

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

April 13, 2017

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

Planning Commission members present – Bill Wilson, Chair; Carolyn Richardson; Karen Mundy; Carolyn Plumlee; Joseph Smith; Will Berkley; Mike Owens; Frank Penn; David Drake (departed at 5:00 p.m.) and Mike Cravens. Patrick Brewer was absent.

Planning Staff members present – Jim Duncan; Bill Sallee; Tom Martin; Cheryl Gallt, Denise Bullock; Jimmy Emmons and Chris Bronczyk. Other staff members in attendance were: Vaughan Adkins, Division of Engineering; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire and Emergency Services; and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – There were no minutes to consider.

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

- a. PLN-MJSUB-17-00023: THE GREATHOUSE PROPERTY (THE VILLAGE AT GREAT ACRES) (AMD) (6/4/17)* - located at 2731 and 2751 Leestown Road. (Council District 2) **(Integrated Engineers)**

Note: The purpose of this amendment is to re-subdivide the property into six lots.

The Subdivision Committee Recommended: **Postponement.** There were some questions regarding the number of waivers required and the provision of the sanitary sewer service to the existing home.

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

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Addition of control monument information per Article 5-4(d)(6) of the Subdivision Regulations.
11. Addition of all stub street information and locations.
12. Remove all consolidation symbols and information from plan.
13. Correct plan title.
14. Addition of purpose of amendment note on plan.
15. Number general notes.
16. Revise site statistics to meet the final record plat requirements.
17. Discuss need for lot frontage waiver(s).
18. Discuss need for waiver for sanitary sewer service.
19. Discuss existing septic tank and drain field location and waiver of 10 acre requirement.

Representation present – Richard Murphy, attorney, representing Integrated Engineers, requested to withdraw this application.

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

Action - A motion was made by Mr. Owens, seconded by Ms. Plumlee and carried 10-0 (Brewer absent) to accept withdrawal of **PLN-MJSUB-17-00023: THE GREATHOUSE PROPERTY (THE VILLAGE AT GREAT ACRES) (AMD)**.

- b. PLN-MJDP-17-00006: LEXINGTON MALL (CROSSFIT MAXIMUS) (AMD #21) (4/13/17)* - located at 2397 Richmond Road. (Council District 5) **(Abbie Jones Consulting)**

Note: The Planning Commission postponed this item at their February 9, 2017 and March 9, 2017, meetings. The purpose of this amendment is to add 20,000 sq. ft. of buildable area and revise parking.

The Subdivision Committee Recommended: **Postponement.** The proposed development plan lacks the necessary information required by Article 21-6 of the Zoning Ordinance, and the latest development plan has not been used in preparation for this amendment.

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

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

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

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. Complete Parcel A property line information (using solid lines) as required by Art. 21-6(a)(2) of the Zoning Ordinance.
11. Correct plan title.
12. Revise all out lot information, per Lexington Mall Amd. #19 & Amd. #20.
13. Addition of location and dimensions of existing and proposed driveways, walk ways, parking areas, ingress and egress.
14. Denote construction access location on plan.
15. Denote building height in feet on plan for new building.
16. Addition of all information from previous development plan Lexington Mall Amd. #11 & Amd. #15 (DP 2005-118 and DP 2015-60).
17. Denote steep slope information, including topography on plan.
18. Addition of all existing and proposed utilities on Parcel A.
19. Clarify use of perimeter areas adjacent to building.
20. Correct site statistics.
21. Correct notes #2 & #3.
22. Addition of record plat information per proposed amended plat.
23. Addition of tree canopy information for Parcel A, as required by Art. 26 of the Zoning Ordinance.
24. Discuss pedestrian access to new proposed building from Woodhill Drive.

Representation present – Rich Murphy, representing Abbie Jones Consulting, requested a one month postponement to the May 11th meeting.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to postpone **PLN-MJDP-17-00006: LEXINGTON MALL (CROSSFIT MAXIMUS) (AMD #21)** to the May 11, 2017, meeting.

- c. **PLN-MJDP-17-00015: ETHINGTON & ETHINGTON PROPERTY, TRACT 1 (5/7/17)*** - located at 4145 and 4235 Harrodsburg Road. (Council District 10) **(Vision Engineering)**

The Subdivision Committee made no recommendation.

The Technical Committee and Staff Recommended: Postponement. There were some questions regarding timing of the public infrastructure and tree preservation plan.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping 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. Addition of required 10' building line on all R-1T lots.
13. Delete proposed and existing zone site statistics table.
14. Denote lot coverage and floor area ratio for the B-1 area.
15. Denote townhome dimensions and height in feet on plan.
16. Addition of TPP per Article 26 of the Zoning Ordinance.
17. Discuss timing of Madrone Way construction.
18. Discuss timing of Syringa Drive construction.
19. Discuss landscaping adjacent to Harrodsburg Road.
20. Discuss sidewalk improvements to Harrodsburg Road.
21. Discuss proposed stormwater detention location(s).

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

22. Discuss architectural details and orientation for B-1 buildings.
23. Discuss landscaping along access easement (B-1 to R-1T).
24. Discuss exterior lighting in the B-1 area.
25. Discuss timing of median closure on Harrodsburg Road.

Representation present – Matt Carter, representing Vision Engineering, requested a one month postponement to the May 11th meeting.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Berkley and carried 10-0 (Brewer absent) to postpone **PLN-MJDP-17-00015: ETHINGTON & ETHINGTON PROPERTY, TRACT 1** to the May 11, 2017, meeting.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 6, 2017, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Joe Smith, Frank Penn and Mike Owens. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee; Tom Martin; Jimmy Emmons; Denice Bullock; Chris Bronczyk; Cheryl Gallt; Captain Greg Lengal and Lieutenant Joshua Thiel, Division of Fire & Emergency Services; and Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

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

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

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

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

- a. **PLN-MJSUB-17-00015: HILLENMEYER PROPERTY WEST, UNIT 3, SEC. A (6/4/17)*** - located at 2801 Sandersville Road.
(Council District 2) **(Hall-Harmon Engineers, Inc.)**

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Increase font size.
10. Show Sandersville Road connection to Citation Boulevard.
11. Resolve timing of construction of Mable Lane to Sandersville Road.

- b. **PLN-MJSUB-17-00016: HILLENMEYER PROPERTY WEST, UNIT 3, SEC. B (6/4/17)*** - located at 2801 Sandersville Road.
(Council District 2) **(Hall-Harmon Engineers, Inc.)**

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.

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

5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Increase font size.

- c. PLN-MJSUB-17-00017: TUSCANY, UNIT 11-A (6/4/17)* - located at 2599 Old Rosebud Road.
(Council District 6) **(EA Partners)**

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote steep slope location on plan as shown on preliminary subdivision plan.
9. Change vicinity map to match direction of plan.
10. Denote that the corner lot will access the local street.

- d. PLN-MJSUB-17-00018: TUSCANY, UNIT 11-B (6/4/17)* - located at 2599 Old Rosebud Road.
(Council District 6) **(EA Partners)**

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote steep slope location on plan as shown on preliminary subdivision plan.
9. Denote that the corner lot will access the local street.

- e. PLN-MJSUB-17-00019: MYERS PROPERTY, UNIT 1-C (AMD) (6/4/17)* - located at 2441 Fieldrush Road.
(Council District 2) **(EA Partners)**

Note: The purpose of this amendment is to reflect the revised location of the sidewalk within the right-of-way of Fieldrush Road.

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. Denote name and address of property owner and developer on plan.
4. Addition of bearings and distance for right-of-way, per previous plat.
5. Addition of site statistics (zoning, street frontage...).
6. Addition of street address of adjacent lots on plan.
7. Addition of cul-de-sac/eyebrow detail on plan, per previous plat.
8. Revise Urban County Engineering's Certification, to the approval of the Division to Engineering.
9. Resolve "owner" signature for plat.

- f. PLN-MJSUB-17-00020: HILLENMEYER PROPERTY, UNIT 2-C (6/4/17)* - located at 744 Greendale Road.
(Council District 2) **(EA Partners)**

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. Department of Environmental Quality's approval of environmentally sensitive areas.

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

7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of note #21 from preliminary subdivision plan and clarify applicable areas on plat.
9. Clarify vicinity map.

- g. PLN-MJSUB-17-00021: HILLENMEYER PROPERTY, UNIT 2-A (6/4/17)* - located at 744 Greendale Road.
(Council District 2) **(EA Partners)**

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of note #21 from preliminary subdivision plan and clarify applicable areas on plat.
9. Denote Lots 1 & 90 shall not have access to Greendale Road.
10. Denote that the corner lot will access the local street.

- h. PLN-MJSUB-17-00022: HILLENMEYER PROPERTY, UNIT 2-B (6/4/17)* - located at 744 Greendale Road.
(Council District 2) **(EA Partners)**

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of note #21 from preliminary subdivision plan and clarify applicable areas on plat.
9. Include the remnant property behind Lots 68-72 on Greendale Road on plat.

- i. PLAN 2015-105F: PATCHEN WILKES TOWNHOMES (6/26/17)* - located at 2101 Patchen Lakes Lane.
(Council District 6) **(Eagle Engineering)**

Note: The Planning Commission originally approved this plan on October 8, 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Denote Amended Final Development Plan for townhomes' certification prior to plat recordation for Lots 1-8.
10. Denote Board of Adjustment's Administrative Appeal approval (A-2015-56).

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

The Staff Recommended: **Reapproval**, subject to the original conditions approved at the October 8, 2015, meeting.

- j. PLAN 2015-138F: ZANDALE SHOPPING CENTER, LOTS 2 & 4 (AMD) (6/21/17)* - located at 2220 & 2230 Nicholasville Road. (Council District 4) **(Endris Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots and create a utility easement. The Planning Commission originally approved this plan on December 10, 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.

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

5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
7. Correct plan title by adding "Amended."
8. Resolve location of "as-built drainage easement" that crosses the property not included as part of this plat.
9. Resolve timing of release of existing "20' drainage easement – PC 'F', Sl. 532" prior to recording.

