

**AGENDA  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**January 12, 2017**

- I. **CALL TO ORDER** - The meeting will be called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.
- II. **APPROVAL OF MINUTES** – The minutes of the December 8, 2016, meeting will be considered by the Planning Commission at this time.
- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.
- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, January 5, 2017, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Will Berkley, Joe Smith and Mike Owens. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Steve Parker, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee; Tom Martin; Traci Wade; Denise Bullock; Chris Bronczyk; 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.

General Notes

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

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

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

**Criteria:**

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
- (2) the Petitioner agrees with the Subdivision Committee recommendation and 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.

- 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-16-00022: MEADOWTHORPE COMMUNITY BUSINESS CENTER, UNIT 1 (AMD) (1/29/17)\* - located at 1447 Antique Drive. (Council District 2) **(Endris Engineering)**

**Note:** The Planning Commission postponed this item at their December 8, 2016, meeting. The purpose of this amendment is to delete note #4 from the previous plan regarding the required parking space; and to reflect the release of an easement on Lot 1 and to create an easement as shown.

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).

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6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Correct the numbering on plan notes.
8. Correct note #3 to indicate Planning Commission's approval of a dimensional variance.
9. Complete or revise easement release information, prior to recordation.
10. Resolve the need for off-street parking easement near the intersection of Antique Drive and N. Forbes Road.

- b. PLAN 2015-136F: TUSCANY, UNIT 10 (MEETING STREET) (3/15/17)\* - located at 2625 Sir Barton Way.  
(Council District 6) **(EA Partners)**

Note: This plan was approved by the Planning Commission at its December 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.
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. Delete "right-of-way" from Meeting Street label.
10. Incorporate notes from Preliminary Subdivision Plan regarding the planned multi-use trail.
11. Denote proposed uses on Lot 2 (per Preliminary Subdivision Plan).

Note: The applicant now requests a reapproval of this plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the same conditions as previously required by the Commission.

- c. PLAN 2005-173F: BELMONT FARM, UNIT 4-B (COVENTRY) (3/16/17)\* - located at 2450 Georgetown Road (a portion of). (Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 14, 2005, and it was reapproved on July 13, 2006; July 12, 2007 and August 14, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Approval of street names and addresses by e911 staff.

Note: This plan was certified on November 4, 2005, meeting all conditions of approval. The applicant now requests reapproval of the plan, subject to the previous conditions.

The Subdivision Committee Recommended: **Reapproval**, subject to the same conditions as previously required by the Commission, adding one additional condition:

6. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

- d. PLAN 2005-174F: BELMONT FARM, UNIT 4-C (COVENTRY) (3/16/17)\* - located at 2450 Georgetown Road (a portion of). (Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 14, 2005, and it was reapproved on July 13, 2006 and July 12, 2007 and August 14, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Approval of street names and addresses by e911 staff.
6. Urban Forester's approval of tree preservation plan.

Note: This plan was certified on November 4, 2005, meeting all conditions of approval. The applicant now requests reapproval of the plan, subject to the previous conditions.

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The Subdivision Committee Recommended: **Reapproval**, subject to the same conditions as previously required by the Commission, adding one additional condition:

7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

- e. PLAN 2005-175F: BELMONT FARM, UNIT 4-D (COVENTRY) (3/16/17)\* - located at 2450 Georgetown Road (a portion of). (Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 14, 2005, and it was reapproved on July 13, 2006 and July 12, 2007, and August 14, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Approval of street names and addresses by e911 staff.
6. Urban Forester's approval of tree preservation plan.

Note: The applicant now requests reapproval of the plan, subject to the previous conditions.

The Subdivision Committee Recommended: **Reapproval**, subject to the same conditions as previously required by the Commission, adding one additional condition:

7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

## 2. DEVELOPMENT PLANS

- a. DP 2015-74: CAVE HILL TOWNHOMES (2/28/17)\* - located at 2236 Cave Hill Place. **(Vision Engineering)**  
(Council District 10)

Note: The Planning Commission postponed this item at their December 8, 2016, meeting. This plan was approved by the Planning Commission at its September 24, 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. 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. Addition of existing and proposed easements (per Cab "I" Sld 120 & DP 89-133).
11. Document lot coverage, floor area in site statistics per Art. 21 of the Zoning Ordinance.
12. Complete tree protection areas information per Art. 26.
13. Correct plan title by adding "Amended".
14. Revise construction of sidewalks along Cave Hill Lane.
15. Denote landscape buffer from previous DP 89-133: WELLS PROPERTY.

