

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

September 8, 2016

- I. **CALL TO ORDER** - The Chair called the meeting 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 – Frank Penn, Acting Chair; Will Berkley (departed at 4:40 p.m.); Mike Cravens; Mike Owens; Carolyn Richardson; Karen Mundy; Patrick Brewer (departed at 4:21 p.m.); David Drake; Carolyn Plumlee. Joseph Smith and Bill Wilson were absent.

Planning Staff members present – Director James Duncan; Bill Sallee; Tom Martin; Cheryl Gallt and Denice Bullock. Other staff members in attendance were: Hillard Newman and Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; Tim Queary, Environmental Policy; Andrea Brown and Tracy Jones, Department of Law.

- II. **APPROVAL OF JUNE 30, 2016 AND JULY 14, 2016 MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Smith and Wilson absent) to approve the minutes of the June 30, 2016 and July 14, 2016.

APPROVAL OF AUGUST 11, 2016 MINUTES – A motion was made by Ms. Mundy, seconded by Mr. Owens and carried 9-0 (Smith and Wilson absent) to approve the minutes of the August 11, 2016.

III. **POSTPONEMENTS OR WITHDRAWALS**

- a. PLN-MJSUB-16-00006: PLEASANT RIDGE SUBDIVISION, LOT 129 (9/29/16)* - located at 756 Wilderness Road. (Council District 7)
(Abbie Jones Consulting)

Note: The Planning Commission postponed this item at their August 11, 2016, meeting.

The Subdivision Committee Recommended: **Postponement**. There are concerns about the sanitary sewer improvements.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of monument information on plan, per Article 5-4(d)(6) requirements.
9. Delete "minimum," "maximum," and "parking" information from site statistics.
10. Remove 10' building line setback shown on both lots.
11. Addition of list of utility providers and Engineer's certification per Article 5-4(e) and 5-4(h)(2) requirements.
12. Correct certifications for County Engineer and Planning Commission and increase their font size.
13. Discuss possible street improvements to Paradise Lane and/or right-of-way dedication.
14. Discuss sanitary sewer improvements that are in litigation, and possible waiver.
15. Discuss existing front yard fence heights for both lots.

Representation present - Rich Murphy, Abbie Jones Consulting.

Citizen Comments - There were no audience members present to speak to this request.

Action - A motion was made by Mr. Owens, seconded by Ms. Mundy and carried 9-0 (Smith and Wilson absent) to indefinitely postpone PLN-MJSUB-16-00006: PLEASANT RIDGE SUBDIVISION, LOT 129.

- b. PLN-MJDP-16-00005: CLAY INGELS COMPANY, LLC (9/29/16)* - located at 968 Delaware Avenue.
(Council District 5) **(EA Partners)**

Note: The Planning Commission postponed this item at their August 11, 2016, meeting. This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding compliance with Article 8-21(o)(4)(c), Adaptive Reuse Criteria.

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.

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

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. Denote and dimension all proposed and existing easements.
11. Addition of the canopy information and compliance with Zoning Ordinance.
12. Remove interior layout information from plan.
13. Dimension deck area at southeast rear corner of building.
14. Remove "no limitation" notations from site statistics.
15. Provide floor area and open space numbers in site statistics, per Article 21-6 requirements.
16. Dimension private sidewalks, drive aisles, entrance and parking spaces on plan.
17. Document use of easement per that recorded in DB-1306, page 758.
18. Denote Final Record Plat name and information in title block.
19. Discuss compliance with the Article 8-21(o)(4)(c) requirements.

Representation present – Rory Kahly, EA Partners.

Citizen Comments - There were no audience members present to speak to this request.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee and carried 9-0 (Smith and Wilson absent) to postpone PLN-MJDP-16-00005: CLAY INGELS COMPANY, LLC to the October 13, 2016, Planning Commission meeting.

- c. PLN-MJSUB-16-00008: CADENTOWN - BERNITHA L. KENDRICK PROPERTY, LOT 1 (AMD) (10/30/16)* - located at 784 Caden Lane. (Council District 6) **(John Hill)**

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

The Subdivision Committee Recommended: Postponement. There were some questions regarding the required lot frontage for Lot 1.

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. Increase Lot 1 frontage to 60' minimum as required in the R-1D zone.
10. Denote Historic Preservation's approval of proposed lot size.
11. Discuss the possible need for sidewalk improvements and potential right-of-way dedication.
12. Discuss proposed 30' rear yard setback.
13. Discuss proposed building line for Lot 1, and proposed lotting.

Staff Report – Mr. Martin noted that the staff had received an email correspondence from the applicant's representative, requesting postponement of PLN-MJSUB-16-00008: CADENTOWN - BERNITHA L. KENDRICK PROPERTY, LOT 1 (AMD) to the October 13, Planning Commission meeting.

Citizen Comments - There were no audience members present to speak to this request.

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee and carried 9-0 (Smith and Wilson absent) to postpone PLN-MJSUB-16-00008: CADENTOWN - BERNITHA L. KENDRICK PROPERTY, LOT 1 (AMD) to the October 13, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, September 1, 2016, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Will Berkley, Joe Smith, Carolyn Plumlee and Mike Owens. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee; Tom Martin; Denise Bullock; Jimmy Emmons and Cheryl Gallt; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; Chris Schnelle, Division of Police; and Tracy Jones and Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

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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.

Mr. Saltee announced the following items appearing on the Consent Agenda:

1. PLN-MJSUB-16-00007: LETT PROPERTY (10/30/16)* - located at 811 West High Street.
(Council District 2) **(Carman & Associates)**

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection area(s) and required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote property lines as dashed on 809 W. High Street.
 8. Remove bearings/distances on 809 W. High Street.
 9. Addition of street cross-section for Ty Court.
 10. Denote that this property is located within the infill/redevelopment area in site statistics.
 11. Denote all private utilities providers on plan.
 12. Denote maintenance responsibility for access easement.
 13. Correct owner's certification reference for sanitary sewer (public vs. private).
 14. Remove structures from plan face or utilize dashed lines.
 15. Addition of street frontage in site statistics.
 16. Addition of adjacent property zoning (W. High Street and Ty Court).
 17. Document compliance with Art 8-11(o)(1) requiring fire separation per the building code prior to plan certification.
2. PLN-MJSUB-16-00009: GOODLOE'S (OR KELLER'S) SUBDIVISION, LOT 12 (AMD) (10/30/16)* - located at 140 Indiana Avenue. (Council District 3) **(Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote property located in the infill/redevelopment in site statistics.
7. Addition of building line setback.
8. Complete owner's certification reference to sanitary sewer.
9. Denote that redevelopment of these lots must comply with the Downtown Streetscape Plan.
10. Denote "driveway agreement" maintenance responsibilities.

