~~Discuss~~ Denote a 10' dedication of right-of-way ~~and possible improvements~~ along Manchester Street, the approval of the Kentucky Transportation Cabinet and the Division of Traffic Engineering.
15. ~~Discuss sanitary sewer service and possible waiver request.~~
16. ~~Discuss certifications per possible need for waiver.~~

Commission Questions – The Chair asked if the Commission approves this request, would the applicant have two buildable lots, but not three. Mr. Martin said that, if the applicant installed the sewer to Lot 3, all three lots could be created and used. The Chair then asked if the applicant could come back at a later time to resolve the sewer issue. Mr. Martin replied affirmatively.

Representation – Justin Drury, 2020 Land Surveying, along with Mr. Pendery, the applicant were present. Mr. Drury said that there is already a precedent for their wavier, since one was approved across Manchester Street with a similar situation. He then said that the purpose of Lot 3 is for a wood working building. With the on-going negotiations for the trail, the design and orientation of the building is still in flux. This is why they are requesting the waiver for completing the sewer line on Lot 3.

Commission Questions – Mr. Penn asked if the waiver request is to be temporary or permanent. Mr. Drury replied that the waiver is for substantial completion of the sewer prior to the approval of the subdivision of the land. He then said that this request is similar to the Pepper Distillery Development across Manchester Street, which allowed those lots to be transferred before the sanitary sewer lines were installed.

Mr. Penn said that the applicant is trying to say that there is a substantial hardship by not having Lot 3 approved, and asked what the waiver is based upon. Mr. Drury said that their hardship is requesting the implementation of the sewer system prior to knowing how Lot 3 will be developed. As far as the building and the trail system that is proposed to be coming through the lot, Mr. Pendery explained that the lot is being subdivided because of a prior agreement to allow his son to purchase Lot 2 and Lot 3 from him. He then said that this agreement was completed before the negotiations began for the Town Branch Trail coming through the lot. He added that they do not know how much land will be needed so the location of the building is still undetermined at this time. He said that they have documentation from Davis Plumber and Mechanical, who can build the sewer but without known the location of the building, it would be difficult to construct the line. He then said that he is in an awkward position because there is an agreement with his son to purchase the land and now the Town Branch Trail wants to purchase a portion of the land. He would rather have the separate negotiations between him and the city and his son and the city versus having the negotiations for the entire piece of land, then the two of them trying to figure out the value of their portions of the land. He said that they are not developing the lot if there is no sewer line, but according to their mechanical contractor, the lot can be developed. Mr. Drury said that they did provide documentation of the feasibility of creating the sewer line to the staff for their review.

Staff Rebuttal – Mr. Martin clarified that the waiver across Manchester Street was granted because the applicant installed a private sewer system with a pump station. He then said that if the applicant wish to amend their development to show development on Lot 3, then that would be an appropriate way to proceed forward and determine the need for a sewer line. However, as it is, it is to remain a vacant lot that can still be transferred to other parties.

Mr. Martin then said that the applicant did provide documentation from a plumber, but this sewer line must be designed, constructed and overseen by an engineer. He then said that this line is not a lateral line that anyone can install, it must be engineered. He added that condition #16 was a discussion item regarding the certifications per the need for waiver. He said that if the Commission grants the waiver, the applicant can create the lot, but if the Commission denies the waiver, the applicant will need to have an engineer design the line and stamp the subdivision plan and add their name to it.

Questions - Mr. Cravens asked how many feet would the sewer line to Lot 3 need to be. Mr. Martin explained that there is a manhole in the parking lot on Lot 1 and it would take at least 100' to make such a connection. Mr. Cravens asked if a connection could be made at the corner of Lot 3. Mr. Martin said that there are two trunk lines in this area - one is appropriate to make a connection and the other serves a large portion of this community and the applicant would not be allow to tap into it.

