

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

November 10, 2016

- I. **CALL TO ORDER** - The meeting was called to order at 1:31 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present – Bill Wilson, Chair; Frank Penn; Mike Cravens; Carolyn Richardson; Karen Mundy; Carolyn Plumlee; Joseph Smith; Will Berkley and Patrick Brewer. David Drake and Mike Owens were absent.

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

- II. **APPROVAL OF OCTOBER 13, 2016, MINUTES** – A motion was made by Mr. Brewer, seconded by Ms. Plumlee and carried 9-0 (Drake and Owens absent) to approve the minutes of the October 13, 2016.

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

- a. PLN-MJDP-16-00037: HASH AND HOUNSHELL PROPERTY (1/1/17)* - located at 1411 Greendale Road.
(Council District 2) **(Vision Engineering)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding the proposed street system for the townhouse area.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. 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. Denote 10' townhouse building line proposed.
13. Denote building heights in feet.
14. Denote proposed and existing easements on plan.
15. Denote the Royal Springs Aquifer Committee's consideration and/or approval prior to certification.
16. Detail proposed private open space area for townhouse ~~and~~ units.
17. Align Lucille Drive street connection to the north.
18. Provided the Planning Commission makes a finding for the access easement, per Article 6-8(m) of the Land Subdivision Regulations, or convert to private street.
19. Discuss proposed street system for townhouses in southwest area of the development.
20. Discuss landscaping at cul-de-sac roundabout.

Representation present – Matt Carter, Vision Engineering, requested postponement.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 9-0 (Drake and Owens absent) to postpone **PLN-MJDP-16-00037: HASH AND HOUNSHELL PROPERTY** to the December 8, 2016, meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, November 3, 2016, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Will Berkley 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: James Duncan; Bill Sallee; Tom Martin; Denice Bullock; Chris Bronczyk; Cheryl Gallt; Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Tracy Jones 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.

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

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.

Note: Mr. Cravens indicated that he would be recusing himself on one of the Consent Agenda items, and departed the chambers at this time.

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

- a. PLAN 2015-135F: BOGIE ESTATE, LOT 2 (AMD) (11/10/16)* - located at 5898 Old Richmond Road.
(Council District 12) **(EA Partners)**

Note: This item was postponed by the applicant at the December 3, 2015, Subdivision Committee meeting. The purpose of this amendment is to subdivide the property into two lots.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. 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. Clarify information shown on site at corner of the intersection (easements).
8. Change note on plan to reference language provided on email correspondence.

- b. PLN-MJSUB-16-00011: CHARLOTTE PRICE SUBDIVISION (CLAIRE SNELL-ROOD) (AMD) (1/1/17)* - located at 617 Price Avenue. (Council District 1) **(Berry Land Surveying)**

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

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

1. Urban County Engineer's acceptance of drainage, 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. Resolve sanitary sewer service to both lots, per the proposed Urban County Engineer's certification.

- c. PLN-MJSUB-16-00014: BARBARA M & MASTEN CHILDERS II (1/1/17)* - located at 4390 Briar Hill Road.
(Council District 12) **(Randy Martin)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this plat is to plat a 15-acre lot.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).

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

6. Addition of utility easements as required by the utility companies.
7. Denote non-buildable areas on plan, if any.
8. Addition of control monument information per Article 6 requirements.
9. Denote lot frontage in site statistics.
10. Complete adjoining property information (owners, deeds, etc.).
11. Denote Health Department approval of septic system in agricultural zone prior to plan certification.
12. Increase font size of all plan text.
13. Delete side and rear setback information shown (leaving 300' B.L.).
14. Addition of street cross-section information.
15. Denote: The geometry of this lot is partly the result of subdivision activity in the past involving all surrounding property (See P.C. K, SI 98).
16. Resolve dedication of right-of-way.