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

3. PLN-MJDP-16-00002: BEAUMONT FARM, UNIT 3-B, LOT 1 (9/29/16)* - located at 3101 Wall Street.
(EA Partners)

The Subdivision Committee Recommends: **Approval**, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree protection areas and street tree information.
5. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
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. Resolve sinkhole information to the approval of Division of Environmental Quality.

4. PLN-MJDP-16-00012: SOUTH CREEK PARK (AMD) (10/30/16)* - located at 2361 Harrodsburg Road.
(Council District 10) (Sherman/Carter/Barnhart)

Note: The purpose of this amendment is to add 8,064 sq. ft. of accessory storage space.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Department of Environmental Quality's approval of environmentally sensitive areas and steep slopes.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. Addition of record plat information for property.
 11. Denote construction access point on plan.
 12. Denote height of building on plan in feet.
 13. Denote adjacent property access.
 14. Addition of access easement maintenance note, per Art. 5-4(h)(i) of the Land Subdivision Regulation.
5. DP 2015-70: SEBASTIAN PROPERTY, UNIT 2 (AMD) (11/1/15)* - located at Trailwood Lane.
(Council District 2) (EA Partners)

Note: The purpose of this amendment is to revise the townhome development, reflect partial street closures and to remove a boulevard street cross-section. The Planning Commission approved this plan at their September 10, 2015, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Label and denote trail on plan.
13. Remove note #14 and document compliance with Article 8-10(o)(3) prior to certification.

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

The Staff Recommends: **Approval of a one-year extension**, subject to the conditions previously approved at the September 10, 2015, Planning Commission meeting.

Commission member requesting full discussion: None.

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Audience member requesting full discussion:

Tony Barrett, Barrett Partners, PLN-MJSUB-16-00009: GOODLOE'S (OR KELLER'S) SUBDIVISION, LOT 12 (AMD).

Action - A motion was made by Mr. Brewer, seconded by Ms. Plumlee and carried 9-0 (Smith and Wilson absent) to approve the items listed on the Consent Agenda as recommended, removing PLN-MJSUB-16-00009.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 9-0 (Smith and Wilson absent) to approve the release and call of bonds as detailed in the memorandum dated September 8, 2016, from Barry Brock, Division of Engineering.
- C. 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. DEVELOPMENT PLANS

- a. PLN-MJDP-16-00004: NEWTOWN SPRINGS, LOT 1 (9/29/16)* - located at 1445 Newtown Center Way.
(Council District 1) **(Barrett Partners)**

Note: The Planning Commission postponed this item at their August 11, 2016, meeting.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this use prior to certification.
12. Denote: There shall be reciprocal and parking on the entire property, or revise access according.
13. Discuss circulation and use of second drive through facility.

Staff Presentation – Mr. Martin presented the staff's report on this request, which included the waiver report and staff's revised recommendation.

Planning Commission Comments & Questions – Mr. Cravens asked what would staff suggest for the location of the proposed service road. Mr. Martin replied that the staff would prefer the right-in instead of a full access. Mr. Cravens asked how would a vehicle access Newtown Pike. Mr. Martin replied through the public street system, as it was originally planned. Mr. Cravens said that without access to the proposed gas station a person would have to go through the other lots. Mr. Martin replied that access easements have been platted out to serve those lots.

Mr. Drake asked what does that do for the parallel street running through the property. Mr. Martin replied that the service road was designed for internal circulation, cross access and parking to allow vehicles access through the entire development. The service road would help mitigate access to the higher classification roads. Mr. Drake then asked if the service road would congregate traffic in a parking area next to the buildings. Mr. Martin replied that would be subject to a design consideration because there would be parking in the service road. This type of design has been done in the past.

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Ms. Mundy said that the corner lot was being proposed as a gas station, so the tankers trucks could use the right-in to enter the lot, however, the trucks would have to meander through the property to exit the development. Mr. Martin replied that is a valid concern that could be addressed through the design between the applicant and Traffic Engineering.

Mr. Brewer asked if the precedent being set was the proximity from the proposed access to existing intersection at Newtown Center Drive. Mr. Martin replied that the staff would prefer right-in and right-out when there are median controls.

Mr. Brewer said that the staff report indicated approval. Mr. Martin replied that the staff was recommending approval of the right-in access, but disapproval of the full access.

Mr. Berkley said that Citation Boulevard will go from four lanes to two lanes and asked if decreasing the number of lanes does not mitigate the traffic conflicts. Mr. Martin said that decreasing the number of lanes may make the conflict worse, since Newtown Pike is a major arterial road that handles over 32,000 trips per day. Newtown Pike is part of the designated national freight network carrying large amount of tractor trailers through this area. With the anticipation of increased traffic throughout the area, Newtown Pike is listed on the states improvement plan, but would not be widened until the year 2019. Access needs to be done better than retro fitted as it has been done in the past. Mr. Berkley said that he was speaking to Citation Boulevard, not Newtown Pike; and said that the proposed access is on Citation Boulevard. The staff had indicated that traffic "might" be worse, and asked if it "might" be mitigated. Mr. Martin replied that the Land Subdivision Regulations are based upon Engineering Principles that seek to reduce conflict and the proposed spacing does not meet, so it will increase the conflict. The level of conflict cannot be determined, but is anticipated to increase. Mr. Berkley said that, without the proposed access, it changes access through the interior development.

Representation – Richard Murphy, attorney, Tony Barrett, Barrett Partners and Jeff Engel, Newtown Springs, LLC., indicated that the applicant was in agreement with the staff's recommendation and requested approval.

Citizen Comments - There were no audience members present to speak to this request.

Staff Comments – Mr. Martin noted that there was an error on the waiver report and this request only applies to a right-in access.

Planning Commission Comments & Questions – Ms. Mundy asked what is the distance from Citation Boulevard to the suggested drive aisle. Mr. Martin replied that the distance is approximately 200 feet. Ms. Mundy indicated that the distance is not better than any other access. Mr. Martin replied that Newtown Center has a different street classification than Citation Boulevard. Citation Boulevard is designed for through traffic; whereas, Newtown Center is designed for local traffic and to serve this development.

Ms. Richardson asked what was on the other side of Newtown Center. Mr. Martin replied the land has not developed and zoned for P-1.