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

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions approved at the December 10, 2015, meeting, adding one additional condition:

10. Denote as an "Amended" Final Record Plat in title block.
- k. PLAN 2016-2F: PATCHEN PLACE SUBDIVISION, UNIT 1 (6/21/17)* - located at 2800 and 2890 Richmond Road.
(Council District 5) **(Endris Engineering)**

Note: The purpose of this plat is to show the reconfiguration from three lots to four lots; to dedicate the service road right-of-way and create new utility easements. The Planning Commission originally approved this plan on February 11, 2016, 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. Addressing Office's approval of street names and addresses.
4. Urban Forester's approval of tree protection area(s) and required street tree information.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
7. If approved, denote date and ordinance of Gribbin Drive right-of-way closure, or revise plan boundaries.
8. Resolve compliance with the Richmond Road Landscape Corridor Ordinance.

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

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions approved at the February 11, 2016, meeting, adding one additional condition:

9. Revise plan preparer information on plan (removing Wheat & Ladenburger).
- l. PLN-MJDP-17-00018: WEBB PROPERTIES, UNIT 1 (REGENCY DEVELOPMENT) (KROGER STORE L-352) (AMD)
(6/4/17)* - located at 150 W. Lowry Lane. (Council District 10) **(The Roberts Group)**

Note: The purpose of this amendment is to add an 8 stall clicklist and 1,875 sq. ft. building expansion for the existing grocery store.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. 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. Update note #21 (2017).
- m. PLN-MJDP-17-00019: MAPLELEAF SUBDIVISION, LOT 10 (THRIVE CHURCH) (AMD) (6/4/17)* - located at 3162 Mapleleaf Drive.
(Council District 7) **(Brandstetter Carroll, Inc.)**

Note: The purpose of this amendment is to revise the building footprint, vehicular circulation and parking provided for Lot 10 and the overall site statistics.

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.

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3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. Correct type of plan to "Major" in title block.
 11. Clarify area of amendment on vicinity map.
 12. Addition of contour lines on area of amendment.
 13. Dimension walkways on plan.
 14. Denote construction access point on plan.
 15. Denote height of building in feet on plan.
 16. Update flood insurance rate map reference.
 17. Addition of arrows identifying traffic flow at entrance to Mapleleaf Drive.
 18. Clarify area labeled "8" on south side of building.
 19. Improve plan legibility (notes and metes & bounds description).
 20. Denote the use of Lot 10 (church, retail & restaurants), including area for outdoor seating and required parking generator, accordingly.
- n. PLN-MJDP-17-00020: EMBRACE UNITED METHODIST CHURCH (AMD) (6/4/17)* - located at 1001, 1003, 1015 and 1021 N. Limestone. (Council District 1) **(Vision Engineering)**

Note: The purpose of this amendment is to add one dwelling unit.

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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 6. Correct note #17 to reference the recorded minor consolidation plat.
 7. Denote approval of the Royal Springs Wellhead Protection prior to certification.
- o. PLN-MJDP-17-00021: JOE MONTGOMERY PROPERTY (PALOMAR CENTER) (AMD #20) (6/4/17)* - located at 3735 Palomar Centre Drive. (Council District 10) **(GRW Engineering)**

Note: The purpose of this amendment is to build a restaurant with a drive-through and relocate the above ground stormwater detention to an underground storm vaults.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and geotechnical report.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas and geotechnical report.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Denote address of plan preparer on plan.
12. Remove copyright information from plan.
13. Denote Board of Adjustment's approval of variance on plan.
14. Addition of tree preservation plan as required by Article 26 of the Zoning Ordinance.
15. Denote zoning on parcel to be developed.
16. Denote tree protection information on plan.
17. Denote address of property in title block.
18. Resolve timing of the building easement conflict resolution.

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

- p. PLN-MJDP-17-00024: MELBOURNE INDUSTRIAL PARK, UNIT 1-G, LOT 12-B (6/4/17)* - located at 892 Nandino Boulevard.
(Council District 1) **(Vision Engineering)**

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. 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. Denote review by the Royal Springs Aquifer Committee prior to certification.
10. Show access on adjacent properties.
11. Addition of sidewalk to building.
12. Resolve need for a finished floor elevation per plat information shown in Cabinet N, Slide 493.

- q. PLN-MJDP-17-00025: BOONE CREEK OUTDOORS (6/4/17)* - located at 8291 and 8385 Old Richmond Road and 8385 Durbin Lane (a portion of). (Council District 12) **(Barrett Partners)**

The Subdivision Committee 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. 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. Survey documentation that all tree canopy platforms are on property zoned A-N.
10. Document the removal of off-site elements of the tree canopy tour.

- r. PLN-MJDP-17-00026: HAWKINS, HAYDEN, RECTOR PROPERTY (BAPTIST HEALTH) (AMD) (6/4/17)* - located at 2100 and 2108 Nicholasville Road. (Council District 4) **(CMW)**

Note: The purpose of this amendment is to revise the layout for the building and parking on Lot 1.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. 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. Division of Environmental Quality's approval of geotechnical report and denote location of sinkhole.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Revise Purpose of amendment note.
12. Increase the font size for the numerical dimensions in the street cross-section on plan.
13. Denote parking requirements of buildings in site statistics.
14. Revise size of detention for new development area to the approval of the Division of Engineering.

- s. PLN-MJDP-17-00027: TATTERSALLS SQUARE, LOT 2 (AMD) (6/4/17)* - located at 867 S. Broadway.
(Council District 11) **(CMW)**

Note: The purpose of this amendment is to change the use of the building on Lot 2, modify the location of an access point and move a dumpster location.

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.

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

3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. 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. Identify boundary of property with a solid line.
- t. PLN-MJDP-17-00028: SHOPPERS CHOICE (IGA ROMANY ROAD) (AMD) (6/4/17)* - located at 344 Romany Road and 357 Duke Road. (Council District 5) **(Eagle Engineering)**

Note: The purpose of this amendment is to add 1,287 sq. ft. of buildable area.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. 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 zone-to-zone screening for adjacent properties on plan, or denote approved variance(s).
 11. Reduce front building canopy, location to meet 10' setback, or denote approved variance.
 12. Clarify or remove note #15.
 13. Resolve loading dock enclosure's conflict with existing 18' sanitary sewer & U. E.
 14. Provided the Planning Commission makes a finding on the tree canopy.
- u. DP 2015-90: MARATHON OIL CO. (SPEEDWAY SUPER AMERICA, LLC) (AMD) (6/21/17)* - located at 140 Mercer Road. (Council District 2) **(McBride Dale)**

Note: The purpose of this amendment is to add a fueling station for commercial trucks behind the existing gas station and convenience store. The Planning Commission originally approved this plan on October 8, 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 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. Restore and clarify all information for convenience store and site from previous plan.
11. Denote property description of adjoining Lot 2.
12. Reduce size of landscape island at northeast corner of convenience store to place it outside of easement.
13. Denote tree protection area as identified on current development plan.
14. Revise dimensions of storage shed to include gross area.
15. Resolve pedestrian access to Lot 2.
16. Resolve stormwater detention necessary for the proposed use.
17. Resolve 52' wide apron onto Mercer Road from convenience store lot.

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

The Subdivision Committee Recommended: **Reapproval**, subject to the original conditions approved at the October 8, 2015, meeting.

Mr. Sallee noted that PLN MJDP-17-00028: SHOPPERS CHOICE (IGA ROMANY ROAD) (AMD) requires the Planning Commission to make a finding on the tree protection standards. He said that the staff was in agreement with the applicant

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justification as to why they believe reducing the required standard from 20% to 16% was appropriate for this property (A copy of the applicant's justification and staff report are attached as an appendix to these minutes).

The Staff Recommends: **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 with little landscaping, due to no fault of the applicants own decisions.

Mr. Sallee stated that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, as has been recommended, unless there was a request for an item to be removed from consideration by a member of the Commission, or the audience, to allow an opportunity for discussion. (A copy of the Consent Agenda is attached as an appendix to these minutes).

Audience members requesting full discussion - Mr. Murphy requested that PLN-MJDP-17-00025: BOONE CREEK OUTDOORS be removed from consideration to permit further discussion.

Commission member requesting full discussion - There were none.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy and carried 10-0 (Brewer absent) to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee and the staff, removing PLN-MJDP-17-00025: BOONE CREEK OUTDOORS.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 10-0 (Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated April 13, 2017, from Barry Brock, Division of Engineering.
- C. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

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

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

1. FINAL SUBDIVISION PLANS

- a. PLN-MJSUB-17-00002: LEXINGTON MALL (CROSSFIT MAXIMUS) (AMD) (4/13/17)* - located at 2397 Richmond Road. (Council District 5) **(Abbie Jones Consulting)**

Note: The Planning Commission postponed this item at their February 9, 2017 and March 9, 2017, meetings. The purpose of this amendment is to subdivide one lot into two, and re-route a utility easement.

The Subdivision Committee Recommended: **Postponement**. This is a two-lot subdivision, but only one lot has been depicted on this plat.

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

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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
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 site statistics (lot acreage, frontage, zoning, number of lots).
9. Revise proposed 10' sanitary sewer easement to meet the 15' minimum requirement, per the Engineering Manuals.

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

10. Addition of access easement maintenance note as required by Art. 5-4(h)(1) of the Subdivision Regulations.
11. Denote reciprocal parking and access for the-proposed lots.
12. Revise Land Surveyor and Urban County Engineer's certification, and discuss possible need for a waiver from the Planning Commission.
13. Extend sidewalk easement onto remaining tract (Lot 2)-previously denoted on Cabinet R, Slide 385.
14. Discuss sanitary sewer service to new lot, and possible waiver.
15. Correct Planning Commission certification to reflect "major" certification, per the Land Subdivision Regulations.
16. Provided the Planning Commission makes a finding on the access easement (private driveway), per Article 6-8(m) of the Land Subdivision Regulations.
17. Include all of Tract A (Lot 2) on plat, per Article 5-4 of the Land Subdivision Regulations.