- d. PLAN 2014-73F: WILHITE PARK, UNIT 1-B, SECTION 1 (AMD) (1/31/17)* - located at 3500 Arbor Drive.
(Council District 8) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots and add an access easement. The Planning Commission originally approved this plan on October 9, 2014, and reapproved it on November 12, 2015, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of purpose of amendment note.
9. Addition of survey information per Art. 5-4(d)(6) of the Subdivision Regulations.
10. Addition of zones for subject property and adjacent properties.

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

The Staff Recommends: **Approval of a one-year extension**, subject to the conditions originally approved at the November 12, 2015, Planning Commission meeting.

- e. PLN-MJDP-16-00034: JERRICO, INC., LOTS 1-C & 1-D (AMD) (1/1/17)* - located at 3445 Richmond Road.
(Council District 7) **(Banks Engineering)**

Note: The purpose of this amendment is to increase the building square footage and reconfigure the parking.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping 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. 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 topographic intervals and elevations on Lots 1C & 1D, and clarify front storm water basin information.
11. Revise the height of canopy to a minimum of 13'-6", per Fire Department requirements.

- f. PLN-MJDP-16-00038: WILHITE PARK, UNIT 1B, SECTION 1 (1/1/17)* - located at 3500 Arbor Drive.
(Council District 8) **(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 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.

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

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 written graphic scale on plan.
11. Addition of adjacent property zoning.
12. Addition of height of townhomes in feet.
13. Addition of cul-de-sac cross-section.
14. Addition of purpose of amendment note.
15. Addition of street tree information, on plan.
16. Resolve status PLAN 2014-73F: WILHITE PARK, UNIT 1-B, SECTION 1 (AMD) reapproved on November 12, 2015, and the difference in the lot layout.

Mr. Sallee informed the Commission that PLN-MJSUB-16-00014: BARBARA M & MASTEN CHILDERS II does require documentation for the posting of a sign and affidavit to be submitted to the staff. The staff did receive that documentation; however, in reviewing that documentation, the sign was not posted the full two-weeks prior to today's hearing. The staff would ask that this item be removed from consideration, and postponed to the next meeting date.

Mr. Sallee noted that PLN-MJDP-16-00038: WILHITE PARK, UNIT 1B, SECTION 1 does require the Planning Commission to make a finding to approve the lots, which have their sole access via an access easement, rather than via a public or private street. (A copy of the finding for the use of an access easement is attached as an appendix to these minutes).

The following reasons are findings for appropriateness of access easements, as sole access for certain lots:

1. Allowing these eight townhouse lots to be accessed only via the existing access easement is appropriate for the proposed development, given the limited density involved.
2. The property is subject to an approved final development plan, and the continued use of the existing access easement will not negatively impact public health and safety. This would be consistent with the intent of the Land Subdivision Regulations.

Mr. Sallee stated that the remaining 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, to allow greater discussion. (A copy of the Consent Agenda is attached as an appendix to these minutes).

Audience members requesting full discussion: There were none.

Commission member requesting full discussion: There were none.

Commission Discussion – Mr. Wilson noted that PLN-MJSUB-16-00014 would be removed from consideration due to the requirements for the posting of sign not being met. He then noted that PLN-MJDP-16-00038 does require the Commission to consider findings for the access easement.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Penn and carried 8-0 (Cravens recused; Drake and Owens absent) to approve the items listed on the Consent Agenda, as recommended by the staff.

Note: Mr. Cravens returned to the meeting at this time.

- 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. PLN-MJSUB-16-00014: BARBARA M & MASTEN CHILDERS II (1/1/17)* - located at 4390 Briar Hill Road.
(Council District 12) **(Randy Martin)**

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this plat is to plat a 15-acre lot.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility easements as required by the utility companies.
7. Denote non-buildable areas on plan, if any.
8. Addition of control monument information per Article 6 requirements.
9. Denote lot frontage in site statistics.
10. Complete adjoining property information (owners, deeds, etc.).
11. Denote Health Department approval of septic system in agricultural zone prior to plan certification.
12. Increase font size of all plan text.
13. Delete side and rear setback information shown (leaving 300' B.L.).
14. Addition of street cross-section information.
15. Denote: The geometry of this lot is partly the result of subdivision activity in the past involving all surrounding property (See P.C. K, SI 98).
16. Resolve dedication of right-of-way.