Rebuttal Comments – Mr. Martin indicated that he reserved the right to rebut any comment if needed.

Mr. Murphy said that the development is designed for every lot to meet its own parking requirements, and requested that condition #12 be changed to read reciprocal access only, delete "and parking." Mr. Martin agreed to that change.

Planning Commission Comments & Questions – Mr. Owens appreciated the staffs concern and their interest of staying within the Land Subdivision Regulations. However, this is very unique piece of property and the fact that it cannot be accessed, he considers the site to be land locked. There are a lot of unique situations on this site, to include the Legacy Trail being donated that would not set a precedent. Access to this lot is very difficult and without the access it could create problems.

Mr. Drake understood the concern regarding the full access on Citation Boulevard, but he also understands the traffic confusion without the access for someone who is from out of state. He agreed with Mr. Owens to allow the full access on Citation Boulevard.

The Chair said that if full access is to be approved then the right-in access is not needed due to the Legacy Trail path.

Mr. Brewer agreed that this is a unique situation, but disagreed that someone traveling west on Citation Boulevard would not see the entrance to this development.

Mr. Owens believed that the full access was needed to allow traffic to exit the development versus traveling through parking lots.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens and carried 8-1 (Penn opposed; Smith and Wilson absent) to approve the requested waiver for PLN-MJDP-16-00004: NEWTOWN SPRINGS, LOT 1, for the following reasons:

1. The applicant has demonstrated exceptional hardship, as required under Article 1-5(a) of the Land Subdivision Regulations due to the fact that a continuous median and limited accessibility to the development hinders drivers from being able to gain access to the development in a convenient, logical and orderly manner.
2. Granting the requested waiver for the full access point will allow for desirable general development as proposed pursuant to this plan and cause no detriment to the public good by allowing for convenient and logical traffic flow within the development.

Action - A motion was made by Mr. Owens to approve the development plan for PLN-MJDP-16-00004: NEWTOWN SPRINGS, LOT 1, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this use prior to certification.
12. Denote: there shall be reciprocal access throughout the property.
13. Resolve circulation and use of second drive-through facility.

Discussion of Motion – Mr. Owens asked if the condition indicating the waiver needed to be listed since it was approved. Mr. Sallee replied negatively.

The motion was seconded by Mr. Berkley and carried 8-1 (Penn opposed; Smith and Wilson absent)

- b. PLN-MJDP-16-00013: NEWTOWN SPRINGS (TIRE DISCOUNTERS) (A PORTION OF LOTS 4 & 5) (10/30/16)* - located at 789 Newtown Springs Drive. (Council District 1) **(Leesman Engineering & Associates)**

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. 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.
11. Denote: There shall be reciprocal parking and access on the entire property.
12. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this plan prior to certification.
13. Provided the Planning Commission grants a waiver to the Land Subdivision Regulations, regarding access spacing, or revise access according.
14. Discuss proposed access location.

Staff Presentation – Mr. Martin presented the staff's report on this request, which included the waiver report.

Representation – Richard Murphy, attorney, Tony Barrett, Barrett Partners, Tim Dwyer, Leesman Engineering & Associates, Jeff Engel, Newtown Springs, LLC and Joey Sola, Tire Discounters, indicated that they were in agreement with the staff's recommendation and requested approval.

Planning Commission Comments & Questions – Mr. Brewer understood the applicants concern, but for the traffic flow to move more smoothly the orientation and design of the building should be flipped and the access point relocated. As for the emergency vehicles they can access this lot through the service road. Mr. Murphy replied that they believed flipping the building the location of the service bay doors would confuse the customer as to where to go on the lot.

Mr. Brewer believed that it would not confuse the customer by having the service bays doors facing the service road. Mr. Murphy replied that they do not believe that design would work because it would create customer confusion. Mr. Barrett said that changing the layout would also interfere with the interior connectivity with the future lots, and create conflicts for the general public.

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Mr. Drake said that rotating the building 180 degrees would not fit on the lot, and asked if there were other designs that could be used to retain the number of proposed service bays. Mr. Dwyer indicated that Tires Discounters did have a third prototype, however, that design failed and could not be used for this location. Flipping the building was not possible due to the existing easements on this lot.

Staff Comment – Casey Kaucher, Traffic Engineering briefly spoke about the concerns with the proximity of the entrance off of Newtown Springs Drive, stacking of cars, and traffic backing up on the deceleration lane resulting in traffic collision.

Planning Commission Comments & Questions – Mr. Berkley asked if the deceleration lane was longer would that make a difference. Ms. Kaucher replied negatively. Mr. Berkley said that the staff does not know how many cars could be stacked.

Mr. Brewer asked if staff's concerns would be eliminated if the building were to be flipped. Ms. Kaucher replied affirmatively.

Mr. Drake asked what impact would there be on a future development on this site and the need for the right-in and right-out access at the center of the property. Ms. Kaucher replied that there are two options to access this site traveling northbound, but there is no option traveling south bound. Traffic Engineering was suggesting that the spacing from Newtown Pike and Newtown Springs Drive intersection to be farther.

Mr. Owens asked if access were to be moved to the back side of the lot what happens with the reciprocal access through the front of the lots. Ms. Kaucher replied that the staff would prefer that layout, but does not believe it really impacts the development.

Citizen Comments - There were no audience members present to speak to this request.

Representation Rebuttal – Mr. Murphy briefly stated that the length of the deceleration lane and the tapered road is between 210 and 220 feet. The Legacy Trail does connect to the intersection at Newtown Springs Drive, so traffic will have to stop for pedestrian movement crossing the road. He said that their proposal provides better access for emergency vehicles versus flipping the building, as well as provide better site distance for outgoing vehicles. They believe that the waiver request is justified for safety reasons.

Planning Commission Comments & Questions – Mr. Brewer indicated that Lexmark had the same situation with the Legacy Trail and stop signs were installed for the bicyclist. He asked if it was not the same situations. Mr. Murphy indicated that he believed there are stop signs, but the bicyclists are ignoring them. Mr. Brewer said that he is unsure how the Legacy Trail is relevant to the distance of the deceleration lane. Mr. Murphy replied that pedestrian has the right-of-way even with a stop sign. Mr. Brewer said that if there is a stop sign pedestrians do not have the right-of-way. He then said that the Legacy Trail is not the problem, but rather the stacking of cars near the entrance is the problem.