Applicants Rebuttal - Mr. Pendery said that the staff had stated that the letter they received is from a plumper, but the letter is from Davis Plumbing and Mechanical Contractor, and they have licensed engineers on staff, who have worked at Commonwealth Stadium. He then said that Davis Plumbing and Mechanical Contractors are not plumbers who just came in off the street - the company is a legitimate organization who works all around Lexington and they know what they are doing in this field.

Discussions - Mr. Martin said that a final record plat under the Land Subdivision Regulations requires an engineer to stamp the subdivision plan to ensure that the public sewer lines are designed to comply with the local adopted standards.

Mr. Drake said that the transactions between the applicant and his son were mentioned along with the negotiations with the city for the Town Branch Trail, and asked if the subdivision of this property impact those negotiations and the value that may or may not be received from the city. Mr. Pendery said that, before the Town Branch Trail negotiations, a contract between him and his son had been established. He then said that he is concerned with how to determine the value of the land if it is kept as one plot versus having the land subdivided and allow the negotiations to be separate. He indicated that having the land subdivided would prevent an awkward position between him and his son and allow his son to build a wood working shop. Mr. Drury noted that to construct a building would require an amended final development plan for Lot 3.

Mr. Berkley asked if the sewer Line for Lot 3 would tie into the sewer line on Lot 1. Mr. Drury replied affirmatively, and said that there is an existing trunk line that runs parallel with the railroad, but due to the size of the trunk line and the flows within it, that line is not available. He then said that there is another existing sewer line, east of the building, where a connection could be made through the easement on Lot 1.

Mr. Berkley then asked if the sewer easement exists. Mr. Drury said that the easement does not exist at this time. Mr. Berkley asked if Mr. Pendery's son sells the property and the next person does not allow an easement, how will the lot be sewered. Mr. Martin said that this points to the staffs concerns of not providing public sewer in a timely fashion or in an appropriate time frame. He said that there are unknown factors that can complicate things that could be imposed on the next owner. He added that the staff's recommendation stands as a disapproval of the waiver.

The Chair asked if the applicant was in agreement with the staff's revised conditions. Mr. Drury replied affirmatively.

Mr. Penn said that the applicant has the opportunity to connect the sewer line to the edge of Lot 3 and since capacity does not always have to be there and the value of that lot should be protected. He then said that by not making that connection, the value of the lot is not being protected. He said that he has a problem with the applicant's scenario because he cannot understand why he would not want access to Lot 3 regardless of what is being done with it. He added that he does not understand what the value has to do with putting the sewer to the edge of the lot. Mr. Pendery agreed with Mr. Penn, and said that he is more than willing to install the sewer line, but he does not want to install the sewer line and not receive approval for the development. He then said that he is fearful about spending money on something that will not be developable if the city comes in to purchase the land for the Town Branch Trail. Mr. Penn asked if the land would be condemned by the city to obtain the land. Mr. Pendery indicated that he is unsure of the process ahead. Mr. Penn said that the Commission can only deal with what is being presented to them and then sewerability in this area is a challenge.

Mr. Berkley said that the applicant should not want the lot to be appraised without a sewer connection for the acquisition.

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

Action - A motion was made by Mr. Craven, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to approve PLAN 2015-106F: DISTILLERY DISTRICT WEST, UNIT 1 (PENDERY FINANCIAL, LLC PROPERTY), as outlined by the staff.

Action - A motion was made by Mr. Craven, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to disapprove the waiver of Articles 4-7(b), 6-2(a) & 6-6(b) PLAN 2015-106F: DISTILLERY DISTRICT WEST, UNIT 1 (PENDERY FINANCIAL, LLC PROPERTY), as outlined by the staff.

b. PLAN 2015-122F: LOCAL ENTERPRISES (AMD) (1/3/16)*- located at 4595 Tates Creek Road.
(Council District 4) **(EA Partners)**

Note: The Planning Commission postponed this item at their November 12, 2015, meeting. The purpose of this amendment is to subdivide one lot into 24 lots, consolidate Parcel 1 with Lot 2, and depict drainage/detention easement.