Staff Presentation – Mr. Bronczyk presented the staff's rendering of this plat and a revised staff report on the final record plat for PLN-MJSUB-17-00002, which included the following revised conditions:

The Staff Recommends: **Approval**, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
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 site statistics (lot acreage, frontage, zoning, number of lots).~~
- ~~9. Revise proposed 10' sanitary sewer easement to meet the 15' minimum requirement, per the Engineering Manuals.~~
8. 40. Addition of access easement maintenance note as required by Art. 5-4(h)(1) of the Subdivision Regulations.
9. 44. ~~Denote~~ Discuss the need for reciprocal parking and access for the proposed lots.
- ~~12. Revise Land Surveyor and Urban County Engineer's certification, and discuss possible need for a waiver from the Planning Commission.~~
10. 43. Extend sidewalk easement onto remaining tract (Lot 2) previously denoted on Cabinet R, Slide 385.
- ~~14. Discuss sanitary sewer service to new lot, and possible waiver.~~
- ~~15. Correct Planning Commission certification to reflect "major" certification, per the Land Subdivision Regulations.~~
11. 16. ~~Provided~~ Discuss whether the Planning Commission ~~needs to~~ makes a finding on the use of an access easement (i.e. private driveway), per Article 6-8(m) of the Land Subdivision Regulations.
- ~~17. Include all of Tract A (Lot 2) on plat, per Article 5-4 of the Land Subdivision Regulations.~~
12. Remove "dedicated" from access easement and private street notes.

Mr. Bronczyk indicated that the staff had spoken with the applicant just prior to today's meeting, and they decided that they would be using reciprocal parking; therefore, the findings for the access easement were no longer needed.

Commission Questions – Mr. Owens asked if this applicant was subdividing one lot into two lots. Mr. Bronczyk replied affirmatively. Mr. Owens asked why the property lines were irregular. Mr. Bronczyk replied that a portion of the lot is non-buildable due to the steep slopes, and Home Depot prefers to maintain that area, which is why the lot is shaped irregular. Mr. Owens said that the Zoning Ordinance states that irregular lots should be avoided. Mr. Bronczyk replied that was correct, but the Regulations do not prohibit irregular lots.

Representation – Rich Murphy, Abbie Jones Consulting, indicated that the applicant was in agreement with the staff's revised recommendation, and requested approval.

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

Commission Discussion – There was none.

Staff Comment – Mr. Sallee recommended that condition #9 should change back to read: "Denote reciprocal parking and access for the proposed lots" and delete condition #11 from the list of recommendations.

Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to approve PLN-MJSUB-17-00002: LEXINGTON MALL (CROSSFIT MAXIMUS) (AMD) as recommended by the staff.

- b. PLN-MJSUB-17-00013: COVEY RIDGE DEVELOPMENT CO. (LOT 1) (AMD) (5/7/17)* - located at 5531 Athens Booneboro Road. (Council District 12) **(S. Mark McCain, RLA)**

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

Note: The Planning Commission postponed this item at their March 9, 2017, meeting. The purpose of this amendment is to subdivide one lot into two lots and add an access easement.

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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Remove parking/access conflict and label all lots that are referenced in note #9.
10. Complete note #6 referencing "Chapter 16 of the Code Ordinance."
11. Correct plan title to "Amended."
12. Addition of name and address of owner/developer on plan.
13. Provided the Planning Commission grants the requested waiver to Article 6-6 of the Land Subdivision Regulations.

Staff Presentation – Ms. Gallt presented a rendering of this plat, an aerial photograph of the property and the staff's report on the final record plat for **PLN-MJSUB-17-00013**. She indicated that the Subdivision Committee had recommended approval, subject to the conditions listed on today's agenda.

Commission Questions – Mr. Berkley asked if the lot that is being subdivided to the rear has an access easement to it. Ms. Gallt replied that there is an access easement leading from Athens-Booneboro Road crossing through the subject site over to the rear lot.

Waiver Presentation - Mr. Martin presented the staff's report for the Findings for a Waiver of Land Subdivision Regulations for Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations, pertaining to the required provision of public sanitary sewer facilities to a proposed lot prior to the recordation of the record plat. He explained the request by the applicant.

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

1. Granting the requested waiver will not adversely affect public health and safety as the properties are currently served by previously approved private sanitary sewers and shall continue to be served by the existing system.
2. Not granting the requested waiver would constitute an exceptional hardship to the applicant by requiring the design and construction of a new sanitary sewer line prior to full development of the lot due to the site and system constraints.

This recommendation is made subject to the following requirement:

- a. Prior to certification of the final record plat, denote private sewer easements and notes regarding maintenance of the sanitary sewer lines, to the approval of the Divisions of Engineering and Water Quality.
- b. A minor amended final development plan, adding a note requiring a major amended final development plan for Lot 1-C be approved by the Planning Commission prior to issuance of a building permit for Lot 1-C, shall be certified.

Commission Questions - Mr. Penn asked why would the Planning Commission approve a development plan knowing it will be amended. Mr. Martin said that the applicant wants to create these two lots, but they have no plans on development the rear lot at this time. This is being done purely for financial reasons.

Representation – Mark McCain, indicated that the applicant was in agreement with the staff's recommendation, as well as the recommendation made on the waiver report, and requested approval. There is no future development proposed for the rear property at this time, as his client wants to divide the property in order to sell off the front lot.

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

Action - A motion was made by Ms. Mundy, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to approve **PLN-MJSUB-17-00013: COVEY RIDGE DEVELOPMENT CO. (LOT 1) (AMD)**, as recommended by the staff, including the approval of the waiver(s) to Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations, as recommended by the staff.

Note: Mr. Wilson commented that he asked the staff why some reapproval items appeared on the Consent Agenda where others did not. He then said that any plan over three years old must be presented to the Commission, which is why the next item must be presented to the full Commission.

- c. PLN-MJSUB-17-00027 (AKA: PLAN 2006-151F): GLEN CREEK, UNIT 3-C, SECTION 1 (DOVE CREEK) (7/4/17)* – located at 1145 Appian Crossing Way. (Council District 8) **(Thoroughbred Engineering)**

Note: The Planning Commission originally approved this plan on August 10, 2006, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Correct adjacent property information.
8. Provided all appropriate access easements are recorded to serve the properties.
9. Provided the Planning Commission makes a finding according to Article 6-8(m) and grants a waiver of Article 6-4(c) of the Land Subdivision Regulations.

The Planning Commission made a finding to Article 6-8(m) and granted a waiver of Article 6-4(c) of the Land Subdivision Regulations, for the following reasons:

- a. The proposed use of access easements is consistent with previously approved plans utilizing access easements as approved by the Planning Commission on a final development plan.
- b. Requiring public streets at this time would constitute an undue hardship for the applicant.

Note: The Planning Commission reapproved this plan on October 11, 2012, subject to the original conditions, modifying the following conditions:

3. Building Inspection's approval of landscaping ~~and required street tree information.~~
5. Urban Forester's approval of tree ~~preservation~~ protection plan and required street tree information.

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

The Staff Recommends: **Reapproval**, subject to the conditions approved for this plat at the October 11, 2012, meeting.

Staff Presentation – Mr. Martin presented the staff report and a rendering of the subdivision plan. He indicated that the Staff recommends reapproval, subject to the conditions listed on today's agenda.

Commission Discuss – Mr. Wilson asked how many times a plan can be reapproved. Mr. Martin replied until the Commission says "enough is enough" and requests something different be presented.

Representation – No one was present at today's meeting for the applicant.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Richardson and carried 10-0 (Brewer absent) to reapprove **PLN-MJSUB-17-00027 (AKA: PLAN 2006-151F)**, as recommended by the staff.

2. DEVELOPMENT PLANS

- a. PLN-MJDP-17-00025: BOONE CREEK OUTDOORS (6/4/17)* - located at 8291 and 8385 Old Richmond Road and 8385 Durbin Lane (a portion of). (Council District 12) **(Barrett Partners)**

The Subdivision Committee 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. 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. Survey documentation that all tree canopy platforms are on property zoned A-N.
10. Document the removal of off-site elements of the tree canopy tour.

Staff Presentation – Mr. Martin presented the staff report and a rendering of the final development plan for **PLN-MJDP-17-00025**. He indicated that the Subdivision Committee recommended approval, subject to the conditions listed on today's agenda.

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

Representation – Richard Murphy, attorney, was present along with Tony Barrett, Barrett Partners, and Burgess Carey, applicant. He explained that in the beginning there were discussions concerning whether or not some of the tree stands were on his client's property or the neighboring property (Mr. Park). He said that they assumed that the first survey was done correctly, but due to the complaints about the neighboring property, a new survey was conducted to ensure that the property lines were correct. The new survey indicated that at least three trees to the north were in fact on the neighboring property. He said that since both property owners believed the fence line was the property line, it was suggested that they could enter into a property line agreement to establish that the fence line was the property line. His client took the more conservative approach by disconnecting those trees from the canopy tour and rerouting the lines in a different direction, resulting in one less line on the tour. He said that under the new survey the tree canopy lines are now located on his client's property, adding that there is one tree that straddles the property line.

Mr. Murphy said that, if a tree trunk straddles a property line, the tree is under the ownership of both property owners. In other words one property owner cannot cut the tree down without the permission of the other property owner. He then said that for this one tree, his client removed part of the platform that overhanging on the neighboring property.

Mr. Murphy indicated that they were in agreement with the staff's recommendation; however, as for condition #10 the tree platforms are now on the neighboring property and before his client can enter that property to remove any platform, he must have the property owner's permission. He then said that that have contacted the property owner and they have instructed his client he does not have permission to remove any platform. He added that they understand the concern with the canopy tour going onto the neighboring property, so he would offer the following substitution for condition #10 "Document that no platforms will be located on the Park property and no participants will enter the Park property." He said that since they do not have permission from Mr. Park, they cannot enter his property to remove a platform.

Commission Question – Mr. Penn asked if his client had permission to disconnect the lines. Mr. Murphy replied affirmatively, and said that Mr. Park was aware that his client removed the lines. Mr. Penn said that for as long as this issue has been going on, it is strange that his client could disconnect the lines, but now he cannot remove the platform from the trees. He then said that the platforms are the property of Mr. Carey, he paid for them, he installed them, he even disconnected them, and now he wants the Planning Commission to believe that that the platforms cannot be taken down. Mr. Murphy said that he is reporting the facts as they are, and Mr. Park was aware that his client disconnected the lines. They have asked him for permission to enter his property and Mr. Park has refused. He then said that he cannot read Mr. Park's mind, but he did indicate that he may have use for those platforms. He then said that if improvements are made to a neighbor's yard by mistake, you cannot take those improvements out.