Mr. Dwyer briefly said that the proposed development was a preliminary design and if the proposed access is not approved that would set Tire Discounters further back. Tire Discounters is desperately searching for an alternate site and they have worked with the staff on multiple scenarios. They do not know when the deadline will be to close the Lexington store, but they feel that the proposed plan fits their needs while retaining the current employees on staff.

Representation Rebuttal (cont.) – Mr. Barrett stated that Newtown Springs Drive is 41' wide so it would allow vehicles to bypass a vehicle turning left into the site. This would help reduce the stacking concern.

Mr. Drake asked if the lease for this land has been consummated. Mr. Dwyer replied that they are under the contract to purchase the property.

Staff Rebuttal – There were no further rebuttal comments from the staff.

Planning Commission Comments & Questions – Mr. Berkley asked if the same findings that were used for PLN-MJDP-16-00004: NEWTOWN SPRINGS, LOT 1 could be used for this request. Ms. Jones replied that the findings for approval could be similar, but not the same due to the different circumstances of the site.

Action - A motion was made by Mr. Berkley, seconded by Mr. Owens and carried 5-4 (Cravens, Penn, Plumlee and Brewer opposed; Smith and Wilson absent) to approve the requested waiver for PLN-MJDP-16-00013: NEWTOWN SPRINGS (TIRE DISCOUNTERS) (A PORTION OF LOTS 4 & 5), for the following reasons:

1. The waiver is necessary due to multiple hardships of the property's location in relationship to Newtown Pike and the proposed access drive to the North of the subject property.
2. The waiver is foremost requested for the safety of Tire Discounter's customers and access for safety vehicles onto the property during an emergency.

3. The proposed access, as shown on the Final Development Plan, will separate the customer traffic from the stores maintenance bays where work will be completed and cars will constantly block traffic as they are pulled in and out during business hours.
4. A main access to the rear of the business will mix customer and employees working on customer's vehicles.
5. Also, a proposed access further away from Newtown Pike will hinder emergency vehicle egress and re-introduce customer and employee safety matters.
6. The design innovation of this access in conjunction with the existing right-in/right-out of Newtown Springs Drive onto Newtown Pike will be less impactful than a typical full access intersection.
7. The access will only be used by customers that are traveling North on Newtown Pike.
8. The existing deceleration lane for vehicles turning onto Newtown Springs Drive that will mitigate speed and maneuvering obstacles from a major arterial road to a local road.
9. The proposed access point onto Newtown Springs Drive will allow for ease of traffic access and egress to the other proposed lots in the Newtown Springs Development.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy and carried 7-2 (Brewer and Plumlee opposed; Smith and Wilson absent) to approve PLN-MJDP-16-00013: NEWTOWN SPRINGS (TIRE DISCOUNTERS) (A PORTION OF LOTS 4 & 5), subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. 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.
11. Denote: There shall be reciprocal access on the entire property.
12. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this plan prior to certification.
13. Provided the Planning Commission grants a waiver to the Land Subdivision Regulations, regarding access spacing, or revise access according.

2. FINAL SUBDIVISION PLANS

- a. PLN-MJSUB-16-00009: GOODLOE'S (OR KELLER'S) SUBDIVISION, LOT 12 (AMD) (10/30/16)* - located at 140 Indiana Avenue. (Council District 3) **(Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote property located in the infill/redevelopment in site statistics.
7. Addition of building line setback.
8. Complete owner's certification reference to sanitary sewer.
9. Denote that redevelopment of these lots must comply with the Downtown Streetscape Plan.
10. Denote "driveway agreement" maintenance responsibilities.

Staff Presentation – Ms. Gallt presented the staff's report on this request.

Representation – Kevin Phillips, Endris Engineering, indicated that they are in agreement with the staff's recommendation and requested approval.

Citizen Comments - There were no audience members present to speak to this request.

Commission Comments & Questions – There were none.

Action - A motion was made by Mr. Brewer, seconded by Ms. Mundy and carried 9-0 (Smith and Wilson absent) to approve PLN-MJSUB-16-00009: GOODLOE'S (OR KELLER'S) SUBDIVISION, LOT 12 (AMD), as presented by the staff.

Note: A recess was declared by the Chair at 3:23 p.m. and the meeting re-convened at 3:28 p.m.

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

3. **DEVELOPMENT PLANS** (cont.)

- a. PLN-MJDP-16-00014: BURKE, HOCKENSMITH & MAGGARD (AKA: GIBSON & PARSONS INVESTMENTS II, LLC PROPERTY) (10/30/16)* - located at 1803 Georgetown Road. (Council District 2) (Vision 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Delete note #1.
12. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this plan prior to certification.
13. Discuss proposed access to Georgetown Road and possible waiver.
14. Discuss compliance with Art. 6-8(q)(3)(b) of the Land Subdivision Regulations (access point and service road).

Staff Presentation – Ms. Gallt presented the staff's report and Mr. Martin presented the waiver report on this request.

Commission Comments & Questions – Mr. Owens asked if a waiver or variance was required for the "pork chop" control proposed on Georgetown Road. Mr. Martin replied that the pork chop would require a distance variance, as noted in the staff report for the waiver to the Land Subdivision Regulations.

Representation – Richard Murphy, attorney, Matt Carter, Vision Engineering, indicated that they were in agreement with the staff's recommendation and requested approval.

Citizen Comments - There were no audience members present to speak to this request.

Action - A motion was made by Mr. Brewer, seconded by Ms. Mundy to approve PLN-MJDP-16-00014: BURKE, HOCKENSMITH & MAGGARD (AKA: GIBSON & PARSONS INVESTMENTS II, LLC PROPERTY), subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Delete note #1.
12. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this plan prior to certification.
13. Discuss proposed access to Georgetown Road and possible waiver.
14. Discuss compliance with Art. 6-8(q)(3)(b) of the Land Subdivision Regulations (access point and service road).

Discussion of Motion – Mr. Owens asked if the waiver would take care of the two discussion items; and if so, should the conditions be removed. Ms. Jones replied affirmatively. Mr. Brewer and Ms. Mundy agreed to reflect the deletion of conditions #13 and #14 in their amended motion.

The motion carried 9-0 (Smith and Wilson absent).

Action - A motion was made by Mr. Brewer, seconded by Ms. Richardson and carried 9-0 (Smith and Wilson absent) to approve the requested waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations, for the following reasons:

1. The requested intersection spacing wavier will have no negative impact on public safety to vehicles, or pedestrians, if correctly designed, which is consistent with the basic intent of the Land Subdivision Regulations.
2. Strict enforcement of the access spacing requirements would constitute a hardship for the applicant on Sandersville Road due to the existing Atoma Drive.

