

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**July 13, 2017**

- I. **CALL TO ORDER** - The meeting was called to order at 1:33 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present – Bill Wilson, Chair; Mike Owens; Karen Mundy; Carolyn Plumlee; Frank Penn; Mike Cravens and Headley Bell. Will Berkley; Patrick Brewer; Larry Forester and Carolyn Richardson were absent.

Planning Staff members present – Jim Duncan, Bill Sallee; Tom Martin; Traci Wade; Denice Bullock; Chris Bronczyk and Cheryl Gallt. 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 Andrea Brown, Department of Law.

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

III. **INTRODUCTION OF THE NEWEST PLANNING COMMISSION MEMBER**

Mr. Wilson announced that two new members had been appointed to the Planning Commission, Mr. Headly Bell and Mr. Larry Forester.

Mr. Bell said that his family currently owns Mill Ridge Farm in Lexington, where he is the general manager. He explained that his family has worked in the horse industry for five generations since his grandfather, Hal Price Headly, was the founder and first President of Keeneland.

Mr. Wilson said that Mr. Forester was not present, but wanted to say that during the confirmation hearings, one of the things that was particularly impressive with both members was that they had stated that they would be opened minded, fair and team players, while maintaining their individuality in making decisions.

Mr. Wilson informed the Commission that he and Ms. Plumlee were reappointed to the Commission for another term.

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

- a. PLN-MJDP-17-00061: THE PENINSULA & SQUIRES APARTMENTS (AMD) (9/3/17)\* - located at 440, 478 and 480 Squires Road. (Council District 7) **(EA Partners)**

Note: The purpose of this amendment is to replace 53 townhomes with apartments, and to develop a new subdivision.

The Subdivision Committee Recommends: **Postponement** until the new plans have been reviewed by all applicable agencies, given the discussion at the Technical Committee meeting.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. 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. Replace B-B cross-sections on school site frontages to an A-A cross-section.
13. Revise "existing tree canopy" information to include conditional zoning buffer areas, and cross-hatch those areas.
14. Increase cul-de-sac right-of-way to be coincident with the back of sidewalk and delete "public passage way."
15. Provide dimensions & detail for clubhouse.
16. Denote H.O.A. maintenance of clubhouse area and "view to water" lot proposed.
17. Label proposed stormwater basin locations on plan (per Art. 21-6(a)(9) of the Zoning Ordinance).
18. Discuss pedestrian connection from apartment complex and townhouses to rights-of-way.
19. Discuss timing and legal structure of providing access to Squires Road for single family homes.
20. Discuss timing of development and infrastructure.
21. Discuss timing of creation of 20-acre school site.
22. Discuss internal pedestrian system for townhomes.
23. Discuss need to separate final development plan area from preliminary subdivision plan.

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Representation present – Nick Nicholson, attorney, requested a one-month postponement.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to postpone **PLN-MJDP-17-00061: THE PENINSULA & SQUIRES APARTMENTS (AMD)** to the August 10<sup>th</sup> Commission's meeting.

- b. **PLN-MJDP-17-00054: MANCHESTER DEVELOPMENT, LLC (DISTILLERY DISTRICT EAST, UNIT 1) (AMD) (9/3/17)\* - located at 949 and 955 Tarr Trace. (Council District 2)** **(Endris Engineering)**

Note: The purpose of this amendment is to add 34 townhouses to this adaptive re-use project, and revise street names. This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommends: **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. Provided the Planning Commission grants the requested waiver to Article 6-4(c) and Article 6-8(m) of the Land Subdivision Regulations.
11. Addition of existing crosswalk information at Oliver Lewis Way and Manchester Street intersection.
12. Revise cross-walk information at Manchester Street/Tarr Trace intersection to the approval of Traffic Engineering.
13. Addition of building lines along Tarr Trace and Oliver Lewis Way.
14. Discuss lack of sidewalk access into Units A-1-A-8, and possible need for a variance (driveway width).
15. Discuss useable open space for new townhouse area.
16. Discuss full half section improvements to Tarr Trace and its termination (terminated off site by government action).

Representation present – Chris Clendenen, attorney, requested a two-week postponement.

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to postpone **PLN-MJDP-17-00054: MANCHESTER DEVELOPMENT, LLC (DISTILLERY DISTRICT EAST, UNIT 1) (AMD)** to the July 27<sup>th</sup> Commission's meeting.

- c. **PLN-MJSUB-17-00026: RML-CITATION (HILLENMEYER INTEREST, LTD.) (7/13/17)\* - located at 2551 Leestown Road. (Council District 2)** **(Vision Engineering)**

Note: The Planning Commission postponed this item at their May 11, 2017, June 8, 2017 and June 22, 2017, meetings.