The Subdivision Committee Recommended: **Postponement.** There were some questions regarding the lack of access to the proposed Lot 2.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Remove USA landscape buffer easement (5') from public street rights-of-way.
9. Identify access from public street to Lot 2 for Fayette County sanitation providers and emergency responders.
10. Revise submitted "30% Report" to include status of public street and sidewalk design and construction.
11. Identify potential sinkhole identified on the approved Preliminary Subdivision Plan.

Staff Presentation – Mr. Jarman introduced the amended final record plat for PLAN 2015-122F: LOCAL ENTERPRISES (AMD), located at 4595 Tates Creek Road. He directed the Commission's attention to a rendering of this Final Record Plat to orient them to the location of the subject property and the nearby street system. He indicated that the subject property is located off Nicholasville Road in the Southpoint neighborhood, just off Southpoint Drive, near Lauderdale Drive. He then said that the subject property abuts the Jessamine County line and lies west of Tates Creek Road.

Mr. Jarman said that the purpose of this amendment is to subdivide one lot into 24 lots, consolidate Parcel 1 with Lot 2, and depict drainage/detention easement. He then said that the Subdivision Committee had recommended postponement of this request due to the lack of access to the proposed Lot 2. He added that, should this request be approved by the Commission, the staff would suggest that the conditions listed on today's agenda be considered. He briefly explained that conditions #1-7 are typical sign-off requirements from the different Divisions of the LFUCG, and the remaining conditions are "cleanup" items that will be addressed prior to the plan being certified. He noted that the applicant had submitted the revised 30% Report (condition #10) to the staff and, as a result, that condition could be deleted.

Commission Questions – The Chair confirmed that condition #10 could be deleted from the recommendation. Mr. Jarman replied affirmatively.

Ms. Plumlee asked if there is a need to document the Division of Water Quality's approval of the Capacity Assurance Program. Mr. Jarman replied that this is a subdivision plat and does not require that approval.

Staff Comment - Mr. Martin indicated that when property abuts another county there is a "wall" when it comes to jurisdiction. He then said that the staff was concerned with the access to the detention/drainage basin located on Lot 2. He added that that basin serves Jessamine County, and there is a local agreement that requires all infrastructure development in this area of Jessamine County to comply with Lexington's Engineering Manual requirements. The Land Subdivision Regulations allow utility easements to be utilized for sanitary sewer and street lights, but they do not specifically include access to a drainage or storm water easement. That is subject to its own easement and is so labeled. He said that, by having a stormwater easement, it would allow LFUCG access to Lot 2 in order to inspect the basin and ensure that it is being properly maintained. He then said that there is an HOA lot along Lauderdale Drive that is entirely a stormwater easement, and access can be granted through that lot to Lot 2. Mr. Martin said that the concern regarding the lack of access to the proposed Lot 2 has been addressed.

Mr. Sallee said that the staff was now recommending approval of the applicant's request, deleting conditions #9 & #10.

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

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2015-122F.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. Mr. Tim Haymaker, developer of Pinnacle Properties, was present. He indicated that he had developed the surrounding lots and paid for the Outer Perimeter Sewer System (OPSS) in this area, which came to about $550,000. He then said that he has had an extremely difficult time in collecting those fees due to him. Now with this development, it appears that more sewage will be going into the OPSS system and it seems only appropriate that it should be noted that he is to be paid the OPSS fees due. He said that he is not opposed to this development, other than he would like to collect the OPSS fees that have been paid into the system.

Commission Questions – The Chair asked what the OPSS fees are and if it is within the Planning Commission's jurisdiction. Mr. Haymaker said that the fee for each lot is about $5,000. Mr. Martin said that generally the OPSS fees are handled as part of the Division of Engineering signoff. He then said that if there are OPSS requirements, they could be handled through their normal signoff requirements.