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This recommendation is made subject to the following additional requirement:

- a. The proposed deacceleration lane for the right-in right out entrance to the subject site must be designed to the approval of the KTC, Division of Traffic Engineering, and to the Bike & Pedestrian Planner.

And to approve the requested waiver to Article 6-6(d) of the Land Subdivision Regulations, for the following reasons:

1. Not granting the waiver constitutes a hardship for the applicant due to the significant topographic site constraints.
2. Granting the waiver will not adversely affect public health and safety as the required sanitary sewer will be constructed prior to occupancy and will be constructed in conjunction with the rest of the required infrastructure required by the approved development plan.

This recommendation is made subject to the following requirements:

- a. Denote: No Certificate of Occupancy for the development shall be issued until sanitary sewer service utilizing the private pump station is provided to the Kentucky State Plumbing Code and accepted by the Division of Engineering and the Division of Water Quality.

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, August 4, 2016, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Mike Cravens, David Drake, and Carolyn Richardson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** – Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff 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) (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)
- Hearing closed and Commission votes on zone change petition and related plan(s)

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 hearing. The Chair will announce its decision at the outset of the hearing.

Note: The Planning Commission continued their public hearing on this matter at their August 11, 2016, meeting.

1. **ATLAS I, LLC, ZONING MAP AMENDMENT & SPRINGHURST SUBDIVISION, UNIT 2, ZONING DEVELOPMENT PLAN**

- a. **MAR 2016-10: ATLAS I, LLC (AMD)** (9/8/16)* – an amended petition for a zone map amendment from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone for 1.0 net (1.14 gross) acre, and from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.62 net (0.92 gross) acre, for property located at 2090, 2094, and 2098 Harrodsburg Road.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner proposes rezoning the subject properties in order to build a series of commercial retail, restaurant, and other uses, and their associated off-street parking lots.

The Zoning Committee Recommended: **Referral to the full Commission.**

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

1. The requested rezoning to a Neighborhood Business (B-1) zone is not in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. Theme A of the Plan: "Growing Successful Neighborhoods" emphasizes the infill, redevelopment and adaptive reuse of the urban area that respects the area's context and design features (Goal #2a.), and encourages striving for positive and safe social interactions in neighborhoods (Goal #3b.). In addition, the Goals and Objectives suggest that the community should "enable infill and redevelopment that creates jobs where people live" (Theme C, Goal #1d.); attract and retain high-paying jobs (Theme C, Goal #2c.); and to uphold the Urban

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- Service Area concept by encouraging “compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs” (Theme E, Goal #1b.).
- b. The Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. Policy statements in the Plan focus on the need for the development of land in the most appropriate relationships, and compatibility of land uses. The proposed development is not compatible with these specific recommendations, which are overarching ideas of the Plan.
 - c. While promoting business expansion, improving quality of life and providing services to the community are generally important priorities, they must be balanced with the community’s need for this type of highway-oriented development and its impact on nearby residential areas. In this case, the petitioner is requesting several auto-centric business uses at the entrance to a well-established neighborhood.
 - d. There is not a demonstrated need for additional retail zoning in this vicinity, as there are over 70 acres of contiguous B-1, B-3 & B-6P zones that can provide for the commercial needs of the surrounding properties. The Turfland Mall site, in particular, is a 44-acre B-6P site approved with over 500,000 square feet of retail zoning, much of which is approved but not yet developed.
2. As proposed, uses with an auto-centric commercial design may significantly impact the nearby neighborhoods within the area, especially those properties on Springhurst Drive and those immediately adjoining the subject properties, therefore making this B-1 zone inappropriate.
 3. The existing Single Family Residential (R-1C) and Planned Neighborhood Residential (R-3) zones remain appropriate for the subject properties because together they can more fully support the adopted 2013 Comprehensive Plan goals and policies.
 4. There have been no unanticipated changes of a physical, social or economic nature within the immediate area since the Comprehensive Plan was adopted in 2013 that would support the proposed development or requested B-1 zoning for the subject properties.
- b. ZDP 2016-49: SPRINGHURST SUBDIVISION, UNIT 2 (8/11/16)* - located at 2090, 2094, and 2098 Harrodsburg Road.
(Abacus Engineering)

The Subdivision Committee Recommended: Postponement. There has still been no information submitted to the staff about the site’s tree inventory.

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

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer’s acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer’s approval of parking, circulation, access, and street cross-sections.
4. Urban Forester’s approval of tree inventory map.
5. Denote building coverage, floor area ratio and building heights on plan, per Article 21-6 of the Zoning Ordinance.
6. Addition of tree inventory information.
7. Discuss possible required improvements to Harrodsburg Road.
8. Discuss compliance with B-1 setback requirements and need for a dimensional variance, per Article 8-16 of the Zoning Ordinance.
9. Discuss compliance with Article 8-16 of the Zoning Ordinance and the need for a variance.
10. Discuss right-in/right-out access proposed to Harrodsburg Road.

Note: Mr. Drake indicated that he would be abstaining from consideration of this case due to not being present at the August 11, 2016, meeting.

Zone Change Presentation – Mr. Sallee directed the Commission’s attention to the agenda for a zone map amendment from a Planned Neighborhood Residential (R-3) zone to a Neighborhood Business (B-1) zone, for 0.62 net (0.92 gross) acre; and from a Single Family Residential (R-1C) zone to a Neighborhood Business (B-1) zone, for 1.00 net (1.14 gross) acres, for property located at 2090, 2094 and 2098 Harrodsburg Road.

Mr. Sallee said that the Planning Commission continued their public hearing on this matter at their August 11, 2016, meeting. He briefly explained that the staff had previously distributed two staff reports – one from the August 11th meeting and the updated development plan staff recommendations; the draft minutes from the August 11th meeting and the written record that was submitted for this case.

Mr. Sallee said that the Commission had previously heard testimony on the rezoning of this property and the staff believes that at this point, it would be best to present the development plan information on this property.

Development Plan Presentation – Mr. Martin directed the Commission’s attention to the original rendering of the development plan and briefly explained that the staff had concerns with the following items:

- the build to line for the B-1 zone was not being met;
- the building layout of proposed buildings on the property;
- the traffic circulation throughout the site;

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- the right-in and right-out access on Harrodsburg Road and access from Springhurst Drive;
- the protection of the 69" caliper Red oak at the center and other significant trees at the rear of the property.