Staff Presentation – Mr. Sallee recommended that this item be postponed, due to the requirements for the posting of sign not being met.

Representation – No representation was present to speak to this item.

Commission Comments & Questions – Mr. Wilson asked which meeting date should this item be postponed to. Mr. Sallee indicated that with the upcoming holiday, the normal time frame for the Planning Commission meetings has moved up for the month of November. The next Planning Commission meeting is scheduled for November 17th. He indicated that if the applicant changed the meeting date on the sign, the sign would have been posted more than 14 days. However, the staff was not sure if this item should be postponed one-week or to the December 8th meeting, which is 4 weeks from today. Mr. Sallee said that the sign has been posted for 10 days and the Subdivision Regulations require 14 days.

Mr. Wilson asked for guidance from the Law Department. Ms. Jones said that the Commission could postpone this item to the November 17th meeting or the December 8th meeting.

Mr. Wilson said that the staff needs time to review the affidavit. Mr. Sallee replied affirmatively, and said that the sign needs to show that it has been posted for 14 days. Mr. Wilson said that it would be appropriate to postpone this item to the November 17th meeting. Ms. Jones indicated that as long as the sign stays up between now and the November 17th meeting. Mr. Sallee said that the applicant would probably prefer the November 17th date. Mr. Wilson said that the Commission could postpone this item to the next meeting.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Brewer and carried 9-0 (Drake and Owens absent) to postpone **PLN-MJSUB-16-00014: BARBARA M & MASTEN CHILDERS II** to the November 17th, 2016, meeting.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Cravens, seconded by Ms. Richardson, and carried 9-0 (Berkley and Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated November 10, 2016, from Barry Brock, Division of Engineering.

2. FINAL SUBDIVISION PLANS (cont.)

- a. PLN-MJSUB-16-00012: NEWTOWN SPRINGS LLC, UNIT 1, SECTIONS 1 & 2 (AMD) (1/1/17)* - located at 1433 Newtown Center Way. (Council District 1) **(Endris Engineering)**

Note: The purpose of this amendment is to subdivide 6 lots into 8 lots and to create two 24' access easements.

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

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

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

3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Denote: This property shall be developed in accordance with the approved final development plan.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Addition of name and address of developer and owner.
12. Addition of access easement maintenance note on plan.
13. Correct plan title to indicate amendment.
14. Provided the Planning Commission grants a waiver to Articles 4-7(d)(1), 6-2(a) and 6-6(b) of the Land Subdivision Regulations, pertaining to the required substantial completion of public improvements, specifically the provision of public sanitary sewer facilities.

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

Mr. Martin presented the Staff Report and Findings for a Waiver of Land Subdivision Regulations for Articles 4-7(d)(1), 6-2(a) and 6-6(b) of the Land Subdivision Regulations, pertaining to the required substantial completion of public improvements, specifically the provision of public sanitary sewer facilities. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

The Staff Recommended: **Approval of the requested waiver(s) for Lot 1**, for the following reasons:

1. The requested waiver(s) will have little or no negative impact on public safety since the required public sanitary sewer will be constructed at the same time Lot 1 is developed which is consistent with the basic intent of the Land Subdivision Regulations.
2. Strict enforcement of the public sanitary sewer requirement would constitute a hardship for the applicant due to the grading constraints on the lot.

The Staff Recommended: **Disapproval of the requested waiver(s) for Lots 3, 4 & 4-A**, for the following reasons:

1. The Applicant has two other viable options that conform to the Land Subdivision Regulations that will allow timely development of the required public improvements, recording the plat and the development of the individual lots.
2. The applicant has not demonstrated that this is justified as an exceptional hardship, as required under Article 1-5(a) of the Land Subdivision Regulations.

Commission Comments & Questions – Mr. Penn indicated that the lot for the new Tire Discounters was not shown on this plat, and asked if that request would also need a waiver for the public sanitary sewer facilities. Mr. Martin replied that the applicant has not requested a waiver for that lot. Mr. Penn asked if this request would set a precedent. Mr. Martin replied negatively.