Mr. Berkley said that condition #10 already indicates the platforms are to be removed. He then said that the platforms are decommissioned and no longer on the tour. Ms. Jones said that if she had been at the Subdivision Committee last week, she would have had a problem with the wording of this condition. She then said that the way she understands the discussion, it was not about the removal of the lines connecting the tree, but it was about the removal of the platforms. She added that there are other issues going into this that are of not real issue to her strictly from a legal standpoint and what Mr. Murphy is saying is now there is a property line established that everyone is in agreement with, no matter who located the platforms, those platforms are on Mr. Park property. Mr. Park is going to have to let people on his property to remove those platforms. She said that Mr. Park has advised her that at this time he is not giving permission for the platforms to be removed for a series of personal reasons. She understood the Committee's concerns, but she would have a problem with leaving the conditions as it reads.

Mr. Berkley said that he was not present at the Committee meeting and he does not see how the Commission can impose a condition on the applicant when it is not the applicant's property. He then said that condition #10 should be removed from the consideration.

Mr. Penn said that the zone change to A-N was granted because of the testimony given by Mr. Murphy and the applicant, who stated that if the platforms were on someone else's property those platforms would be removed, not disconnected, but removed. He then said that in most situations that can be worked out and in this situations he would like to put this to bed and be done with it. He added that with the Commission going down this road, it is not being put to bed, but rather the can is being kicked down the road.

Ms. Mundy said that she agreed, but she also understands that if Mr. Park is not willing to allow Mr. Carey onto his property, then Mr. Carey's hands are tied. She then said that Mr. Carey did commit to remove the platforms without the knowledge of knowing those platforms were on Mr. Park's property. She sees both sides to this problem, but it bothers her when the Commission is asking someone to break the law and trespass onto someone else property.

Mr. Penn said that the zone change vote would not have been unanimous had they not given their statement those platforms would be removed, even if the platforms were on someone else's property. He then said that this needs to be cleaned up and put to bed, and the platforms need to be removed. Ms. Mundy said that she agreed, but there is a property owner who is saying you cannot trespass on my property. She then said that the applicant did not know the platforms were on the adjacent property when he made that commitment.

Ms. Plumlee said that everyone believed in the process, but in this case, the substance of the process was flawed. She then said that the Commission was essentially fibbed to and shenanigans were done from the get-go. This type of situation does not surprise her and she has seen the loss of a moral compass with this situation. She said that the applicant appeared not too long ago, and he has robbed the staff of their time, he has robbed the Planning Commission of a commitment and he has robbed himself of self-respect.

Ms. Plumlee said that the Legal Department was speaking to only platforms, but the Commission was not only speaking to platforms, but they are speaking to all of equipment, such as platforms, connecting lines and guy wires. She then said that there is a lot of equipment that needs to come down and she believes that those trees will be connected at some point as it was intended in the beginning. There needs to be a solution to this. She indicated that she knows the legal aspect and she knows Mr. Park, but the lawyers, who get around the legal issues, which is why they exist.

Mr. Drake said that there is a legal barrier that makes this a simple question. He said that the applicant initially installed the platforms on Mr. Park's property, but now Mr. Park owns those platforms and the applicant does not have the right to take those down. He added that whatever has transpired to bring everyone to this point is now irrelevant and the only question now is whether or not Boone Creek Outdoor can remove the platforms as they agreed to do. He asked if there is a legal barrier preventing them from removing the platforms, if so then all of the arguing is moot. Ms. Jones indicated that she was in agreement, and said that when something is installed on someone else's property, knowingly or not knowingly, that installation becomes their property. The other problem as Ms. Mundy alluded to, which is another legal hurdle, is to ask or make a condition for a development plan that is not on another piece of property and not of someone else, to make it a condition on this development plan, and this concerns her. She said that she is going out on a limb, and she may regret it, but it seems to her the issue, as Mr. Drake said, it is what it is, as of today and all of these other things coming into play, if the point is not to have the line connected then she does not understand why the current condition would not work. If there is some reconnection of the line, which there is no indication that will happen, but if by some chance there was a reconnection of lines from Mr. Carey property to Mr. Park's property, which Mr. Park has informed the Law Department he does not want, then that would be a zoning violation and a zoning violation is also a violation of the conditional use permit.

Mr. Penn asked how can the Commission use Mr. Murphy's suggestion and accomplish what has been discussed. Mr. Berkley said that the new platforms are denoted on the development plan, which documents the fact. Ms. Jones said that the Commission can delete condition #10, if they chose to. Mr. Wilson asked if condition #10 was acceptable to the Commission or does it need to be reworded. Mr. Penn replied that is what he was asking. Ms. Jones said that Mr. Murphy's suggestion is acceptable, but instead of referring to the Park property, she suggested referring the condition by the address. She then said that 10 years from now Mr. Park may not own that property. Mr. Penn asked if "adjoining property" could be used. Ms. Jones replied that the address of Mr. Park's property should be used rather than his name. She also suggested that no participants of the Boone Creek Adventures will enter the address of Mr. Park property.

Mr. Owens asked if it would be simpler and more specific to limit any and all participants only to the Boone Creek depicted on the development plan. Ms. Jones replied the Commission could do that. Mr. Owens said that the condition would prohibit the Park and surrounding properties since the conditional use is pertaining to zone change application and this property right now. Ms. Jones replied that is true and the Commission could do that as well. Mr. Owens said that instead of identifying Mr. Park property, but limit the participants specifically to the Boone Creek property as depicted on this development plan being discussed. Ms. Jones said that the Commission could make that condition instead of Mr. Murphy suggestion.

Mr. Wilson asked if condition #10 could be cleaned up for the Commission to review.

Ms. Plumlee asked where the horse trails were located on the development plan. Mr. Murphy said that they would be having canoes down by the creek, and the creek is state waterway. Mr. Barrett pointed out the location of the equine trail and said that it would follow the same old mill wagon trail, which is part of the hiking trail. Ms. Plumlee said that she recalls at the zone change hearing the applicant stated that there would be no horses or lamas on the property, so she is wondering why there is a horse trail. Mr. Murphy said that that discussion occurred at the Subdivision Committee meeting, so they reviewed the audio from the October zone change hearing that was held in the in the Phoenix Building, and as far as the platforms, the audio indicated at 02:16:20, he (Mr. Murphy) said to "*make it a condition of your approval all our platforms have to be on Mr. Carey's property.*" Then the audio also indicated at 02:46:10 either Mr. Carey or himself said "*there is no plan to stable any animals on Mr. Park's property.*" He said that there was suspension from the neighbors that animals would be stabled on Mr. Park's property and then brought over to Mr. Carey property. Mr. Murphy said that the audio also shows at 02:46:50 Mr. Carey saying "*I live on the other side of Mr. Park and I've got a barn where I've got my lamas and horses and actually Jane is raising her hand and I assume the Snyder's would allow us to use their land*" then Ms. Snyder said yes. Mr. Murphy said that the Snyder property is to the south, and he recalls from the zone change hearing, whether or not Mr. Park property would be used for stables and reviewing the audio and to clarify it would not.

Ms. Plumlee said that she recalls the applicant saying about the horses and lamas that he threw every condition that he could think of and that included the horses. She then said that the applicant said if the Commission wanted

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

horses out then he would take them out. Mr. Murphy said that the applicant may have offered to take out the horses, but horses were not voted as a condition of approval, and horses are allowed on the property.

Citizen Comments – Alex Martin, residing at 7041 Grimes Mill, said that his family along with the neighborhood has been in opposition to this project. He asked if there will be horse stables on this property; if so, will they be trailering the horses from Mr. Carey's property on the other side of Mr. Park's property or will the horses be walked over. He then asked if the horses are being stabled on a different property should the stables be shown on this development plan.

Mr. Martin said that it was mentioned that a nonconforming building is on this property and cannot be expanded. He then said that decks have been expanded to the non-conforming building. If the Zoning Ordinance says a non-conforming use cannot be expanded does that also include density? He said that the building was the caretaker's residents and now the building will be the caretaker residents, gift shop and a welcome center.

Mr. Martin noted that Mr. Murphy said that the one tree that straddles the property line was owned by both parties, Mr. Park and Mr. Carey. He asked if the tree ownership is split by branches, down the middle or do you own the whole tree together; if so, can the tree be there if it is owned by both properties. He said that Mr. Park's property is part of the PDR program and it cannot have commercial use that was not designated and preapproved before it was accepted in to the PDR program.

Mr. Martin said that you can kayak in the stream, but the Boone Creek is listed as blue water stream and has been designated as a flood prone stream by FEMA. He said that if a person goes upstream and they have to portage, the State of Kentucky law is actually on the land owner's side, because portaging is not allowed on Boone Creek due to the risk of being hurt. He said that at one point a condition for a boundary fence was mentioned, but the Planning Commission believed that to be extreme, and asked if signs would be acceptable. He asked if condition #10 could also list the participants on neighboring properties because they do not want people on Mr. Park's land or their land.

Mr. Martin asked if guy wires are still connected to the trees on Park property. He then said that no one from the neighborhood has been on site to see if the guy wires have been disconnected. He then asked before the development plan is approved can someone from the neighborhood association go on site with the city to ensure that there are no guy wires connected.

Mr. Martin said that as for the platform not being removed from the Park property, he asked that if you have a friend, a previous lawyer for Boone Creek Properties with some platforms built on his property, if the Planning Commission denied the final development plan, you would see that Mr. Park was willing to remove the platforms from his property. He said that he attended the zone change hearing and he heard the applicant say we will remove any aspect of this from the Park property. He said that the Commission can say that the final development plan will not be approved until the platforms are removed. At that time, the Commission will see that Mr. Park is willing to have Mr. Carey remove the platforms.

Petitioners Rebuttal – Mr. Murphy said that they wished Mr. Park would say "Go ahead a rip those things down." That would be the easy way to resolve this. He is not Mr. Park's attorney and he cannot tell Mr. Park he has to agree to their removal. That is the situation they are in and they understand why the condition was placed on the development plan. He said that this proposal is also in front of the Rural Land Management Board as well and the Commission needs to realize that Mr. Carey's property is in front of the Commission and Mr. Park's property is in front of the Rural Land Management Board due to a complaint that has been made claiming that he had made a commercial use of his property by having the platforms on his property, even though he was not aware of it.

Mr. Murphy said that at this point they cannot resolve the platforms on Mr. Park property and the Commission's approval only relates to Mr. Carey's property. He then said that the platforms on Mr. Park's property can be used as he sees fit, whether it be for a tree house or an observatory.