Mr. Penn said that the OPSS fees are not a development plan issue and asked whether a note could not be placed on the plan. Mr. Martin said that the payment of OPSS fees are not unusual; it is handled through a note on the plan, and comes about through the signoff process when it has been identified that there are OPSS fees required. Mr. Penn said that Mr. Haymaker is requesting that a note be placed on this plan. Mr. Martin said that a note could be placed on this plan, and that could be handled through the normal signoff review with the Division of Engineering and even Water Quality, if necessary. Mr. Penn asked what the Planning Commission needs to do to ensure that a note is placed on the plan. Mr. Martin said that the Commission has made note of the applicant's request, and the Division of Engineering could investigate the status of the OPSS fees then indicate that those are required. This has been done in other areas of Lexington.

Mr. Wilson said that Mr. Haymaker indicated that he has not collected the past OPSS fees. Mr. Haymaker explained that there was a parcel on the Mahan Development, which required ligation; however, it resulted in the OPSS fees not being collected. He said that he pays the OPSS fees when developing an area and he wants some type of assurance that those fees will be returned to him. Mr. Martin said that, in speaking with the Division of Engineering, the OPSS fees, if due, would be collected prior to the recording of any plat and any new lot is sold or transferred. Mr. Sallee said that the fee collection responsibility would lie with the Division of Engineering, and not Planning.

Mr. Wilson said that that would take care of this development going forward, but asked about the previous fees not paid back to Mr. Haymaker. The Chair said that Mr. Haymaker is asking the Commission for help, and staff had indicated that the Commission could add a note to the plan to verify collection of any applicable OPSS fees. Mr. Martin replied affirmatively, noting that if the fees are due, then that is a standard procedure. Mr. Haymaker said that, when the agreements between Jessamine and Fayette County were formed, it was his understanding that those fees would be paid to him out of Jessamine County because Jessamine County paid nothing towards the OPSS fees. He then said that, five years ago, he received a call from an attorney located in Jessamine County, who stated that he had collected OPSS sewer funds for Mr. Haymaker, for a portion of Brannon Crossing development, and to this day, he has had no answer from that attorney. This is why he is asking for some protection from the Planning Commission.

Mr. Drake asked if the issue is the collection of the OPSS fees or reimbursement for past fees. Mr. Haymaker said that he has already spent the money on the developed areas, so it would involve both. He explained that the money has already been spent and he is supposed to get reimbursed for those fees, and said that this is a normal process in development. He said that the City of Lexington does not put the money into the development; and if a developer needs to have a trunk line installed to make a connection the developer ends up paying for the line. He then said that the developer can collect interest for 10 years only, and at the end of the 10 years a lien is then attached. He can only look to the Division of Engineering to regain those fees. Mr. Haymaker said that with this request he hoped that this would be his chance to get protection and get reimbursed for those fees.

Mr. Martin recommended that a condition be placed on the plat to read: "Resolve the status of uncollected OPSS fees prior to recordation." He said that anything that needs to be collected will be collected prior to the plat being recorded, and this condition would give the staff a way to investigate that issue prior to the plat being recorded.

Mr. Cravens asked, if once the fees are collected, it should state to whom it was paid.

Ms. Jones said that that condition would be okay because that condition would be resolved correctly as the procedures required; but with that being said, that is as far as it can go because the rest of it falls under the procedures of the Division of Engineering & Water Quality.

The Chair asked if Mr. Kahly was in agreement with this addition. Mr. Kahly asked if condition #9 is speaking to the plat at hand; and not some land not on this plat. Mr. Sallee replied that is correct and it would only impact this plat. He said that, as for the other issue, it is beyond the scope of this plat. The Chair noted that Mr. Kahly has indicated his agreement.