Representation – Kevin Phillips, Endris Engineering, indicated that the applicant was in agreement with the staff's recommendation, as well as the recommendation made on the waiver report.

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

Commission Comments & Questions – Mr. Wilson asked why the staff recommended disapproval and not postponement for Lots 3, 4 and 4-A. Mr. Martin replied that the applicant had requested a waiver for all the lots, but the staff is recommending disapproval of the waiver request for Lots 3, 4 and 4-A.

Action - A motion was made by Ms. Richardson, seconded by Ms. Mundy and carried 9-0 (Drake and Owens absent) to approve the development plan for **PLN-MJSUB-16-00012: NEWTOWN SPRINGS LLC, UNIT 1, SECTIONS 1 & 2 (AMD)**, as recommended by the staff.

Action - A motion was made by Ms. Richardson, seconded by Ms. Mundy and carried 9-0 (Drake and Owens absent) to approve the requested waiver(s) for Lot 1, as recommended by the staff.

Commission Comments & Questions – Mr. Wilson said that he prefers to keep the motion in the affirmative and asked for guidance from the Law Department on the recommendation for disapproval of the waiver request for Lots 3, 4 & 4-A. Ms. Jones replied that the Commission could adopt the staff's recommendation.

Action - A motion was made by Ms. Richardson, seconded by Ms. Mundy and carried 9-0 (Berkley and Brewer absent) to approve the staff's recommendation of disapproval of the waiver(s) for Lots 3, 4 & 4-A.

- c. **PLN-MJSUB-16-00013: HARVEY PROPERTY, LOT 2, SECTION 1 (AMD) (1/1/17)* - located at 4654 Rosette Way. (EA Partners)**

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

Note: The purpose of this amendment is to revise the cross-section for Rosette Way.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
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 signature lines (and signatures) for owners of Lots 22, 23 and 25-29, as required.
7. Provided the Planning Commission grants a waiver to Article 6-8 and Exhibit 6-3 of the Land Subdivision.

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

Mr. Martin presented the Staff Report and Findings for a Waiver of Land Subdivision Regulations for Article 6-8(a) [and Exhibits 6-1 and 6-3] of the Land Subdivision Regulations, which governs street geometrics. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

The Staff Recommended: **Approval of the requested waiver**, for the following reasons:

1. The waiver will have no significant impact on public safety, which is consistent with the overall intent of the Land Subdivision Regulations.
2. Strict enforcement of the Land Subdivision Regulations street geometric requirements would constitute a hardship for the applicant in addressing the steep slope, high rock and unsuitable fill prevalent on the site.

Representation – Rory Kahly, EA Partner, indicated that the applicant was in agreement with the staff's recommendation, as well as the recommendation made on the waiver report.

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 Mr. Cravens, seconded by Ms. Mundy and carried 9-0 (Drake and Owens absent) to approve the development plan for **PLN-MJSUB-16-00013: HARVEY PROPERTY, LOT 2, SECTION 1 (AMD)**, as recommended by the staff.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 9-0 (Drake and Owens absent) to approve the requested for waiver for Article 6-8(a) [and Exhibits 6-1 and 6-3] of the Land Subdivision Regulations, as recommended by the staff.

3. **DEVELOPMENT PLANS**

- a. **PLN-MJDP-16-00024: SOUTH ELKHORN VILLAGE (AMD)** (12/01/16)* - located at 4379 Old Harrodsburg Road.
(Council District 10) **(EA Partners)**

Note: The Planning Commission postponed this item at their October 13, 2016, meeting. The purpose of this amendment is to add a drive-through facility and a patio cover.

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the proposed drive-through and patio cover.

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

1. Urban County Engineer's acceptance of drainage, and 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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Document tree canopy requirements are being met.
10. Document off-site parking agreement status.
11. Discuss proposed patio cover and potential for enclosing.
12. Discuss proposed drive-through and required vehicle stacking.