Note: The applicant now requests a reapproval of this plan.

The Staff Recommends: **Reapproval**, subject to the same conditions as previously required by the Commission.

- b. PLN-MJDP-16-00054: PROVIDENCE PLACE/INTERSTATE SERVICE CENTER, UNIT 6, LOT 2A (AMD) (2/19/17)\* - located at 1935 Stanton Way. (Council District 12) **(Palmer Engineering)**

Note: The purpose of this amendment is to redevelop Lot 2A of the property for a new hotel.

The Subdivision Committee Recommended: **Approval**, subject to the conditions listed on today's agenda.

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.

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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 review by the Royal Springs Aquifer Committee prior to certification.
- c. PLN-MJDP-16-00055: COMMUNITY VENTURES PROPERTIES (2/19/17)\* - located at 225 Midland Avenue.  
(Council District 1) **(Carman & Associates)**

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the resolution of notes 12, and 14-20, which affect the timing and design of the development, and off-street parking requirements.

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. Dimension residence roof/top terrace and event terrace.
13. Denote: There shall be no building permit issued for Building B until an amended Final Development Plan is approved by the Planning Commission.
14. Dimension "existing building" on plan.
15. Discuss resolution of notes 12, and 14-20.
16. Discuss proposed Midland Avenue Access.
17. Discuss residential parking requirements (as B-2 zone requirements are not permitted in the B-2A zone).

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, December 1, 2016, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Mike Cravens, David Drake, Carolyn Richardson, and Bill Wilson. The Committee members reviewed applications and made recommendations as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

- B. **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)

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**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.

# **1. BALL HOMES, INC. ZONING MAP AMENDMENT & THE PENINSULA**

- a. PLN-MAR-16-00016: BALL HOMES, INC (1/12/17)\* – petition for a zone map amendment from Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 67.58 net and gross acres, and to a High Density Apartment (R-4) zone, for 22.01 net (22.18 gross) acres, located at 478 and 480 Squires 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 Plan encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Theme A, Goal #2a), providing well-designed neighborhoods (Theme A, Goal #3); protecting the environment (Theme B); working to achieve an effective and comprehensive transportation system (Theme D, Goal #1); providing for accessible community facilities and services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); protecting and enhance natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3); compact and contiguous development within the Urban Service Area (Theme E, Goal #1); and encourages development of vacant and underutilized parcels (Theme E, Goal #3). Additional policy statements in the Plan are also relevant to the proposed zone change request.

The petitioner proposes a combination of Planned Neighborhood Residential (R-3) and High Density Apartment (R-4) zoning for the subject property in order to develop a mixture of single-family, townhouse and multi-family residential dwelling units, for a residential density of 7.11 dwelling units per acre. The subject site is also the location of a proposed middle school.

The Zoning Committee Recommended: **Approval**.

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

1. The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:
  - a. The Comprehensive Plan recommends *Growing Successful Neighborhoods* (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.). The petitioner has proposed a mixture of residential dwelling unit types, including single-family, townhouses and multi-family dwelling units to meet the needs of the community at a density of 7.11 units per net acre. The corollary development plan also depicts the connection of collector streets and a shared-use path (Easthills Trail) between the Squires Trail and Jacobson Park.
  - b. The 2013 Plan recommends *Protecting the Environment* (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas before development occurs. The petitioner has agreed to maintain a 25 foot buffer along the FEMA Special Flood Hazard Area (100-year floodplain) near the water's edge of Reservoir #4. This will protect the shoreline, reduce the risk of stormwater impacts to the reservoir, and help maintain a healthy ecosystem around one of Lexington's drinking water reservoirs.
  - c. The 2013 Plan recommends *Improving a Desirable Community* (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1); providing for accessible community facilities and services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); and protecting and enhancing natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3). The petitioner has worked to incorporate the planned share-use trail, preserve the aesthetic beauty of the area, and accommodate a Fayette County Public Schools middle school site. The school site will provide open space and serve as a focal point for the neighborhood.
  - d. The 2013 Plan recommends compact and contiguous development within the Urban Service Area (Theme E, Goal #1) and encourages development of vacant and underutilized parcels (Theme E, Goal #3), both of which are being met by the petitioner's proposal within the Urban Service Boundary.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00040: The Peninsula, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following buffering restrictions are recommended for the subject property:
  - a. Along the boundary of the subject property which is shared with Kentucky American Water (Reservoir #4), there shall be a twenty-five (25) foot buffer area established from the 2014 FEMA D-FIRM Special Flood Hazard Area