The Chair said that the staff recommendation is for approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Remove USA landscape buffer easement (5') from public street rights-of-way.
~~9. Identify access from public street to Lot 2 for Fayette County sanitation providers and emergency responders.~~
~~10. Revise submitted "30% Report" to include status of public street and sidewalk design and construction.~~
9. "Resolve the status of uncollected OPSS fees prior to recordation."
10. ~~11.~~ Identify potential sinkhole identified on the approved Preliminary Subdivision Plan.

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to approve PLAN 2015-122F: LOCAL ENTERPRISES (AMD), as outlined by the staff.

c. PLAN 2015-126F: EASTERN STATE HOSPITAL, LOT 7, LFUCG, LEX-FAY BOH & LEXMARK INTERNATIONAL, LOT 1 (AMD) (1/3/16)*- located at 341 and 361 W. Loudon Avenue.
(Council District 1) **(Abbie Jones Consulting)**

Note: The Planning Commission postponed this item at their November 12, 2015, meeting. The purpose of this amendment is to subdivide a lot, and consolidate a portion of the property to an adjacent lot.

The Subdivision Committee Recommended: **Postponement.** There were some questions regarding the status of Lot 1 and the proposed "future road" depicted on the plat (which may require approval of a Preliminary Subdivision Plan).

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Correct purpose of amendment note.
11. Addition of 20' building line along Loudon Avenue and along "future road."
12. Addition of maintenance note per Article 5-4(g) of the Land Subdivision Regulations.
13. Denote all lot boundaries as solid lines.
14. Remove consolidation symbol and all reference to "consolidation" (Denote only as an Amended Final Record Plat).
15. Discuss status of proposed access to Lot 1.
16. Discuss "future road" and Lot 7B configuration.

Staff Presentation – Mr. Martin introduced the amended final record plat for EASTERN STATE HOSPITAL, LOT 7, LFUCG, LEX-FAY BOH & LEXMARK INTERNATIONAL, LOT 1, located at 341 and 361 W. Loudon Avenue. He directed the Commission's attention to a rendering of this subdivision plan to orient them to the location of the subject property and the nearby street system. He indicated that the subject property is located along Loudon Avenue, near the railroad tracks, and Lexmark is to north of the subject property. He explained that the purpose of this amendment is to subdivide a lot, and to consolidate a portion of the property to an adjacent lot. He added that the applicant has depicted a future road coming off Loudon Avenue back toward Lot 7.

Mr. Martin said that the applicant's representative had previously requested postponement of this item on behalf of her client, which is Lexmark, due to items that needed to be resolved. He then said that the staff had consulted with the applicant's representative prior to this item being filed with the Division of Planning regarding what issues that need to be addressed on this application. However, since that time there has been no other communication with the applicant's representative other than her statement stating that they were ready to move forward.

Mr. Martin said that the staff did receive an email from the applicant's representative regarding a request to postpone a different application, but there has been no communication regarding postponement of this request. With that being said, he explained that due to the Commission's deadline to take action on this request (1/3/16), and there being no other meetings until January 14, 2016, this request can only postpone one more week without the consent of the applicant, which is December 17, 2015. Therefore, the staff is recommending disapproval, for the following reasons:

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

1. The plat, as submitted, does not meet Article 4-2(a) of the Land Subdivision Regulations. That section requires a Preliminary Subdivision Plan to allow the preparation on an improvement plan for the proposed new street. Article 4-3 does not permit the applicant "to omit the preliminary plan and improvement plan stages, and…proceed directly to the final plat submission stage" because a new "future street" is proposed on the submitted plat.
2. The plat, as submitted, does not meet Articles 5-4(c) and 5-4(d) of the Land Subdivision Regulations that govern the required content and format for major subdivision plans.
3. The plat, as submitted, does not meet Article 6-8 of the Land Subdivision Regulations that provides "Street Standards" and which governs the required design and improvement standards for major subdivision plans.

Mr. Martin said that the Commission could postpone this request for one week in the hope that the applicant's representative could address these concerns. Otherwise the staff has no choice other than to recommend disapproval.