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

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

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

1. Urban County Engineer's acceptance of drainage, and 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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Division of Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Document tree canopy requirements are being met.
10. Document off-site parking agreement status.
11. ~~Discuss proposed~~ Denote that the proposed patio cover and potential for enclosing shall not be permanently enclosed.
12. ~~Discuss proposed drive through and required vehicle stacking~~ Denote that the proposed patio cover shall comply with Article 19 of the Zoning Ordinance.

Commission Comments & Questions – Mr. Penn said that the reason they were able to put the restaurant at this location was due to using an existing building. Mr. Martin replied affirmatively.

Representation – Rory Kahly, EA Partners, indicated that the applicant was in agreement with the staff's revised recommendation.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Smith and carried 9-0 (Drake and Owens absent) to approve **PLN-MJDP-16-00024: SOUTH ELKHORN VILLAGE (AMD)**, as recommended at this meeting by the staff.

- b. PLN-MJDP-16-00033: H AND J PROPERTIES, LLC & TLJ PROPERTIES, LLC (1/1/17)* - located at 1400 N. Broadway. (Council District 1)
(S. Mark McCain, RLA)

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 Waste Management's approval of refuse collection locations.
7. Addition of floor area in site statistics per Art. 21 requirements.
8. Provided the Planning Commission grants a waiver to the tree canopy requirements, per Article 26-5 of the Zoning Ordinance.
9. Clarify tree canopy site statistics to indicate level of tree protection to be attained.
10. Discuss possible street tree planting along Paris Avenue (instead of a canopy waiver).

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

Mr. Martin presented the Staff Report and Findings for a Waiver of Land Subdivision Regulations for Article 26 of the Land Subdivision Regulations, which is related to tree canopy requirements. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

The Staff Recommended: **Approval of a waiver to a minimum of a 16% canopy**, for the following reason:

1. Requiring the full twenty percent canopy requirement would constitute an undue hardship to the property owner because the site is completely developed and the constraints of the existing utility easements along two boundaries of the subject site, and the built environment are significant.

Representation – S. Mark McCain, RLA, indicated that the applicant was in agreement with the staff's recommendation.

Commission Comments & Questions – There were none.

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

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

Action - A motion was made by Mr. Penn to approve **PLN-MJDP-16-00033: H AND J PROPERTIES, LLC & TLJ PROPERTIES**, as recommended by the staff.

Discussion – Mr. Martin indicated that the waiver request addressed condition #10; therefore, that condition could be removed from the listing.

Mr. Wilson said that the motion on the floor would be for the remaining 10 conditions listed on today's agenda. Mr. Penn indicated his agreement to amend his motion.

The motion was seconded by Ms. Mundy and carried 9-0 (Drake and Owens absent)

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson and carried 9-0 (Drake and Owens absent) to approve the waiver for Article 26 of the Land Subdivision Regulations, as recommended by the staff.

Note: The next two items were heard simultaneously.

- c. **PLN-MJDP-16-00039: LIBERTY HEIGHTS SUBDIVISION, BLOCK C, LOTS 4-10 & LOTS 44-47 (1/1/17)* - located at 836 Winchester Road. (Council District 5)**
(Vision Engineering)

The Subdivision Committee Recommended: Postponement. There are still concerns about the location of the proposed drive-through window and stacking of the vehicles.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 7. Division of Waste Management's approval of refuse collection locations.
 8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 9. Consolidation of property prior to plan certification.
 10. Addition of existing and proposed easements on plan.
 11. Kentucky Transportation Cabinet's approval of access on Winchester Road.
 12. Discuss parking surplus proposed, and location near residential property line.
 13. Discuss location and purpose of "pick-up window" and vehicular stacking proposed.
 14. Discuss parking conflict with "26" Box Elder.
- d. **PLN-MNSUB-16-00030: LIBERTY HEIGHTS SUBDIVISION, BLOCK C, LOTS 4-10 & LOTS 44-47 – located at 836-846 Winchester Road, 912-922 Detroit Avenue and 915-921 Dayton Avenue. (Council District 5)**
(Vision Engineering)

This plan has been filed for the same plan, as listed above on this agenda for this address. The staff is referring this plan to the Planning Commission under Article 3-2(b) of the Land Subdivision Regulations.