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(coincident with the twenty-five (25) foot floodplain setback required by Article 19 of the Zoning Ordinance). Within the buffer area:

- (1) accessory structures, fences and play structures shall be prohibited;
- (2) existing trees with a 3" caliper, or greater, shall be preserved, except for dead, diseased, hazardous trees or invasive species. Trees meeting these criteria;
- (3) may be removed only with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive area.

This buffer restriction is appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir and to more fully implement the principles of the 2013 Comprehensive Plan.

- b. PLN-MJDP-16-00040: THE PENINSULA (1/12/17)\* - located at 478 and 480 Squires Road.  
(EA Partners)

Note: The Planning Commission postponed this item at their December 15, 2016, meeting.

The Subdivision Committee Recommended: Postponement. There were some questions regarding the lack of information and the proposed stormwater basins for the single family residential area.

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

1. Provided the Urban County Council rezones the property R-3 & R-4; 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
8. Complete typical required townhouse development information proposed (group residential or fee simple).
9. Denote that phasing of the development shall be determined at the time of the Final Development Plan and/or Preliminary Subdivision Plan.
10. Denote significant tree protection areas on plan.
11. Revise note #10 relative to the single family area.
12. Denote that there shall be a tree protection/conditional zoning buffer area along the reservoir that corresponds with the 25' floodplain setback.
13. Denote: The re-alignment of Squires Road and access to the existing residential lots shall be resolved at the time of the Final Development Plan and/or Preliminary Subdivision Plan.

## **2. BERNARD JEFFERY AND PATRICIA M. QUEEN ZONING MAP AMENDMENT & QUEEN ESTATE**

- a. PLN-MAR-16-00020: BERNARD JEFFERY AND PATRICIA M. QUEEN (1/29/17)\* – petition for a zone map amendment from Light Industrial (I-1) zone to a Highway Service Business (B-3) zone, for 0.21 net (0.47 gross) acres, and from a Wholesale and Warehouse Business (B-4) zone to a Highway Service Business (B-3) zone, 0.45 net (0.79 gross) acres, for properties located at 411 Chair Avenue and 410 DeRoode Street and 603, 607, 615, 617, and 619 S. Broadway.

### **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 2013 Plan's Goals and Objectives emphasize the importance of growing successful neighborhoods (Theme A), protecting the environment (Theme B), creating jobs and prosperity (Theme C), improving a desirable community (Theme D) and maintaining a balance between planning for urban uses and safeguarding rural land (Theme E).

The Newtown Pike Extension Corridor Small Area Plan, adopted by the Planning Commission in January 2003, recommends Retail/Office Mixture, including a residential component future land use for the subject properties. The Plan also makes more general recommendations for streetscape improvements such as wide sidewalks along South Broadway, developing major intersections as gateways, encouraging commercial development along key corridors and at major intersections, enhancing community services and improving access to jobs.

The petitioner proposes B-3 zoning and plans to construct a 10,550 square-foot structure and associated off-street parking.

The Zoning Committee Recommended: Approval.