The Subdivision Committee Recommended: **Postponement**. The staff still has concerns on the timing and provision of the required public infrastructure, and the fact that the required 30% Infrastructure Report has not yet been submitted.

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
10. Delete note #4.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Delete public utilities listed in "utility contacts" listing.
13. Addition of 25' floodplain setback on plan for the rear area of Lot 1.

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14. Correction of land surveyor's signature of engineer's certification (due to infrastructure dedication).
15. Delete minor Planning Commission certification.
16. Denote FFE for Lot 1.
17. Denote: There shall be reciprocal parking and access on Lots 1-3.
18. Denote: There shall be no access to Citation Boulevard from Lots 1, 2 & 4.
19. Discuss timing of proposed access easement on plan, per the submitted final development plan.
20. Discuss planned maintenance of future detention basin.
21. Discuss possible sinkhole denoted on the preliminary subdivision development plan.
22. Discuss timing of public improvements and possible waivers.
23. Discuss owner's certification.

Representation present – Matt Carter, Vision Engineering, requested a two-week postponement.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to postpone **PLN-MJSUB-17-00026: RML-CITATION (HILLENMEYER INTEREST, LTD.)** to the July 27<sup>th</sup> Commission's meeting.

- d. **PLN-MJDP-17-00042: RML-CITATION (HILLENMEYER INTEREST, LTD.) (7/13/17)\*** - located at 2551 Leestown Road.  
(Council District 2) **(Vision Engineering)**

Note: The Planning Commission postponed this item at their May 11, 2017, June 8, 2017 and June 22, 2017, meetings.

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

1. Urban County Engineer's acceptance of drainage, 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 and possible sinkhole.
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. Revise and clarify note #10.
12. Denote as a Preliminary Subdivision Plan in title, for the addition of street and access easement.
13. Addition of tree protection plan per Article 26 requirements.
14. Resolve conflict between mini warehouse building and existing AT&T easement.
15. Discuss provision of access to the detention basin for future maintenance.
16. Discuss the need for signal at the intersection of Sandersville Road and Citation Boulevard.

Representation present – Matt Carter, Vision Engineering, requested a two-week postponement.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to postpone **PLN-MJDP-17-00042: RML-CITATION (HILLENMEYER INTEREST, LTD.)** to the July 27<sup>th</sup> Commission's meeting.

- e. **PLN-MJDP-17-00060: SUNNY SLOPE FARM, UNIT 1-A (9/3/17)\*** - located at 3765 Winthrop Drive.  
(Council District 9) **(EA Partners)**

The Subdivision Committee Recommended: **Postponement**, due to the number of discussion items remaining on this development 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 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.

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9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Denote height of building in feet on plan.
13. Delete "Amended" from plan title.
14. Denote Plat Cabinet and slide information on plan.
15. Increase font size for site statistics and building detail notations.
16. Dimension sidewalk on plan.
17. Clarify (and label) tree protection area(s) on plan.
18. Discuss timing of easement release.
19. Discuss access to proposed multi-use trail.
20. Discuss proximity of parking and drive aisles to proposed retaining wall.
21. Discuss completion and/or termination of public street stubbing into the property.

Representation present – Rory Kahly, EA Partners, requested a one-month postponement.

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to postpone **PLN-MJDP-17-00060: SUNNY SLOPE FARM, UNIT 1-A** to the August 10<sup>th</sup> Commission's meeting.

- f. **PLN-MJDP-17-00058: HENRY CLAY SUBDIVISION (DOLLY LAND CO, LLC) (ADAPTIVE REUSE PROJECT) (9/3/17)\* -**  
located at 1400 Delaware Avenue. (Council District 5) **(MLH Civil Engineers)**

Note: This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Postponement.** As submitted, this development plan does not meet the requirements of the Adaptive Re-use criteria in Article 8-21(o)(4) of the Zoning Ordinance. A rezoning of the site may be required.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Correct plan title to include "Henry Clay Subdivision."
11. Addition of topography information at 5' interval.
12. Addition of driveways across the street.
13. Addition of construction access point on plan.
14. Addition of location for street cross-section on plan face.
15. Dimension drive isles and sidewalks on plan.
16. Dimension seating and area of outdoor patio on plan.
17. Addition of street frontage in site statistics.
18. Clarify grass and plantings between parking lot and public street sidewalk.
19. Clarify pedestrian/vehicular uses and areas in front and along southern wall of existing buildings and along rear of patio area.
20. Revise plan to include use/open space east of parking lot.
21. Revise vicinity sketch (relocate "Delaware" label for clarity) and add "Downtown" Lexington.
22. Addition of use of existing building and revise parking accordingly.
23. Provided the Planning Commission makes a finding that the development plan meets the requirements of the Adaptive Re-use Project.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant's representative, requesting a one-month postponement.