Mr. Martin directed the Commission's attention to the revised development plan and briefly explained that access off Springhurst Drive and Harrodsburg Road were still being maintained, but the drive-through has been removed and parking, as well as cross-access between the two buildings has been added. He said that the building layouts have been adjusted closer to Harrodsburg Road in order to comply with the B-1 build to line requirements, and the proposed building on 2090 Harrodsburg Road has been reconfigured around the Red oak tree in an effort to protect it. However, Article 26 of the Zoning Ordinance notes that the protection area around a tree in the B-1 zone extends to over 100' in all directions, which is significant when reviewing the site.

Mr. Martin said that the Harrodsburg Road right-in and right-out access is still being proposed on the revised development plan, as well as a possible future connection to the Springs Property. He then said that not only are there spacing issues related to the right-in and right-out, but there is also a deceleration lane that begins at the corner of the subject property towards Lane Allen Road. He added that without any type of median control along Harrodsburg Road, the staff believes that there would be tremendous abuse by people who are trying to exit the site turning outbound onto Harrodsburg Rd.

Mr. Martin said that the staff is recommending disapproval, for the following reasons:

1. The development plan does not comply with Article 6-8(q)(3)(b) of the Land Subdivision Regulations governing land use access to an arterial street.
2. The redesign does not appear to adequately mitigate site improvement conflicts with the significant trees previously identified on the property.

Mr. Martin then said that should the Planning Commission approve this request, 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. Urban Forester's approval of tree inventory map.
5. ~~Denote building coverage, floor area ratio and building heights on plan, per Article 21-6 of the Zoning Ordinance.~~
6. ~~Addition of tree inventory information.~~
7. ~~Discuss possible required improvements to Harrodsburg Road.~~
8. ~~Discuss compliance with B-1 setback requirements and need for a dimensional variance, per Article 8-16 of the Zoning Ordinance.~~
9. ~~Discuss compliance with Article 8-16 of the Zoning Ordinance and the need for a variance.~~
10. ~~Discuss Removal of the right-in/right-out access proposed to Harrodsburg Road.~~
11. Denote that the mitigation of the site conflicts with the significant trees identified on the property will be determined at the time of the final development plan utilizing a report and recommendations from an accredited urban forester.
12. Denote that access to the adjoining development shall be determined at the time of Final Development Plan.

Commission Questions – Mr. Owens asked for clarification with the right-in and right-out issues. Mr. Martin replied it's the location, the close proximity to the Harrodsburg Road deceleration lane and the distance to the next full intersection, and the lack of median control.

Mr. Owens then asked if any grading or excavation of the site be done prior to Final Development Plan. Mr. Martin replied that no development can be done on a preliminary development plan, and since plans can be dictated by the outcome of what the Arborist says, the applicant would need to speak to them first.

Representation – Jacob Walbourn, attorney, was present representing his client. He said that with this being a continued discussion from the August meeting, if it is the Commission's preference, he could address the issues that were mentioned by the staff then immediately move into his rebuttal to move forward with deliberation. He then said that rebuttal is the only item remaining for this case. The Chair said that the only thing that is preventing the rebuttal is the new development plan being submitted. He then said that, as far as the zone change was concerned, that portion of the hearing is complete, and the current discussion should be on the merits of the revised development plan. He indicated that the rebuttal for the zone change could begin.

Mr. Walbourn indicated that there are two significant issues with the development plan. One being compliance with Article 6-8(q)(3)(b) of the Land Subdivision Regulations, and suggested closing the access to Harrodsburg Road. Then at the time of the Final Development Plan, they would have a full discussion about use, layout and access. He said that this is a conceptual plan that will evolve once the final users are identified, just as every other preliminary plan that the Commission reviews.

Mr. Walbourn then said that, with regard to the trees on the site, through additional conversations with the Urban Forester, the 69' Red oak tree may not be in the best health and may not be saved. They agree to work with an arborist to determine what trees are healthy and worth saving, which would then determine the layout of the property.

Mr. Walbourn said that, in terms of the two issues pointed out by the staff, they are agreeable with the Harrodsburg Road access being closed and they would work with an arborist. He then said that the trees along the property line will remain on site and they are making every effort to keep those trees. He added that the Commission would see which trees are going to be saved at the Final Development Plan stage.

Rebuttal – Mr. Walbourn reserved the right to rebut any new information that is present on this case. He said that, as far as traffic on Springhurst Drive, there is no reason for traffic to drive by the entrance of this site. It is a dead-end street with an existing sign already in place. He then said that signage can be installed to inform a person that making a left out of the site is going nowhere. He understood the concerns with traffic coming onto Springhurst Drive, but there will not be a lot of traffic heading down Springhurst Drive. Mr. Walbourn said that these properties have been functioning as a commercial site for years. He said that they have spoken with Mr. Queary and they are agreeable to employ an arborist to save the trees that are worth saving.

Mr. Walbourn said that zoning is really about use and what is an appropriate use for this site. This property is along a significant arterial road with more than 30,000 cars, and even with the right-in and right-out on Harrodsburg Road, if the use were to ever cease as a daycare, the property must go back to single family residential. He said that, for at least two of these properties, if they were to remain single family residential there would be two driveway accesses on Harrodsburg Road versus one that is shown on the development plan. He then said that single family residential on Harrodsburg Road simply does not make sense. The Commission has the opportunity to make a decision today that sends a message of support for small infill lot that are within the Urban Services boundary, or the Commission can maintain the status quo with R-1 being the least efficient land use that could be had within the Urban Services boundary that isn't A-U. He said that an R-1 zone, along a significant arterial road, next to an unrestricted B-3, this proposal is an appropriate use for the site. He then said that we should encourage retail and higher intense uses along our significant arterial road, preserving the neighborhoods where single family residential is appropriate.

Mr. Walbourn said that there was a lot of testimony about the availability of other retail sites in the area, such as the Turfland Mall property. Most of the out lots on that property have been filled, and as an example, he asked at Rupp Area would you rather have a seat in the front row or the back row. He said that the reason commercial uses are not coming to the back of the mall is because the back of the mall are not visible sites from the road. He added that R-1 with visibility on a significant arterial road is needed. This proposal makes sense from a land use perspective and the Commission will have the opportunity to work out any issues when the Final Development Plan is submitted. The use is appropriate and Harrodsburg Road is not an appropriate corridor for single family residential. He requested that the Commission approve the zoning application.

Note: Mr. Brewer indicated that he would be abstaining from consideration of this case due to not being present at the August 11, 2016, meeting.