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

1. The proposed Highway Services Business (B-3) zone is inappropriate for the subject property for the following reasons:
    - a. The B-3 zone does not permit a possible residential component or mixed-use development as recommended by the Newtown Pike Extension Small Area Plan, which remains an active plan while the roadway project is on-going.
    - b. The allowed uses in the B-3 zone are not appropriate along a Oliver Lewis Way at this major gateway within our community. Uses such as hotels, automobile and other vehicle sales/display/rental/repair establishments, car washes, adult entertainment, etc. should not be located at this intersection and are often restricted by the Planning Commission and Council during zone change requests.
    - c. The petitioner should consider the mixed-use zones (MU-1, MU-2, or MU-3), or the B-1 zone for this location, as they would be considered appropriate for the site and actually offer a wider range of land uses than the proposed B-3 zone.
  2. The proposed development, as depicted, may create a neighborhood business opportunity, but many of the allowed land uses in a B-3 zone would be out of character with the surrounding area and could have a negative impact on the adjoining land uses.
  3. There have not been any unanticipated changes of an economic, physical, or social nature within the area that have substantially altered the basic character of the area since the Comprehensive Plan was adopted in 2013 that would support the requested zone change application. The construction of Oliver Lewis Way is a significant investment in the transportation network for the urban county that has improved access for many in the vicinity and has been planned for and anticipated since the 1970s, does not constitute an unanticipated change of this sort (*emphasis added*).
- b. PLN-MJDP-16-00047: QUEEN ESTATE (1/29/17)\* - located at 411 Chair Avenue and 410 DeRoode Street and 603, 607, 615, 617, and 619 S. Broadway. **(EA Partners)**

Note: The Planning Commission postponed this item at their December 15, 2016, meeting.

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

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Denote: No building permit shall be issued unless and until a final development plan is approved by the Planning Commission.
6. Denote that compliance with the Newtown Pike Extension Design Ordinance shall be determined at the Final Development Plan.
7. Denote height of building in feet.
8. Denote building/lot line conflict shall be resolved at the Final Development Plan.
9. Revise "floor area" site statistics, and add floor area ratio statistics.
10. Add general information about tree sizes at diameter of breast height, per Article 26 requirements.
11. Addition of conditional zoning restrictions, if any.
12. Resolve right-of-way on Chair Ave. at time of the Final Development Plan.

**VI. COMMISSION ITEMS** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

**A. SRA 2016-4: AMENDMENT TO ARTICLE 4-7 OF THE LAND SUBDIVISION REGULATIONS** - to alter the allowable sureties acceptable by the Urban County Government.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text ~~dashed through~~ indicates a deletion, and text underlined indicates an addition to the existing Land Subdivision Regulations.)

4-7(d)(9) PERFORMANCE / WARRANTY SURETY - The developer shall post a combination performance and warranty surety, which shall be both to ensure the completion of public improvements, as indicated by the punch list, and for the repair of infrastructure that is found to be defective due to improper workmanship or defective materials.

4-7(d)(9)(a)ACCEPTABLE SURETIES - Acceptable sureties shall generally be an irrevocable letter of credit in favor of the Urban County Government from a bank with offices in Lexington-Fayette County. For sureties less than \$5,000, cash, certified check, or money order is acceptable. For sureties greater than \$5,000, cash, certified check, money order, or other surety is acceptable.

4-7(d)(9)(b)DETERMINATION OF THE AMOUNT OF THE SURETY - The total amount of the combination surety shall be ten percent (10%) of the total cost of the installed infrastructure, including roads, sanitary sewer system and storm water facilities, plus one hundred percent (100%) of the cost of the items included on the punch list of incomplete work. Where the sanitary sewer pumping station has been constructed, and all pumping equipment installed, but electrical service has not been provided to the facility, the entire cost of the pumping station shall be included in the surety. The cost of roads, sanitary sewers, storm water facilities and the punch list items shall be based upon the unit cost of each construction item

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which is a part of the plan. The unit costs for public improvement construction items shall be determined ~~annually in conformance with the procedure established in the Procedures Manual and shall be available from the~~ by Division of Engineering. The surety shall also include an additional twenty percent (20%) of the amounts listed above to provide for inflation and administrative costs, should the surety be called; and the Urban County Government must cause the work to be constructed or repaired, as appropriate.

4-7(g) NO OCCUPANCY PERMIT - No person shall allow occupancy of any building until the Division of Building Inspection has verified that the private utilities (water, electricity, telephone, and, where applicable, sanitary sewers, access to a public street or private street or access easement, stormwater infrastructure and natural gas), or public sanitary sewer pumping station, are completed in such a fashion that such utilities are available for use on the property in question.