Staff Presentation – Mr. Martin presented the staff's report on PLN-MJDP-16-00039, which included the following revised recommendation:

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping 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. Consolidation of property prior to plan certification.
10. Addition of existing and proposed easements on plan.
11. Kentucky Transportation Cabinet's approval of access on Winchester Road.
- ~~12. Discuss parking surplus proposed, and location near residential property line.~~
- ~~13. Discuss location and purpose of "pick-up window" and vehicular stacking proposed.~~
- ~~14. Discuss parking conflict with "26" Box Elder.~~

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

Commission Comments & Questions – Ms. Mundy asked since there is a residential area to the rear will there be canopy lights. Mr. Martin replied that the applicant had agreed to direct the lights downward to create zero light at the property line.

Staff Presentation – Mr. Sallee presented the staff's report on the minor subdivision plan (PLN-MNSUB-16-00030), which included the following recommendation:

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

1. Addressing Office's approval of street addresses.
2. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
3. Revise plat to also be an Easement Minor Amended Plat (in title block), add new tree preservation area for the existing 26" Box Elder tree on Parcels 6 & 8.
4. Addition of tree applicable preservation notes on plat.
5. Revise building line along Winchester Road to comply with required 20' setback from the right-of-way.
6. Denote on plat that Lots 7-10 will only be used as single family detached residential units (due to their reduced lot size).
7. Denote date of Planning Commission approval on this plat, prior to certification.

Representation – Matt Carter, Vision Engineering, indicated that the applicant was in agreement with each of the staff's recommendations.

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 Mr. Berkley, seconded by Mr. Smith and carried 9-0 (Drake and Owens absent) to approve **PLN-MJDP-16-00039: LIBERTY HEIGHTS SUBDIVISION, BLOCK C, LOTS 4-10 & LOTS 44-47**, as recommended by the staff.

Action - A motion was made by Mr. Berkley, seconded by Mr. Smith to approve **PLN-MNSUB-16-00030: LIBERTY HEIGHTS SUBDIVISION, BLOCK C, LOTS 4-10 & LOTS 44-47**, as recommended by the staff.

Discussion of motion – Ms. Plumlee asked if the name of the tree should be changed on condition #3 for PLN-MNSUB-16-00030. Mr. Sallee indicated that "Box Elder" could be changed to "Elm." Mr. Berkley and Mr. Smith indicated their agreement. Mr. Wilson noted that the motion on the floor has been amended to reflect the change on condition #3.

The motion carried 9-0 (Drake and Owens absent)

Note: The next two items were heard simultaneously.

- e. **PLN-MJDP-16-00014: BURKE, HOCKENSMITH & MAGGARD (AKA: GIBSON & PARSONS INVESTMENTS II, LLC PROPERTY) (1/27/17)* - located at 1803 Georgetown Road. (Council District 2) (Vision Engineering)**

Note: The Planning Commission approved this plan at their September 8, 2016, 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. 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.

Note: The applicant now requests a waiver to Article 4-7(d) of the Land Subdivision Regulations for this plan.

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

13. Provided the Planning Commission grants a waiver to Article 4-7(d) of the Land Subdivision Regulations.

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

- f. PLN-MNSUB-16-00029: BURKE, HOCKENSMITH & MAGGARD, LOTS 1 & 2 – located at 1803 Georgetown Road. (Council District 2) **(Vision Engineering)**

This plan has been filed for the same plan, as listed above on this agenda for this address. The staff is referring this plan to the Planning Commission under Article 3-2(b) of the Land Subdivision Regulations.