Commission Questions – The Chair asked what type of communications the staff has had with the applicant's representative over the past weeks. Mr. Martin said that initially the staff met with the applicant to explain the application process before it was submitted, at which point they indicated an understanding of the process. He said that this request was then submitted, as it is shown on the rendering. He added that the staff had communicated with the applicant and their representative regarding the postponement recommendations, as well as the concerns with the submission that need to be addressed before this moves forward. It's not as simple as stating that the client would like to move forward. He said that the staff's postponement recommendation morphed into a disapproval recommendation because their submission does not meet the Land Subdivision Regulations.

Mr. Drake asked who the applicant is. Mr. Martin replied Lexmark. Mr. Drake then asked if the Commission disapproves this application, in what position this places Lexmark. Mr. Martin said that Lexmark would have to submit a new application on the next filing deadline.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 10-0 (Brewer absent) to disapprove PLAN 2015-126F: EASTERN STATE HOSPITAL, LOT 7, LFUCG, LEX-FAY BOH & LEXMARK INTERNATIONAL, LOT 1 (AMD), for the reasons provided by the staff.

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 10-0 (Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated December 10, 2015, from Barry Brock, Division of Engineering.

2. FINAL SUBDIVISION PLAN (*cont.)*

d. PLAN 2015-136F: TUSCANY, UNIT 10 (MEETING STREET) (1/31/16)* - located at 2625 Sir Barton Way. (Council District 6) **(EA Partners)**

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Addition of Lot 2 as part of this plan.
10. Delete "right-of-way" from Meeting Street label.
11. Incorporate notes from Preliminary Subdivision Plan regarding the planned multi-use trail.
12. Denote proposed uses on Lot 2 (per Preliminary Subdivision Plan).
13. Resolve bike/pedestrian facilities previously discussed by the Planning Commission for Meeting Street.
14. Discuss access to the multi-use trail (Lot 2).

Staff Presentation – Mr. Jarman introduced the amended final record plat for PLAN 2015-136F: TUSCANY, UNIT 10 (MEETING STREET), located at 2625 Sir Barton Way. He directed the Commission's attention to a rendering of this plan to orient them to the location of the subject property and the nearby street system. He indicated that the subject property is at Winchester Road and Patchen Wilkes Drive, just north of the Hamburg development.

Mr. Jarman said that the Subdivision Committee had recommended approval of this request, subject to the conditions listed on today's agenda. He briefly explained that conditions #1-8 are typical sign-off requirements from the different

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

Divisions of the LFUCG; and the remaining conditions, with the exception of condition #14, are “cleanup” items that will be addressed prior to the plan being certified. He indicated that condition #14 is a discussion item that relates to access to the multi-use trail that runs adjacent to Meeting Street.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are asking to delete condition #9 from the list of recommendations and explained that Lot 2 is still part of the several hundred acres of the Tuscany Farm Property that has yet to be developed. He said that this final record plat is just to dedicate the right-of-way of Meeting Street and open the connection between Patchen Wilkes Drive and Sir Barton Way. This connection was one of the requirements for the school to be located in this area. He then said that Lot 2 does not have an approved Preliminary Subdivision Plan or an approved Final Development Plan showing any type development. They do not own Lot 2, and they are not ready to purchase it since there is no user for it.

Mr. Kahly said that the previous Preliminary Subdivision Plan had shown the 65 acres, the school and Meeting Street; and at that time, notes were placed on the plan to denote that Lot 2 would be developed under residential uses. He then said that, in reviewing conditions #11 & #12, if they included the notes from the Preliminary Subdivision Plan, it would cover what can be done on Lot 2 in the future. This would mean that Lot 2 does not have to be created at this time.