Mr. Murphy submitted a newspaper exhibit and briefly explained that the building sitting on the subject property has been at this location since 1973, and it will be used as the welcome center on US 25. He said that there was a discussion about decks and the staff noted that the building cannot be expanded beyond certain lines and they have agreed to that term. He then said that this is a valid non-conforming use and the visitor center will be an accessory use to the canopy tour.

Mr. Murphy said that he reviewed the staffs proposed wording for condition #10 and one of the parts that is approved for this request is canoes and people have the right to use the creek. He is assuming that the proposed language is not limiting where canoes can go that might enter the waters from Boone Creek. He asked if his assumption is not correct and this language does limit where the canoes can enter the water, then they would like to clarify the proposed condition #10 does not apply to canoes using Boone Creek. He said that they are agreeable with all participants being on Mr. Carey's property because all participants will be on Mr. Carey's property. He then said that they regret the situation that everyone is in and this has become much more than a dispute over the canopy tour. There are very strong feelings on both sides and both sides believe the other side is part of some kind of conspiracy.

Mr. Murphy said that both parties assumed that the first survey was done correctly and the platforms were on Mr. Carey's property, but with the new survey it shows that property lines were incorrectly marked. He said that they could have made the boundary line where the old fence is located, but they took the more conservative approach by accepting the new survey, disconnecting those trees from the canopy tour and constructing new lines in a different direction. He said that they would like to remove the platform from Mr. Park's property but they have to respect the property owners rights and his ability to say no.

Mr. Murphy said that horses are an agricultural use and he does not want to get into a situation of preventing the use of horses on an agricultural property. He then said that this is where they are at and they wanted to inform the Commission and they have done everything they can to remedy the situation.

Citizen Rebuttal – There was none.

Staff Comment – There was none.

Commission Questions – Mr. Owens said that there are parking restrictions on this development plan and asked if trailering of horses is being allowed. Mr. Saltee indicated that Ms. Kaucher replied negatively. Mr. Owens said that if there is no stable and there is no trailering of horses his concern is how the horses will get to the property. Mr. Penn said that they could walk down the road. Ms. Kaucher said that in reviewing the development plan, it is showing the typical 9x18 parking spaces and nothing is being called out for a larger vehicle.

Mr. Owens said that the canoe and kayaks is a given and he would like to make sure that any participants of canoeing and kayaking would not portage onto other people's property. He then said that the only thing that can be done is erecting signs or offering such instructions. Mr. Murphy said that they are agreeable to the proposed language for condition #10, and Mr. Carey has indicated that he is agreeable to no trailering of animals/horses to this property. Mr. Owens asked if this could be added as a condition.

Mr. Wilson asked if no trailering of horses is to be added to the list of recommendation or conditions. Mr. Owens agreed. Mr. Wilson confirmed that there will be "No trailering of horses on Boone Creek."

Commission Discussion – Mr. Owens said that Mr. Murphy has been involved with this case for three years, but if feels like 20 years. He then said that they have a development plan that was eligible for the Consent Agenda and it has come a long way. It concerns him as to how they got here with the statements that have been made throughout this process. Mr. Park was in favor of Boone Creek and he was very knowledgeable of what was going on and he was present at the zone change hearing. It seems very strange that Mr. Park would now say "No, I don't want this to occur." But it is what it is. He said that they will see more down the road and hopefully it will go much easier than the last five years.

Mr. Penn said that he has also been involved in this process since the recreational ZOTA and a lot has been accomplished and it wasn't easy. He then said that the zone change was the result of the text amendment and he is proud of that accomplishment. This has been the toughest thing he has reviewed during his time with the Planning Commission and the reason for it is the animosity on both sides of the fence. Mr. Penn said that he sits on the Rural Land Management Board and the Planning Commission, and the ability to take the platforms down would have helped Mr. Park, so he has the same problem as Mr. Owens. He then said that he does not understand why Mr. Park is doing what he is doing and it just makes everyone take another step forward and it is not the Planning Commission's issue. He added that the problem could have been solved if the platforms were taken down. The reason he is saying this on the record is 1) he is getting it off his chest and 2) he is painting the context. He said that the context is the applicant has a business going forward that he has been very persevering on and he admires his business. He is glad that the A-N zone was able to be done but sooner or later we have to stop promising things that cannot be delivered and find the reason why it can't be delivered. He commented he could vote no, and try to stop this. He said that he believes condition #10, as the legal department has crafted it, alleviates a lot of his concerns. He then said that there has to be faith on both sides but he has a real problem with the applicant saying Mr. Park will not allow the platforms to come down. It will not stop him from voting in favor of this request because he believes the applicant has the right to do his business on his own property and he is certainly not going to stand in the way of that. He added that he does not appreciate statements to be made then coming up with reasons why something cannot be done, even though Mr. Park has a valid reason as to why the platforms cannot come down, he also had a valid reason to let the applicant take the platforms down.

Mr. Drake said that he does not feel compelled to defend Mr. Park but he does have sympathy for him. He then said that by whatever course something wound up on his property that he liked, it his and if he likes it, he's going to keep it. He added that he does not see what Mr. Park is doing is illogical. Again, he said that he is not saying this because he is compelled to defend Mr. Park, and it seems pretty simple and straight forward.

Ms. Richardson said that she is fairly concerned with what she had heard from the Commission. She then said that some of the Commission members have made actuations as to what someone else is going to do at some point in time. She added that she does not have a magic ball and she cannot predict the future and she certainly not going to accuse someone of doing something when they haven't done it. She said that she is very bothered by this and this

was not the purpose of this to come before the Commission today. She then said that there was a specific purpose and she is rather upset with the fact that people are not willing to take someone at their word or at least until something goes wrong. She indicated that if the lines go across the property line it will be back in front of the Commission. She said that she is not going to accuse them of a conspiracy to do this at this point in time.

Ms. Plumlee said that future performance is usually dedicated by the past performance. It's history and if you look at the history of this application, it has not been smooth, but it's been rough. She then said that at this point she does not know if the application will be rough or smooth, but she would vote on rough.

Mr. Wilson said that for those who are members of the community this is what happens when you have some form of mistrust and everything is nuance and everything is parsed.

Mr. Owens indicated that he would have to agree with Mr. Wilson and the Commission needs to make sure that every "T" is crossed and the "I's" are all dotted.

Action - A motion was made by Mr. Owens, seconded by Mr. Drake to approve **PLN-MJDP-17-00025: BOONE CREEK OUTDOORS**, as recommended by the staff, changing condition #10 to read: "The participants in Boone Creek Outdoors activities depicted on PLN-MJDP-17-00025 will be limited to only the property shown on PLN-MJDP-17-00025, other than canoes/kayaks on Boone Creek," and adding condition #11 to read: "No trailering of horses or Lamas on Boone Creek property."

Discuss of motion - Mr. Cravens asked how the horses will get to the property. Mr. Wilson indicated that he did not know. Mr. Cravens said that he did not understand and asked, isn't this the horse capital? Mr. Owens replied it was for sure. Mr. Cravens commented that you can't trailer a horse onto a piece of property. Mr. Penn replied its not trailering its parking.

The motion carried 9-1 (Plumlee opposed; Brewer absent).

- b. **PLN-MJDP-17-00030: MASTERSON STATION CENTER (CITATION VILLAGE) (AMD) (6/4/17)* - located at 2632 and 2656 Abigail Way. (Council District 2) (EA Partners)**

Note: The purpose of this amendment is to add a right-in/right-out access point to Leestown Road.

The Subdivision Committee 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Addition of outdoor seating (patio) area in site statistics for Outlots 1 & 2 restaurants.
7. Addition of building on Outlot 4 with gas pumps, with dimensions (per site statistics).
8. Addition of walkways on Outlots 3 & 5 (as per Outlots 1 & 2).
9. Provided the Planning Commission grants a waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations.

Staff Presentation – Mr. Martin presented the staff report and a rendering of the development plan, as well as the staff's report for the Findings for a Waiver of Land Subdivision Regulations for Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations, pertaining to the required provision of public sanitary sewer facilities to a proposed lot prior to the recordation of the record plat. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

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

1. The requested intersection wavier will have no negative impact on public safety to vehicles or pedestrians, which is consistent with the basic intent of the Land Subdivision Regulations. Commercial uses may access arterial roadway.
2. Strict enforcement of the access spacing requirements would constitute a hardship for the applicant and potentially could have a negative impact on public safety due to existing and increasing traffic pressures in the area of Robinson Way and Ferndale Pass.

This recommendation is made subject to the following additional requirement:

- a. The proposed de-acceleration lane for the right in entrance to the subject site must be designed to the approval of the Division of Traffic Engineering.

Representation – Bruce Simpson, attorney, indicated that the applicant was in agreement with the staff's recommendation and requested approval.

Commission Question – There was 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. Cravens, seconded by Mr. Smith and carried 10-0 (Berkley abstained; Brewer absent) to approve **PLN-MJDP-17-00030: MASTERTON STATION CENTER (CITATION VILLAGE) (AMD)**, as recommended by the staff, including the waiver to Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations.

3. **PLAT REVOCATION**

- a. Note: The following plan is requested for revocation pursuant to KRS 100.285.

PLN-MNSUB-16-00031: ELKHORN PARK SUBDIVISION, BLOCK 10, LOTS 3 & 4 (7/3/17)* - located at 1737 and 1743 Woodlark Avenue. (Council District 1) **(Wes Witt)**

Staff Presentation –Mr. Martin presented the staff report and a rendering of the approved subdivision plan. He indicated that the Staff recommends approval of the plat revocation. He submitted information to the members to indicate KRS 100.285 was being met with this request.

Representation – No one was present at today's meeting for the applicant.

Commission Question – There was none.

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 10-0 (Brewer absent) to approve the plat revocation for **PLN-MNSUB-16-00031: ELKHORN PARK SUBDIVISION, BLOCK 10, LOTS 3 & 4**, as recommended by the staff.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, March 2, 2017, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members Patrick Brewer, 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)

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. **TAYLORMADE REAL ESTATE, LLC ZONING MAP AMENDMENT & WYNNDALE SUBDIVISION ZONING DEVELOPMENT PLAN**

- a. **PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC (5/7/17)***- petition for a zone map amendment from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 3.77 net (4.80 gross) acres, for property located at 1580 Higbee Mill Road (a portion of). A conditional use permit is also requested.