Staff Presentation – Mr. Martin presented the Staff Report and Findings for a Waiver of Land Subdivision Regulations for Article 4-7(d) of the Land Subdivision Regulations, which requires certification of substantial completion of public improvements prior to the Urban County Engineer's certification being applied to the Final Record Plat. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

The Staff Recommended: **Approval of the requested waiver to Article 4-7(d) of the Land Subdivision Regulations, for the following reasons:**

1. Not granting the waiver would constitute a significant hardship for the applicant due to the added difficulty in providing sewer as a result of the significant topographic site constraints.
2. Granting the waiver will not adversely affect public health and safety as the public improvements will be constructed prior to occupancy and will be constructed as required by the approved development plan.

This recommendation was made subject to the following requirements:

- a. Denote: No Certificate of Occupancy or Zoning Compliance Permit shall be issued for the development until sanitary sewer service utilizing the private pump station or individual grinder pumps is provided in compliance with the Kentucky State Plumbing Code and accepted by the Division of Engineering and the Division of Water Quality.
- b. A surety for the entire cost of all the required public infrastructures shall be submitted to the Division of Engineering, prior to the issuance of a ground disturbance permit.

Commission Comments & Questions – Mr. Penn asked if a grinder pump was permitted for the lots located along the Georgetown aquifer. Mr. Martin replied that that would be part of the review process for this site and noted that it is a concern for the Royal Springs Aquifer and the potential issues to the groundwater. Mr. Penn then asked if grinder pumps were even possible in an aquifer. Mr. Martin indicated affirmatively, and said that the pumps would need to be reviewed and designed appropriately.

Staff Presentation – Mr. Sallee presented the staff's report on the minor subdivision plat (PLN-MNSUB-16-00029), which included the following recommendation:

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

1. Addressing Office's approval of street addresses for both lots, and revise address(es) accordingly.
2. Addition of notes addressing the responsibility and timing for required Sandersville Road improvements.
3. Addition of B-3 building line on the smaller lot, prior to certification.
4. Correct "non-building plan note" to match current Land Subdivision Regulations language.
5. Clarify site statistics (eliminate "post consolidation" information).
6. Denote date of Planning Commission approval on this plat, prior to certification.

Mr. Sallee also presented an email correspondence from Richard Murphy outlining the draft notes regarding the timing of improvements for the minor subdivision plat. (A copy of the email correspondence is attached as an appendix to these minutes).

Commission Comments & Questions – Mr. Penn asked if, the Commission approved the minor subdivision plat, if the development plan would be responsible for completing the Sandersville Road improvements. Mr. Sallee replied that it is the staff's understanding that the responsibility for the road improvements would be negotiated between the two private parties and the improvements would be done in conjunction with the development on the property. The email correspondence from Mr. Murphy outlines the timing of the improvements, and that type of note would be applied to both plans to let everyone know that this unusual lotting is not for a permanent condition.

Mr. Penn said that the frontage would then not be included in the sale of that lot. Mr. Sallee replied that was correct, and said that the land itself would not be part of the lot, whether or not the private agreement covers that it would be a private matter.

Representation – Richard Murphy, attorney and Matt Carter, Vision Engineering, indicated that the applicant was in agreement with each of the staff's recommendation. However, he requested the following changes to be made to the recommendation shown on the waiver report.

- b. A surety for the entire cost of all the required public infrastructures serving Lots 4 & 5 shall be submitted to the Division of Engineering, prior to the issuance of a ground disturbance permit.

Commission Comments & Questions – Mr. Wilson said that the Planning Commission approved PLN-MJDP-16-00014 at their September 8, 2016; therefore, the Commission does not need to take another action on

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

the development plan, but only on the requested waiver. Mr. Sallee responded affirmatively. Mr. Wilson then asked if the staff was agreeable with the added language to item b on the waiver report. Mr. Sallee responded affirmatively.

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

Representation Comment – Mr. Murphy asked if Item a on the waiver report could only reference Lots 1-3 and requested that the following language be added:

- a. Denote: No Certificate of Occupancy or Zoning Compliance Permit **for Lots 1, 2 or 3** shall be issued for the development until sanitary sewer service utilizing the private pump station or individual grinder pumps is provided in compliance with the Kentucky State Plumbing Code and accepted by the Division of Engineering and the Division of Water Quality.