Mr. Kahly then said that, as for condition #14, they can create an easement that would serve the pedestrian linkage from the adjacent residential area to Meeting Street. He then said that the majority of the Meeting Street cross-section is 60’ 41” with 5’ sidewalks on each side; but as for the rest of Meeting Street, there is an old farm lane. He explained that it was agreed upon, instead of having both a sidewalk and the old farm lane, there would only be the farm lane. He said that they can provide a pedestrian access from Unit 8 that would follow down the old farm lane along Lot 2 and connect to Meeting Street, at which time, the cross-sections would go back to the standard size.

Mr. Kahly said that, based upon the discussions from the Subdivision Committee meeting, he believes that everyone was in agreement that condition #13 would be handled by the Division of Traffic Engineering He then said that the City can place signage along Meeting Street for no parking, show bike lanes and so forth. He added that the cross-section for Meeting Street matches the previously approved Preliminary Subdivision Plan. He said that construction plans have been submitted and approved, and the road is being constructed. He then said that they are not looking to modify the cross-section for Meeting Street; and as for the bike lanes, the City would determine that.

Planning Commission Questions -The Chair said that it sounds like Meeting Street is already built, and asked if condition #13 is still needed. Mr. Kahly said that they do not believe condition #13 is needed because it would be up to the Division of Traffic Engineering to stripe the road. The Chair asked if the staff was agreeable with deleting condition #13. Ms. Kaucher, Traffic Engineering, indicated her agreement.

The Chair then asked if condition #9 was removed, if that would also remove condition #14. Mr. Sallee replied affirmatively. The Chair confirmed that the staff was agreeable with deleting conditions #9 and #14. Mr. Sallee replied affirmatively.

Mr. Penn asked if Meeting Street will eventually be tied into Patchen Wilkes Drive. Mr. Kahly replied affirmatively. Mr. Penn then asked if this connection would also allow larger vehicles, to which Mr. Kahly replied affirmatively. Mr. Penn asked if the pedestrian and vehicle connections would be placed in the same area. Mr. Kahly said that part of Meeting Street will have sidewalks on each side of the road, typical of a standard collector street. Mr. Penn asked if those would apply to the section where the old farm lane is located. Mr. Kahly said that there will be a 5’ sidewalk on the school side, the entire length of Meeting Street; but on the opposite side of Meeting Street, the 5’ sidewalk will only extend from Sir Barton Way to the old farm road, at which point the sidewalk ends. He then said that the existing old farm road will be used as the pedestrian linkage to the pedestrian connection on Unit 8. Mr. Penn said that the old farm road is not part of Meeting Street. Mr. Kahly said that it will not be within the street right-of-way, adding that the street right-of-way will stay at 60’.

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

Commission Comments - The Chair summarized the case, and indicated that the plan is being recommended for approval, deleting conditions #9, #13 & #14 from the list of conditions.

Action - A motion was made by Mr. Cravens, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to approve PLAN 2015-136F: TUSCANY, UNIT 10 (MEETING STREET), as presented by the staff, deleting conditions #9, #13 & #14.

VI. COMMISSION ITEMS – There were none.

VII. STAFF ITEMS

A. WORK SESSION – Mr. Duncan reminded the Commission members that the next Planning Commission meeting will be held on December 17th.

B. **NEW STAFF MEMBER** – Mr. Duncan introduced the Commission to Ms. Brandi Peacher, who will be the Administrative Officer/Design Specialist in the Division of Planning, and her role will be to administer the Design Excellence Program. He then said that Ms. Peacher will also take over the Court House Area Review process, as well as any future ND-1 Overlay applications, and other design related issues. He added that the Division of Planning hopes that this position will be able to help the neighborhoods as well as commercial areas that are requesting small area plans or micro area planning. Mr. Duncan said that Ms. Peacher was formerly with the Downtown Development Authority for several years, and the Division of Planning is happy to have her on staff.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... December 3, 2015
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)...................................... December 3, 2015
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers.................................. **December 10, 2015**
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... December 16, 2015
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **December 17, 2015**

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 2:30 PM.

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Mike Owens, Chair

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Will Berkley, Secretary