COMPREHENSIVE PLAN AND PROPOSED USE

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

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 Comprehensive Plan encourages identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2); providing for accessible community facilities (Theme D, Goal #2); and encourages the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3).

The petitioner proposes a Planned Neighborhood Residential (R-3) zone for the subject property in order to construct a childcare center. A conditional use permit for this use has also been submitted in association with the requested rezoning.

The Zoning Committee Recommended: **Approval.**

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

1. A restricted Planned Neighborhood Residential (R-3) zone at this location would be in agreement with the 2013 Comprehensive Plan, for the following reasons:
 - a. The Goals and Objectives of the Plan identifying opportunities for infill, redevelopment and adaptive reuse that respect the area's context and design features (Theme A, Goal #2a.); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a., #1b. and #3). In addition, the staff would note that the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d.); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a.).
 - b. Although not explicitly considered a "community facility" by the 2013 Comprehensive Plan, childcare centers and after-school care for children are a necessary service in support of the community's public school system, which is a designated community facility. Locating such uses near residential neighborhoods is appropriate to provide services to the immediate area in a convenient manner.
 - c. The proposed development will utilize vacant property along Man o' War Boulevard, and such higher intensity of use is appropriate along minor arterial corridors, where the direct impact on established neighborhoods can be minimized.
 - d. By improving and utilizing the existing crossing for the South Elkhorn Creek and its floodplain, rather than modifying the FEMA floodplain, the natural features of the property can be protected in a more thorough and comprehensive manner. The proposed child care center is located outside of the FEMA 100-year floodplain, and its associated setback and riparian buffer.
2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00011: Wynndale Subdivision, Lot 2B, 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 use restriction is recommended via conditional zoning for the subject property:
 - a. Multi-family residential dwelling units shall be prohibited.

This restriction is appropriate because it has been offered by the applicant in order to protect the adjacent residential properties to the north of the subject property.

- b. REQUESTED CONDITIONAL USE – Child care center.

The Zoning Committee Recommended: **Approval.**

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

- a. Granting the requested conditional use will not harm the public health, safety or welfare, and will not adversely affect the character of the subject or surrounding properties. The proposed use will be situated along Man o' War Boulevard, and screened from the nearest residential uses north of that arterial by a number of trees and some vegetation currently located in and adjacent to the existing floodplain and creek which traverses the property.
- b. This use is intended to allow an existing facility in the general area to relocate and expand on the subject site. Most traffic to and from this center will utilize Man o' War Boulevard, given existing travel patterns to the CCN facility located in the Millpond Shopping Center on Boston Road by its clientele.
- c. On-site parking will be provided on the subject site, as will a very large outdoor play area for children being cared for at this child care center.
- d. All necessary public services and facilities are available and adequate to the subject site, provided sidewalks are installed as currently proposed. Sanitary sewers, fire & police protection and all public utilities are provided in this portion of the Urban Services Area, and available to this location.

This recommendation of approval is made subject to the following conditions:

1. Provided the Urban County Council rezones the property R-3; otherwise, any Commission action of approval is null and void.
 2. The subject property shall be developed according to the submitted Zoning Development Plan, or as further amended by the Planning Commission.
 3. The proposed use shall be operated in accordance with the submitted application provided by the applicant.
 4. All necessary permits, including a Zoning Compliance Permit, Fence Permit and Certificate of Occupancy, shall be obtained from the Divisions of Planning and Building Inspection prior to occupancy of this child care center.
- c. PLN-MJDP-17-00011: WYNNDAL SUBDIVISION, LOT 2B (5/7/17)* - located at 1580 Higbee Mill Road.
(Vision Engineering)

Note: The Planning Commission postponed this item at their March 23, 2017, meetings.

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

1. Provided the Urban County Council rezones the property R-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. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Clarify TPP to match 55% canopy to be provided (denote tree removal area).
8. Complete tree inventory information (tree diameters required by Article 26 of the Zoning Ordinance).
9. Addition of pedestrian access to the cross-section CC.
10. Resolve emergency access during 100-year flood event.
11. Resolve future maintenance of 20' access easement.

Zoning Presentation – Mr. Sallee presented and summarized the staff report and staff recommendations for this zone map amendment. He indicated that the applicant has requested a change from a Townhouse Residential (R-1T) zone to a Planned Neighborhood Residential (R-3) zone, for 3.77 net (4.80 gross) acres, for a portion of the property located at 1580 Higbee Mill Road. He presented a PowerPoint presentation, and briefly explained the existing zoning and land use of the subject and surrounding area. He also provided a series of photographs of the area and gave a brief description of each.

Mr. Sallee indicated that a little more than a year ago, the properties to the north and west, as well as the subject property, had been proposed for an apartment development. He said that, at that time, even though the subject property was part of an R-3 zone change request, which they opposed, the staff felt the subject property was better suited for a higher intensity of use. He then said that the petitioner believes that the proposed rezoning is in agreement with the 2013 Comprehensive Plan because the Goals and Objectives encourage identifying opportunities for infill, redevelopment and adaptive reuse that respect an area's context and design features (Theme A, Goal #2a); providing accessible community facilities (Theme D, Goal #2); and encouraging the development of underutilized and vacant land in a compact, contiguous and/or a mixed-use sustainable manner within the Urban Service Area (Theme E, Goals #1a, #1b and #3). In addition, the Goals and Objectives of the Plan also encourage providing for well-designed neighborhoods (Theme A, Goal #3); minimizing disruption of natural features when building new communities (Theme A, Goal #3d); and identifying and protecting natural resources and landscapes before development occurs (Theme B, Goal #3a). The staff was in agreement with the petitioner's justification.

Mr. Sallee then said that child care centers and after-school care for children are a necessary service in support of the community's employers and public school system. He explained that locating the higher density and intensity uses, such as a daycare center, along minor arterial corridors (Man o' War Boulevard) is more appropriate since the direct impact on an established neighborhood can be minimized. The petitioner has offered a conditional zoning restriction in response to neighborhood concerns from last year's zoning hearing, regarding high density residential development at this location. For this reason, the staff recommends that a conditional zoning restriction be placed on the property.

Mr. Sallee said that the staff did recommend approval of the proposed zone change, as did the Zoning Committee, for the reasons listed on today's agenda.

Zoning Development Plan Presentation – Mr. Martin presented the staff report and a rendering of the corollary zoning development plan. He indicated that the Subdivision Committee recommended approval, subject to the conditions listed on today's agenda.

Mr. Martin explained that there were two issues with the access easement (condition numbers #10 and #11) and those included how to access the property during the 100-year flood event and the future maintenance of the 20' access easement. He said that since this a preliminary plan, the applicant had stated that on the final development plan they intend to replace the crossing and elevate it above the 100-year flood event to allow emergency vehicle to cross over to the subject property. He then said that, since there will be two properties sharing the access easement, the applicant will need to state on the final development plan who will be responsible for the maintenance of the access easement. Mr. Martin recommended the following changes:

10. Resolve emergency access during 100-year flood event at the time of the Final Development Plan.

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

11. Resolve future maintenance of 20' access easement at the time of the Final Development Plan.

Conditional Use Presentation – Mr. Sallee indicated that the staff has received a number of communications in support, as well as two email correspondences in opposition of this application and he presented those to the Commission at this time. He summarized the staff report, and briefly explained that a child care, independent of a church, is considered a conditional use; and since the child care center is associated with a zone change, the Planning Commission has the power and responsibilities to act as the Board of Adjustment and issue a conditional use permit, should the subject property ultimately be approved for the zone change.

Mr. Sallee said that the child care center is setback about 35' from the Man o' War Boulevard right-of-way and the parking lot separates the center from the Clays Mill Road access easement. Both the building and parking area, as well as the play area are outside the floodplain area. He said that the treed area will remain "as is" in the northern floodplain area, which is very significant to the conditionals use permit. He then said that transportation will be provided by the center to and from Stonewall, Picadome, Wellington, and Clays Mill Elementary Schools, and they are proposing child care for about 100 children at this location. He said that with the child care relocating to this area, the staff is estimating that the facility will generate about 50 peak hour trips with most of the traffic coming from Man o' War Boulevard.

Mr. Sallee said that the staff determined the relocation of the child care facility to this location will not will not harm the health, safety or welfare of the existing neighborhood, and all public facilities are adequately available for the proposed use, which is important when approving a conditional use permit. The Zoning Committee, as well as the staff is recommending approval, subject to the conditions listed on today's agenda.

Petitioner Presentation – Nick Nicholson, attorney, Jake Riordan, Taylormade Real Estate and Matt Carter, Vision Engineering and Mellissa Canberra, Childcare Network was present. He indicated that his client was in agreement with the staff's recommendations, and requested approval.

Childcare Network understood the neighborhoods concerns of having a higher density residential development at this location, and this is why they offered the conditional zoning restriction on this parcel to prohibit multi-family development from being built unless the Planning Commission approved a new zone change application.

Mr. Nicholson distributed the Traffic Impact Study to the Commission and gave a brief explanation of each tab in his packet of exhibits. He said that the reason they postponed this application at last month's hearing was to make sure they had completed a traffic study and to analyze the turning movements, specifically the left turn movement off Higbee Mill Road to Clays Mill Road and the left turn movement from Clays Mill Road to Higbee Mill Road. He then said that Clays Mill Road is a state road and not controlled by the city, so any new improvements would need the approval of the state. He explained that Clays Mill Road now has five lanes with two lanes dedicated for turning left or right onto Man o' War Boulevard. He said that the state determined that stacking of the cars would be more beneficial coming off of Clays Mill Road than any type of dedicated turn onto Higbee Mill Road. By having the traffic move this way, it helps disperse the traffic and maintain the Level of Service for this area. He then said that this application will not have may impact on the level of service for Clays Mill Road, and as for Higbee Mill Road there will be a one second change in the AM peak hours and a five second change in the PM peak hours. He said that there will be no stop and go traffic on Clays Mill Road, but rather the traffic will freely flow through the area.

Mellissa Canberra, Childcare Network, gave a brief history of her background and that of the Childcare Network. She said how important it is for the parents to have safe, reliable and educational environment for their children of all ages. She explained the current conditions of the Childcare Network in the Millpond Shopping Center and why they are requesting this zone change to relocate their facility.

Mr. Nicholson noted that the Traffic Impact Study does include the approved townhomes development just off site.