Audience Members Comment - Tee Bergman, 640 Mitchell Avenue, was present on behalf of the Mitchell Neighborhood Association. She indicated that the Commission received over 140 signatures on the petition that was previously submitted at the August meeting in opposition. She said that no one in the neighborhood has spoken in favor of this zone change application.

Ms. Bergman said that staff clearly listed the reasons as to why this application is not in compliance with the Comprehensive Plan. She then said that, even though this area is not listed with a Neighborhood Design Character Overlay, Article 29 states that the individual nature and character of the county cannot be properly maintained or enhanced unless it is distinctive neighborhoods and non-residential commercial areas are protected, conserved and preserved. She then said that most everyone is familiar with this area, and there is a ton of opportunity for commercial development close by or within the immediate area. It is very difficult for anyone to make a case that more commercial uses are needed in this area. She said that there are three commercial sections that impact this immediate area. The first is the Turfland Mall property. This property has had a difficult time with redeveloping this site and getting it moving again. Now the UK Health Center is located on the property and it is a very viable business for the site. She said that the applicants contend that the smaller shops will not have much visibility but once those shops are on the site then people will explore as it has been done on other sites. Not everything can be built on a main road; otherwise, Lexington would have more main roads. She said that the Turfland Mall property was planned out, brought to the Commission, its not be built willy-nilly. The developers of the Turfland Mall thought about what is best for this area.

Ms. Bergman said that there is an older commercial strip mall across from the Shell station on Harrodsburg Road that is not doing very well. She then said that there is no real good access into that site, it lacks in creative zing, and everyone can see why this strip mall is not healthy. She added that this strip mall should not be thrown out to bring in new competing commercial sites. She said that it is very easy to remove the residential lots and replace it with a couple of buildings. The applicant believes that some type of commercial uses should go on this site, but those uses are undetermined. She said that bring something new into the mix will not do a thing for the strip mall. She then said that if the neighborhoods and commercial areas do not work together we all suffer.

Ms. Bergman said that Southland Drive area has become a vitalized area because the residents and the owners to it upon themselves to reinvent the area. She then said that the area looked to the city for grant money and new ideas are being brought in to keep this area alive. The Southland Drive area is a historical part of Lexington and this is why area needs to

be preserved. She said that the Mitchell Neighborhood wants this area to succeed and bring more competitive businesses will not help this situation.

Ms. Bergman said that the neighborhood was not asked if they wanted these new businesses. She then said that when the plan was first presented to the neighborhood they were asked what type of shops they wanted to see on the plan. At that time, they were still absorbing the idea of commercial properties coming that close to the neighborhood, so they did not respond. Since that first meeting the neighborhood determined that the businesses would not enhance, protect or preserve the area. It does not for the neighborhood, but it would benefit the developers. The proposed businesses along a busy state highway are dependent on auto traffic for their profit. She said that foot traffic from the neighborhood will be secondary and low volume and it will not keep the business afloat. She then said that adding businesses will not increase walkability in this area and there is nothing pleasurable about walking Harrodsburg Road.

Ms. Bergman said that, if this zone change was approved, the businesses are built; it would result in a major loss in the tree canopy for this neighborhood. She then said that the 2012 Lexington Tree Canopy list shows Council District 11 with a C+ on the report card. She indicated that at the August meeting a picture was presented showing the tree on the subject site, and asked what would be the justification for bulldozing down these trees, and replacing this economic, environmental and social benefit with asphalt and buildings. According to the tree inventory, the existing tree canopy is 26,500 sq. ft., which is a lot for three lots. If the proposed development is allowed, 18,136 sq. ft. of tree canopy would be removed, which is 68 percent of mature tree growth on this site, and replaced with what is required, which is 5,751 sq. ft. She said that she spoken with Dr. Tom Kimmerer, author of Venerable Trees, and he said that big trees are more important than little trees and planting a large number of little trees that grow quickly to most likely die within 10 years is not a good investment. These trees cannot begin to reduce the air pollution, sequester carbon, control erosion, shelter us from heat and wind, keep us healthy and add beauty to our lives. She said that we need the trees and the trees need us to care for them properly. She asked the developers how this project would sustain the environment that we live in, especially in this neighborhood. She asked in the next couple of days take a look around Lexington at the commercial developments to see how many healthy trees have lasted in the last 10 years. She then asked are those trees healthy enough to take on the same work load as the larger trees in the community. There needs to be a balance between conservation and development, especially on a development with little greenspace area, such as this site.

Ms. Bergman said that the proposed businesses will depend on auto traffic rather than pedestrian traffic. She then said that the residents on Springhurst Drive have only one way in and out of the cul-de-sac. Adding these businesses the traffic will still need to exit from Springhurst Drive. The hours of operation are unknown, but it is likely that at least one of the businesses will be reaching out to incoming and outgoing commuters during the busiest time of the day. The developer contends that the strip of residential properties between Baptist Health and Long View is dangerous because the residents must back out of their driveways. In the three blocks between Baptist Health and Long View there are 14 lots. Only 4 lots back out of their driveway, while remaining lots are corner lots and use a side street. She said that the 4 driveways that back out on to Harrodsburg Road are owner occupied lots, and not one of these property owners has had an accident backing out of their driveway. She said that the 3 properties that are under consideration do not and have not backed out onto Harrodsburg Road for many years. She asked what safety issue is being mitigated. If the properties are zoned commercial there will be more vehicles entering and exiting this site, which could create more accidents. There were 32 accidents in the past year between Long View and Lane Allen Road. When reviewing those accidents, 8 of those occurred at the intersection of Lane Allen Road and Harrodsburg Road, 12 of those accidents were rear-end collisions, 1 accident was side collision and one involve a vehicle going the wrong way and so forth. There were 10 injuries with one fatality. Ms. Bergman said that between 2011 and 2014 another traffic study was conducted for the development of the fast food restaurants on the Springs property. That study determined there were 58 accidents with 12 injuries for different reason, such as speeds or not paying attention to the road.

Note: Mr. Brewer left the meeting at this time.

Ms. Bergman said that she hoped that the Commission has a fuller understanding of the overall area and what could happen if more commercial uses were to be allowed in this area.

Justin Jones, 682 Springhurst Drive, said that even with the right-in and right-out being closed there are no outlet signs behind the proposed entrance. He then said that there is only one no outlet sign and that is right on Harrodsburg Road. He is concerned that as traffic exits the site the people would making a left turn toward the cul-de-sac would drive faster back out of the area toward Harrodsburg Road. The families in this area already have a problem with people speeding up and down the road and this proposal would increase that concern.