4-8(c) COMPLETION OF UTILITIES AND FINAL COURSE OF ASPHALT ~~Only when all utilities have been installed, the base courses of the roadway have been completed for at least one year and the project engineer has certified the same to the Division of Engineering, shall the developer install the final course of asphalt. Any defective areas of the base courses of pavement must be identified by the project engineer and corrected or reconstructed, including removal of portions of the pavement in order to obtain a uniformly compacted base prior to the installation of the final surface. Completion of utilities and final course of asphalt shall be in conformance with the current edition of the Procedures Manual.~~ Upon installation of the final surface, the amount of the surety may be reduced by an amount equal to 10% of the cost of the base courses; but in no case shall the reduction be more than 10% of the cost of the final surface.

4-8(d) RENEWAL OF THE SURETY - When requested by the developer, the Urban County Engineer shall renew the surety for uncompleted items for one additional year, beyond the three years otherwise provided. As a condition of renewals for sureties older than 3 years, the Division of Engineering will require recalculation of the amount of the surety based on the current unit prices. ~~Any further renewals or extensions of the surety may only be granted by the Planning Commission upon a finding that there are conditions that prevent the timely completion of the public improvements. As a condition to the extension or renewal, the Planning Commission may require recalculation of the amount of the surety when there has been a significant increase in the cost of the items that are not completed.~~

4-8(e) FINAL REDUCTION / RELEASE OF SURETY - When the developer has completed all required improvements, and the final course of asphalt has been applied for at least one year, the developer may request a final release of the surety. When so requested, the Division of Engineering will conduct a final inspection within thirty (30) days. Upon determination by the Division of Engineering that all improvements have been properly constructed in conformance with the requirements of these Subdivision Regulations, the Zoning Ordinance, the Division of Engineering ~~Technical~~ Manuals and the Division of Engineering Standard Drawings, the Urban County Engineer shall, in writing, notify the Planning Commission, which shall release the surety.

4-8(f) Surety Forfeitures-If a surety is forfeited or called by the Urban County Government, the Corporation, Corporation Principal(s) or developer will be prohibited from submitting a surety to the Urban County Government for a period of three years from the date of forfeiture.

The Subdivision Committee made no recommendation.

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

1. The proposed text amendment is a timely improvement to the Land Subdivision Regulations that will improve compliance with the public improvements requirements of the regulations.
2. The proposed text amendment is consistent with the public health and safety provisions inherent in the Land Subdivision Regulations.

- B. BOAR 2016-1: DEAN AND LAURA MAY** – an appeal to the Planning Commission of the denial of a permit by Board of Architectural Review, for property at 407 N. Limestone.

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

1. The denial of a Certificate of Appropriateness by the Board of Architectural Review is consistent with their charge in determining appropriateness of requested exterior alterations, based on the design guidelines established by the local Historic Preservation Commission. It is also consistent with past actions of the Board in determining acceptability of the type of replacement window proposed.

- C. BOAR 2016-2: PERRY SHOLES** – an appeal to the Planning Commission of the denial of a permit by Board of Architectural Review, for property at 401 N. Limestone.

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

1. The denial of a Certificate of Appropriateness by the Board of Architectural Review is consistent with their charge in determining appropriateness of requested exterior alterations, based on the design guidelines established by the local Historic Preservation Commission. It is also consistent with past actions of the Board in determining acceptability of the type of replacement window proposed.

- D. AMENDMENT TO THE 2017 MEETING & FILING SCHEDULE** - The Chair will announce that the Commission will consider an amendment to the "Official Meeting and Filing Schedule for 2017" at this time. The location of the January 2017 Work Session is proposed to change to the Phoenix Building. One other correction is being proposed.

The staff will report at the meeting.

- VII. STAFF ITEMS** – The Chair will announce that any item a Staff member would like to present will be heard at this time.

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

**IX. NEXT MEETING DATES**

|                                                                                                             |                         |
|-------------------------------------------------------------------------------------------------------------|-------------------------|
| <b>Planning Commission Work Session</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers ..... | January 19, 2017        |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .....                | January 25, 2017        |
| <b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....      | <b>January 26, 2017</b> |
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....               | February 2, 2017        |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .....                    | February 2, 2017        |
| <b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers ..... | <b>February 9, 2017</b> |

**X. ADJOURNMENT**

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