Commission Questions – Mr. Drake asked if the Traffic Impact Study indicates future Level of Service after the development is completed. Mr. Nicholson replied affirmatively.

Mr. Wilson asked if the Traffic Impact Study was shared with the staff. Mr. Nicholson replied affirmatively. Mr. Emmons said that that the staff did receive the Traffic Impact Study on April 3, 2017, but the Zoning Ordinance does not require the applicant to complete a Traffic Impact Study with this application. He then said that in general, the staff is in agreement with the applicant's conclusions and their finding that this type of use will not have a significant impact on the intersections.

Citizen Support – Alex Donoghue, residing at 1340 Mumford Lane, said that his three children attend the Childcare Network. He explained that with his first child he looked into their options to provide their child an early learning experience, and by far Childcare Network is the best. They have the opportunity to use other childcare facilities where they live, but Childcare Network provides their family excellent service, and their hours of operations are flexible for families who need to drop of their kids.

Mr. Donoghue said that the neighborhood believes a daycare facility is bad for traffic and the neighborhood, but in this area there are very few options for parents when it comes to child care. He then said that they were told that if this application was not approved, Childcare Network may have to close their doors. It would be a shame to lose the people at this facility, because even at its current location, he would prefer to have his children attend Childcare Network because of the quality of teachers and staff

and what they offer is much better than the other options in the area. He said that this child care has over 20 years' experience, and the neighborhood will be surprised with how well Childcare Network works with the community and what they provide to the families.

Susan Ray, residing at 720 Sunny Slope, gave a brief description of her background, and said that one thing that her job is in charge of is auditing childcare facilities in Kentucky. She then said that Childcare Network in the Millpond Shopping Center is the only facility that she is aware of that has a detached playground. In the past, when she picked up her child from the daycare, she has had to flag cars down through the parking lot in an effort to slow them down. As an educator, she was taught it is about the students and their safety, not the adults. This facility prepares the children in a safe environment. She said that in the general area there are only 10 licensed daycare facilities, and this particular facility transports the children to and from school and continues the child education at the daycare facility. She asked that the Planning Commission approve this application to allow the educational aspect to continue.

Citizen Opposition – Janet Cabiness, residing at 704 Cumberland Road, indicated that the neighbors believe that the current traffic problem is not good and addition business will cause more problems in the area.

Damon Snyder, residing at 704 Cumberland Road, presented a short video and gave a brief summary of the current situation on Higbee Mill Road. He explained that his concern is for a vehicle trying to exit Higbee Mill Road onto Clays Mill Road is limited due to the speed of the traffic coming from and going toward Man o' War Boulevard.

Frank Pruitt, residing at 3533 Cornwall Drive, said that Clays Mill Road is not a state route and the recent improvements were decided and made by the Lexington-Fayette Urban County Government. He then said that the study for this area began in 2000, the final design was completed in 2004 with construction beginning in 2008. He added that the state did review the plans and fund the construction but the state was not part of the design review. Any decisions made on Clays Mill Road will be done by the LFUCG, Division of Engineering & Traffic.

Mr. Pruitt read the following letter into the record:

Dear LFUCG Planning and Zoning Board members,

My name is Frank Pruitt and I have resided at 3533 Cornwall Drive in the Stonewall neighborhood for approximately 13 years. I am writing to you to voice my opinions, personal and professional regarding the proposed rezoning of the property located at 1580 Higbee Mill Road.

My understanding is that the owner of the property is requesting a zoning change to a more dense residential development than from the current zoning. As I'm sure you all know, the property is adjacent to the Stonewall neighborhood that was developed in the mid 1960's to mid 1970's as single family dwelling on lots varying from approximately 0.5 to 0.3 acres. It is also my understanding that the current zoning allows for townhomes, which in and of itself is a departure from the Stonewall neighborhood development and character. It is my opinion that changing the zoning to a development that squeezes a 48 apartment (96 vehicles) complex into an approximate 2 acre area would be totally out of character with the surrounding neighborhood and I can see no logical basis for allowing this to happen. Additionally, it would seem that the affected properties adjacent to a 48 apartment complex would see their property values decrease significantly. On these points alone I would implore the Planning & Zoning Board to deny the zoning request.

In addition to living in Stonewall, I am also a civil engineer that served as the project manager, lead design engineer, and engineer of record for the recent Clays Mill Road improvements construction. My involvement on the Clays Mill Road improvements project has spanned approximately 16 years from the initial scoping study, final design phases and recent construction. Based on this work experience I feel I am very familiar with the Clays Mill Road corridor and roadway characteristics, to include the Clays Mill Rd. (CMR) and Higbee Mill Rd. (HMR) intersection.

The Clays Mill Road improvements, Section 2B construction completed in the fall of 2014 eliminated the existing dedicated left turn lane for northbound CMR traffic onto west bound HMR (toward 1580 Higbee Mill Rd). There was/is not enough space between the CMR intersections with HMR and Man O War Blvd. for left turn lanes from northbound and southbound CMR traffic onto HMR and Man O War Blvd. The Section 2B construction and subsequent reconfiguration of CMR left turn lanes in this area was a decision that was thoroughly and carefully vetted during the Clays Mill Road scoping study and into final design phases by the LFUCG, the consultant design team and the Clays Mill Road Advisory Committee – a large committee consisting of public officials, private citizens, local business owner's and other various interested parties. It is important to note that the decision to eliminate the CMR northbound turning lane onto HMR was largely based on the low traffic volume of southbound CMR left turns onto Man O War Blvd. To facilitate the few northbound CMR left turns onto HMR, Section 2B construction made the leftmost CMR northbound thru lane act as a shared thru/left turn lane.

It is my opinion that a high density development (96 vehicles) at 1850 Higbee Mill Rd. will very likely have a negative impact on traffic patterns/flow and functional operation of the CMR and HMR intersection that could result in unsafe conditions. One of my concerns is based on the likelihood of a large increase of northbound CMR left

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turning movements onto HMR generated by a high density development, particularly during the evening rush hour. I also feel it would be prudent to review this issue with the LFUCG Division of Traffic before making any decision that would allow a high density development.

For the personal and professional reason stated above, it is my opinion that the proposed high density development of 1850 Higbee Mill Rd should not be allowed. If anyone would like to discuss these issues further with me, I would be happy to do so. I can be reached on my cell phone at 533-3869. Thank you for your attention to this matter.

Sincerely,

Frank Pruitt

Douglas Starnes, residing 720 Longwood Road, said that Stonewall Neighborhood is a large area with limited access. He said that the applicant is proposing to subdivide the property into two tracts, one is proposed for townhomes and the other is proposed for the day care. Higbee Mill Road is a small road compared to the rest of the roads in the area. He said that Clays Mill Road does have signalized intersection, but at the intersection of Higbee Mill Road and Clays Mill Road there is no signalized intersection, making it difficult even dangerous to exit Higbee Mill Road.

Mr. Starnes briefly described the other route that drivers could take through the Stonewall Neighborhood; however, most of these routes end at un-signalized intersections on Clays Mill Road, which could result in injury accident. He then said that drivers could travel further into the neighborhood where there are two signalized lights, but this route takes the drive near the elementary school and eventually exiting on to Wellington Way. Should the driver take this route, it will increase the traffic near the school causing more traffic backups and danger to the pedestrians.

Mark Fox, residing at 668 Longwood Road, said that his family has lived in this area for 28 years. He then said that Clays Mill Road will flood and there needs to some type of access to get out the kids off the daycare property should the 100-year flood event take place. He then said that a bridge could be constructed, but Higbee Mill Road will also flood and there will be no way to get the kids off the property if that takes place, other than wait until the water goes down. Another option would be to raise Higbee Mill Road.

Kevin Kidd, residing at 3569 Cornwall Drive, said that he disagrees with the staff's recommendation, condition #1, which reads: "granting the requested conditional use will not harm the public health, safety or welfare, and will not adversely affect the character of the subject or surrounding properties". He then said that one thing that was not taken into consideration is that most people will cut through a neighborhood to go toward town (i.e. Cornwall Drive to Wellington Way). He said that his neighborhood does not have sidewalks on both sides of the street, so the children have no area to walk. Increasing the traffic on Cornwall Drive and the other intersections where there are only two signalized lights on Clays Mill Road places pedestrians at risk. He said that this neighborhood is a cornerstone for this city. It has been a model neighborhood for as long as he can remember. He said that this neighborhood deserves the respect of this representation and there are serious and grave concerns. He understands the concerns with the parents, who currently attend the Childcare Network, but childcare is not the issue, but it is about the neighborhood and the children. There is a bigger picture here than the intersection of Higbee Mill Road and Clays Mill Road. Now that the townhomes have been approved this request will double the traffic flow resulting in all of that traffic coming down Cornwall Drive.

Caryl Pfeiffer, residing at 903 Witthuhn Way, said that there was a lot mentioned about the traffic concerns and it is interesting to note that both the developer and the staff have said the daycare customers will be located south of the subdivision and not in the subdivision. She then said that they see a way for additional conditions that would make the proposed zone change better for public and pedestrian safety, to alleviate the traffic congestion in the immediate vicinity of the daycare, to provide for pedestrian safety with sidewalks and provide unencumbered access. She said that Higbee Mill Road is a narrow local street that does not meet current standards. She then said that access to the daycare will be solely from Higbee Mill Road, which has no shoulders and no way to pull off should an emergency vehicle need to come into the site. She added that road widening is not proposed along the subject site, but the Commission can require it given the proposed commercial use. She said that the improvement of Higbee Mill Road along the subject site should be added as a condition of this zone change, if approved by the Commission. This would help alleviate congestion into and out of the daycare and provide pedestrian safety.

Ms. Pfeiffer said that the staff reported states that the applicant proposes to utilize the existing lane and provide improvements and a parking lot for the daycare. She then said that 8' out of 16' of that lane is dedicated for the driveway to the house located 1400 Higbee Mill Road. That means only 8' of the lane will be public right-of-way. She said that there is a significant floodplain in this area and during an extreme storm access to the daycare may be an issue if the lane is not improved. She added that the existing bridge is limited to a load of 10 tons. A firetruck weights between 16 and 35 tons depending on how that truck is outfitted, and it is typically 10' wide. In addition garage trucks will have to enter the property and those trucks weight between 15 and 24 tons empty depending on the size of the truck. Also, delivery trucks will be accessing the site to deliver food and other items to the daycare. She said that should the Commission approve the zone change request, they are asking for a requirement to be added to have the developer upgrade and widen the lane, as well as bridge that is rated for larger vehicles that will be traveling into the site.