Applicant's Rebuttal – Mr. Walbourn briefly stated that Southland Drive is a fantastic example of what is not on Southland Drive, which are single family residential houses. He then said that the development of Southland Drive clustered retail development along Southland Drive and left the neighborhoods behind those retail uses flourish. This is exactly what they are proposing for this site.

Mr. Walbourn said that, as for the site's tree canopy, some of the trees are not healthy and they have agreed to work with an arborist to determine which trees can be saved. He then said that the Ordinance provides a mechanism to restore trees that are removed from development sites. That is part of the law and they will have to follow the law by restoring an

adequate amount of tree canopy and save the significant trees that are worth saving. He said that they have already agreed to plant twice as many trees the Ordinance requires for the landscape buffer.

Mr. Walbourn said that there may have been some confusion about his prior remarks concerning backing out into traffic. He then said that he understands that there is questionable traffic on Harrodsburg Road, but he was talking about car having direct access to Harrodsburg Road. He added that it is truly remarkable there has not been an accident at the site location given the 36,000 cars traveling this area each day. However, to use this as evidence is not a good planning tool. He then said that there were only two accidents that were from entering or exiting an intersection.

Mr. Walbourn said that they understand the neighbors' concerns with people turning left toward in to the cul-de-sac, but signage can be deployed on the site to make sure that people are aware that turning left will not take them anywhere. He then said that they are not solely dependent on city signage and he would guess the city would add another sign on Springhurst Drive. He said that they are more than happy to provide signage on the subject property to encourage people to turn right toward Harrodsburg Road. He then said that there is no reason why they would want their customers to get frustrated and not return to the property.

Mr. Walbourn indicated that they are not trying to hide anything about the user; they just do not know who the user will be at this time. He said that it is impossible to identify the user before the zoning is approved. He added that they are proposing B-1 with conditional zoning restrictions and it is designed to be compatible with neighborhood. This subject property is on a significant arterial road, it is a specifically designed zone to accommodate the neighborhoods, it is an appropriate proposal, and requested the Commission support.

Objector's Rebuttal - Ms. Bergman asked how this proposed development is compatible with neighborhood. She then said that she learned from Mr. Kimmerer that just because the tree canopy looks bad does not mean that tree is dying, so don't count the Red oak tree out.

Ms. Bergman said that it was stated that these two properties have been function as commercial, but only one property has been functioning as a daycare. She then said that the discussions have been what the neighborhood needs. They need a daycare at this location. She added that it was stated that it was not appropriate to have single family residential zone along an arterial road, and asked if the people living on Nicholasville Road and Richmond Road are being told this.

Mr. Walbourn said that their information came from Mr. Queary. The Chair replied that this would be duly noted.

Staff Rebuttal - Mr. Sallee said that the staff believes that R-1C is not preposterous here, as it was at the August meeting. He then said that there are areas along Harrodsburg Road that are zoned R-1C that include single family homes, churches and a variety of uses, so its location on an arterial road alone does not make it inappropriate from the staffs view. He explained that there are three road ways in Lexington that are very similar to this area. These include Idle Hour Center on Richmond Road, most of Tates Creek Road and Georgetown Road. He said that the relationship alone does not make it inappropriate, and there are commercial developments across from residential zoning.

Mr. Sallee said that the staff report indicated that R-1C and R-3 are appropriate and those zones remain appropriate because together those zones can fully support the adopted Comprehensive Plan and the goals and policies. He indicated that the staff did not revise the staff report for this zone change request and it is what the Commission reviewed in August.

Planning Commission Discussion - Ms. Plumlee indicated that she was absent at the August meeting, and that she had reviewed the video a couple of times, as well as reviewed all of the submitted documents previously that were pertaining to this case.

Ms. Plumlee indicated that it troubles her that there is a plan being presented the Commission with a suggestion that everything will be addressed later down the road. She then said that addressing everything through waivers is like a Band-Aid and waivers are being used too often. She added that developers need to stay out of the first aid box and come up with better plans. She said that this neighborhood is very successful as described in the Comprehensive Plan.

Mr. Owens said that he agrees with Ms. Plumlee comments, but he also agrees with the staff comments and reasons for their disapproval recommendation. He then said that before a zone change takes place it must be in agreement with the Comprehensive Plan, which this request is not. He added that he does not believe that the proposed zone change is appropriate for the area. He does not believe a single family home is appropriate on Harrodsburg Road, but there are plenty of other uses in the R-1C zone that remain appropriate. Lastly, he said that there has been no unanticipated change in this area; therefore, he cannot support this zone change request.

Mr. Cravens indicated that he was not happy with the proposed design, but understands that this is a preliminary development plan and the land will be developed. The land is too valuable to have an R-1C house at that location. He said that if this site were to be developed as residential use it could hold up to 50 townhouses or a three story apartment building on these lots. He said that residential uses stay on site all day long whereas businesses are only there during the day.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Owens and carried 6-2 (Berkley and Cravens opposed; Drake abstained, Brewer, Smith and Wilson absent) to disapprove MAR 2016-10: ATLAS I, LLC (AMD), for the reasons provided by the staff.

Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 8-0 (Brewer, Smith and Wilson absent) to indefinitely postpone ZDP 2016-49: SPRINGHURST SUBDIVISION, UNIT 2.

Note: Mr. Berkley departed the meeting at this time.

VI. COMMISSION ITEMS

A. INITIATION OF A TEXT AMENDMENT TO IMPLEMENT STORMWATER MANUAL CHANGES –

Staff Presentation – Mr. Saltee presented the staff's report on this request.

Commission Comments & Questions – There were none.

Citizen Comments - There were no audience members present to speak to this request.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Richardson and carried 6-1 (Cravens opposed; Berkley, Brewer, Smith and Wilson absent) to initiate a text amendment to Article 19 of the Zoning Ordinance and a portion of the Land Subdivision Regulations to implement Stormwater Manual reference changes.

B. WORK SESSION – Mr. Duncan briefly reminded the Commission members that there was no work session scheduled for the next week, but there is a Planning Commission meeting on September 22nd.

VII. STAFF ITEMS – There were none.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	September 22, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 28, 2016
Planning Commission Work Session , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	September 29, 2016
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 6, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	October 6, 2016
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	October 13, 2016

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 4:43 PM.

William Wilson, Chair

Carolyn Plumlee, Secretary