Mr. Martin said that the staff understands the applicants concern, but Item a reads: “Denote: No Certificate of Occupancy or Zoning Compliance Permit shall be issued for the development until sanitary sewer service utilizing the private pump station or individual grinder pumps is provided in compliance with the Kentucky State Plumbing Code and accepted by the Division of Engineering and the Division of Water Quality.” If the applicant is using gravity lines then this language exempts the applicant from that requirement.

Mr. Penn asked if a condition should be added to bond the Sandersville Road improvements. Mr. Sallee said that that is part of the requirement on the waiver report (Item b.) as offered by Mr. Murphy.

Action - A motion was made by Ms. Mundy, seconded by Ms. Richardson and carried 9-0 (Drake and Owens absent) to approval the requested waiver to Article 4-7(d) of the Land Subdivision Regulations, as recommended by the staff, with a modification to Item b.

Action - A motion was made by Ms. Mundy, seconded by Ms. Richardson and carried 9-0 (Drake and Owens absent) to approve **PLN-MNSUB-16-00029: BURKE, HOCKENSMITH & MAGGARD, LOTS 1 & 2**, as recommended by the staff.

- g. **PLN-MNSUB-16-00036: TUSCANY** – located at 1970 Winchester Road and 2625 Sir Barton Way.
(Council District 6) **(EA Partners)**

The staff is referring this plan to the Planning Commission under Article 3-2(b) of the Land Subdivision Regulations.

Staff Presentation – Mr. Sallee presented the staff’s report on the minor subdivision plat (**PLN-MNSUB-16-00036**), which included the following recommendation:

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

1. Addressing Office’s approval of street addresses.
2. Revise plat to also be an Easement Minor Amended Plat (in title), add new access easement across Parcel 2 to provide access to Parcel 3, and add maintenance responsibility information.
3. Addition of required 20’ building line (from Sir Barton Way).
4. Label 1970 Winchester Road lot (in “Overall View”) as Parcel 4.
5. Clarify site statistics (4 parcels).
6. Denote date of Planning Commission approval on this plat, prior to certification.

Mr. Sallee also presented Article 2-3(a) of the Land Subdivision Regulations, as well as a rendered exhibit of the subject plat.

Commission Comments & Questions – Mr. Penn asked if the reason this request was being platted as one property, and asked about the temporary easement and not a permanent easement on Sir Barton Way. He added that he does not understand why the two properties have to connect. Mr. Sallee indicated that the staff does not know what the purpose is for this consolidation, and said that the two properties do not necessarily have to connect because the access would be provided through Parcel 2. He then said that the access could be temporary and the staff views the access as not to be long lasting only because by the time the school opens Meeting Street would be completed.

Representation – Rory Kahly, EA Partners, indicated that the applicant was in agreement with the staff’s recommendation.

Commission Comments & Questions – Ms. Mundy said that she drove down Meeting Street and it is all but completed. The only thing left to be done is the dedication and placing the final surface on the road. She asked if the applicant is expecting the temporary easement to last about 30 days. Mr. Kahly replied affirmatively, and said that they were going place the final surface down before winter, but they are in negotiations with the Division of Engineering to establish the bonding dollar amount.

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

Action - A motion was made by Mr. Berkley, seconded by Mr. Brewer and carried 9-0 (Drake and Owens absent) to approve **PLN-MNSUB-16-00036: TUSCANY**, as recommended by the staff.

VI. COMMISSION ITEMS

- A. DECEMBER WORK SESSION** – Mr. Duncan indicated that the Work Session scheduled on December 22nd would not need to take place; and if needed, the Meeting and Filing Schedule should be amended to reflect that cancelation. The last Planning Commission meeting is scheduled on December 15th.

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.....	November 17, 2016
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 23, 2016
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 1, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	December 1, 2016
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 8, 2016
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 15, 2016
Planning Commission Work Session , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	December 22, 2016

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 3:05 PM.

William Wilson, Chair

Carolyn Plumlee, Secretary