Ms. Pfeiffer said that it would be difficult for the larger trucks to enter the site due to two drainage ditches and the existing conditions of Higbee Mill Road. In addition, school buses will also be traveling Higbee Mill Road so they are requesting safe passage to and from the daycare for all users, as well as emergency vehicles be provided with conditions.

Tracy Starnes, residing at 720 Longwood Road, said that the existing road conditions on Higbee Mill Road are not suited for additional traffic and congestion. She then said that the neighborhood would request postponement until all of Higbee Mill Road is improved either by the LFUCG or the developer.

Ms. Cabiness said that the neighborhood is present due to safety first and as they established making a left turn will not be easy from either Higbee Mill Road or Clays Mill Road. She then said that long trips from the daycare through the neighborhood are not ideal. She added that the FEMA map shows that 1580 Higbee Mill Road is located in a floodplain and poses a danger. They believe the traffic will increase through the Stonewall neighborhood. She said that the staff recommendation is helpful and should be included in the Commission's decision and improvements to Higbee Mill Road should be part of that recommendation.

Petitioner Rebuttal – Mr. Nicholson said that he appreciated the neighborhood concerns, as well as their recommendations for improvements to Higbee Mill Road. He then said that they are improving Higbee Mill Road by expanding the road to 22' for the majority of this property, as well providing sidewalks, and upgrading the bridge and widening the access to 24'. The bridge will be entirely outside the FEMA floodplain, which is a requirement of the Stormwater Manual and will be part of the final development plan. He said that, for the record, they are building a new bridge and he believed the bridge will be 24' wide. He hopes that this will alleviate any concerns the Commission may have for the school bus and/or emergency vehicles entering this site.

Mr. Nicholson said that, with regards to the video that was shown to the Commission, he has to point out that there was no stacking on Higbee Mill Road because he was the first car to pull up to Clays Mill Road. He then said that also in the videos there was only one car that entered Higbee Mill Road from Clays Mill Road and it took approximately two seconds to make that turn.

Mr. Nicholson said that the traffic count was conducted for two hours during the AM peak hours and the PM peak hours and that count showed the wait time was about 20 to 25 seconds.

Mr. Nicholson said that the letter from Mr. Pruitt was from last year because much of that letter spoke to the apartment. He then said that, although Mr. Pruitt said that he was not here to fight development and he is not anti-development, he did say any traffic added to this intersection will cause chaos. This means no development for this site. He said that they are adding 12 cars to take a left turn off of Clays Mill Road and 6 cars will take a left off of Higbee Mill Road because Man o' War Boulevard is 0.1 miles away from this intersection. He then said that 85 percent of all traffic will go to Man o' War Blvd. The reason why Stonewall neighborhood has limited access is because the neighborhood fought access to Man o' War Boulevard.

Mr. Nicholson said that the building and the bridge will be out of the 100-year floodplain and there are no FEMA issues associated with this proposal. He then said that the staff was initially concerned with density on the neighborhood side of this parcel. The neighbors were concerned about the apartments and the typical impacts that come from apartments, including the traffic. He said that they have done everything that they could by specifically ruling out apartment entirely. They moved this project to the other side of the creek and they provided a very low traffic generator. There is only so much that can be done. This is an infill site, this is a tough site and this is a site that is 50 percent floodplain. That does not mean it is inappropriate for development, but that means it's the right development. They are doing everything that they can to ensure that this is the right development, by doing a residential use. He said that recently there was a zone change on Clays Mill Road to P-1, but they decided to go toward residential to ensure that this area stays residential.

Citizen Rebuttal – Ms. Cabiness said that the traffic study was submitted on April 3rd and asked what day the study was conducted on. Mr. Nicholson replied Thursday.

Mr. Kidd asked if the traffic study was conducted over two days. (reply was inaudible) Mr. Kidd then asked if a new study could be conducted to evaluate the traffic coming from Harrodsburg Road off of Man o' War Boulevard to Clays Mill Road through Cornwall Drive over to Wellington Way. He said that people will cut through the neighborhood toward Harrodsburg Road, which then becomes the major thoroughfare for the people who work south of Man o' War Boulevard. He then said that a traffic study also needs to be conducted for the intersection at Wellington Way because adding the townhomes and the daycare will have a significant impact on traffic.

Mr. Pruitt said that the statement that 85 percent of traffic will go toward Man o' War Boulevard is only an assumption. The additional traffic making all of the turning movements is an assumption. Those assumptions may end of being correct, but that cannot be determined until it actually happens. He then said that, with regards to the letter that was read, that letter is a new letter even though it does have similarities to other letters that he has sent on other zoning issues for this area.

Mr. Pruitt said that the Clays Mill Road improvements were at the expense to some degree for the functionality of Clays Mill Road and Higbee Mill Road intersections. Those decisions were made, it's not the ideal situation with the existing traffic, but the intersection is functional. His concern with the townhomes is that that development will strain this intersection to some degree, and additional traffic from another development poses some real concern. He indicated that he has history with the Clays Mill Road corridor and he also has an understanding of its history.

David Marler, residing at 724 Longwood Road, said that the business on the opposite side of this development has not been discussed. He noted that the GTE building has an access on Higbee Mill Road and an access on Clays Mill Road. There is also a new mulch business coming to the area that will house its equipment on site. This corner will be very busy with traffic.

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Staff Rebuttal – There was none.

Commission Questions – Ms. Mundy said that she does not believe the Commission has approved or reviewed anything on the corner of Clays Mill Road where the mulch is located. Mr. Martin replied that the Commission will not see anything on that use, but rather they would file an application with the Board of Adjustment, who will then review the application at a public hearing.

Mr. Cravens asked if the streets in the Stonewall neighborhood are collector streets. Mr. Martin replied that there are collector streets in the neighborhood, but he was unsure which streets were and were not collectors. He said that the local standards require the width of the street to be 23' and Higbee Mill Road does match the standards of a rural local street, which has a width of 20'.

Mr. Nicholas said that Ms. Mundy is correct and the mulching use will be reviewed by the Board of Adjustment.

Mr. Fox said that, when looking at the map, Higbee Mill Road is within the floodplain and there is nothing that the daycare can do to fix that. He then said that a bridge can be constructed that is higher than the floodplain but the bridge is attached to Higbee Mill Road, which is within the floodplain area.

Commission Discussion – Ms. Plumlee thanked the neighbors for coming out to today's hearing. She then said that this is a tough decision because at the old site there are toddlers crossing through an unsafe area and then the new site has the toddlers with their parents taking another risk.

Mr. Cravens said that there was a lot of discussion about traffic, but in reviewing the map there are many ways off of Higbee Mill Road and out of the Stonewall neighborhood. He then said that he is not convinced that the daycare will be generating enough traffic.

Mr. Penn said that he understood why the neighborhood was upset with the townhouse development, but that decision has already been done. He then asked what can be done on this piece of property that has a lighter impact than a daycare. If more townhouses or even apartments were to be developed it would create more traffic at a higher density than a daycare. He added that in the city there are infill projects are being developed and he cannot think of a use that would have a lesser impact than a daycare.

Mr. Owens said that from what he has heard traffic is the main issue. He then said that, safety wise, Clays Mill Road has been improved, as well as the old access to Old Clays Mill Road. He added that at some point in time someone going to travel through the neighborhood to the daycare center and there will be traffic through the area. The applicant has conducted a traffic study and the staff is in agreement with their findings. He commented that he would be voting in favor of this request.

Mr. Wilson said that he appreciated the community coming out speaking to this request and he shares their understanding because he has been in their position. He then said that he also understands infill development and the various uses that could be placed on this site that are worse than this type of use.

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

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy to approve **PLN-MAR-17-00006: TAYLORMADE REAL ESTATE, LLC**, as recommended by the staff.

Discussion of motion – Mr. Penn said that the widening of Higbee Mill Road over the bridge is on the development plan, so it does not need to be a condition of approval.

The motion was carried 9-0 (Brewer and Drake absent).

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy and carried 9-0 (Brewer and Drake absent) to approve the conditional use for a child care center.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy to approve **PLN-MJDP-17-00011: WYNNDALE SUBDIVISION, LOT 2B**, as recommended by the staff.

Mr. Martin indicated that the following changes should be made:

10. Resolve emergency access during 100-year flood event at the time of the Final Development Plan.
11. Resolve future maintenance of 20' access easement at the time of the Final Development Plan.

The motion carried 9-0 (Brewer and Drake absent).

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

A. AMENDMENT OF 2017 MEETING & FILING SCHEDULE & MEETING CANCELLATIONS - The staff will recommend that the Planning Commission take action to amend their Official Meeting & Filing Schedule for 2017 to formally cancel their previously scheduled Work Sessions on Thursday, April 20, 2017, and on Thursday, May 18, 2017.

- In addition, the staff will recommend that a Work Session be scheduled for...
Wednesday, April 26, 2017; to be held at 1:30 PM in the Phoenix Building, 101 East Vine Street, on the 7th Floor.
- In addition, the staff will recommend that Work Sessions be scheduled for...
Wednesday, May 3, 2017;
Wednesday, May 10, 2017; and on...
Wednesday, May 24, 2017.
These are all to be held at 1:30 PM in the Phoenix Building, 101 East Vine Street, on the 3rd Floor.
- Finally, the staff will recommend that the location of the Planning Commission's Public Hearings previously scheduled for the Council Chambers on Thursday, May 25, 2017 (for Zoning Items) be relocated to be held at 1:30 PM in the Phoenix Building, 101 East Vine Street, on the 3rd Floor on that same day.

Action - A motion was made by Mr. Smith, seconded by Ms. Richardson and carried 9-0 (Brewer and Drake absent) to amend the Official Meeting & Filing Schedule.

Mr. Wilson commented that he would like it noted for the record, he is still concerns with the Commission's parking situation.

VII. STAFF ITEMS – There were none.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Planning Commission Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 20, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	April 26, 2017
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	April 27, 2017
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	May 4, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	May 4, 2017
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	May 11, 2017

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 5:22 PM.

William Wilson, Chair

Carolyn Plumlee, Secretary