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

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Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to postpone **PLN-MJDP-17-00058: HENRY CLAY SUBDIVISION (DOLLY LAND CO, LLC) (ADAPTIVE REUSE PROJECT)** to the August 10<sup>th</sup> Commission's meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, July 6, 2017 at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Carolyn Plumlee and Mike Owens. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee; Tom Martin; Cheryl Gallt; Denice Bullock; Chris Bronczyk; Captain Greg Lengal, Division of Fire & Emergency Services; Chris Schnelle, Division of Police; and Tracy Jones, 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-17-00030: NDC PROPERTY (WELLINGTON), UNIT 1-B, SEC 2, LOT 19 (AMD) (9/3/17)\* - located at 209 Ruccio Way. (Council District 9) (Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Remove public service providers from utility provider list.
7. Addition of access easement maintenance note required by Art. 5-4(h)(1) of the Land Subdivision Regulations.
8. Addition of address for Lot 19A.

- b. **PLN-MJSUB-17-00031: BEAUMONT FARM, UNIT 10, LOT 4C (B-6P AREA) (KROGER'S) (AMD) (9/3/17)\* - located at 3161 Beaumont Centre. (Council District 10) (Endris Engineering)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Revise Lot 8 to have frontage on Majestic Drive.
7. Delete public utilities from utility providers.
8. Clarify area of amendment on vicinity map.
9. Addition of number of lots in site statistics.
10. Revise note #2 to include Lot 7, or provide for access to Lot 7.

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- c. PLN-MJSUB-17-00033: TUSCANY "SIENA" UNIT 2B (9/3/17)\* - located at 1970 Winchester Road (a portion of).  
(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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote tree protection area for Lots 13-15 on plan.
8. Resolve driveway access on Lots 12, 19, 20 & 51.

- d. PLN-MJSUB-17-00034: MASTERSON HILLS, UNIT 1-D (9/3/17)\* - located at 3000 Spurr Road (a portion of).  
(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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Resolve driveway location on Lots 35 & 90.

- e. PLN-MJSUB-17-00035: MASTERSON HILLS, UNIT 1-E (9/3/17)\* - located at 3000 Spurr Road (a portion of).  
(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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

- f. PLN-MJSUB-17-00036: NEWMARKET PROPERTY, PHASE 1, UNIT 6-B (9/3/17)\* - located at 1263 Angus Trail (a portion of). (Council District 12) **(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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of exaction information to the approval of the Division of Planning.
8. Increase font size for conditional zoning restrictions.

- g. PLN-MJSUB-17-00037: NEWMARKET PROPERTY, UNIT 6-A (9/3/17)\* - located at 1263 Angus Trail (a portion of).  
(Council District 12) **(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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of exaction information to the approval of the Division of Planning.
8. Increase font size for conditional zoning restrictions.

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- h. PLN-MJSUB-17-00038: SHARKEY PROPERTY, UNIT 1, LOT 10A (AMD) (9/3/17)\* - located at 124 Louie Place.  
(Council District 2) **(EA Partners)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote that the B-1 zone requires buildings on these lots to be constructed at the 20' line.
7. Denote: No building permit will be issued for Lot 10-a-1 unless and until a Final Development Plan is approved by the Planning Commission, and certified.
8. Addition of T.P.A. notes contained in Art. 26 of the Zoning Ordinance.

- i. PLN-MJSUB-17-00039: TUSCANY "SIENA" UNIT 3-C (9/3/17)\* - located at 1970 Winchester Road (a portion of).  
(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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Resolve driveway location on Lots 53 & 57.

- j. PLN-MJSUB-17-00040: WILHITE PARK, UNIT 1-B, SEC 1 (AMD) (9/3/17)\* - located at 3520 Arbor Drive.  
(Council District 8) **(EA Partners)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Eliminate separation of 24' access easement from Lots 5-12.
8. Addition of north arrow on plan.
9. Indicate area of amendment on vicinity map.
10. Addition of access easement maintenance note (per Art. 5-4(h)(1)).
11. Resolve 30' building line parallel to Man o' War Boulevard on plan and add building line on Lots 5-12.
12. Delete note #7.
13. Resolve street tree information for Lots 5-12.
14. Clarify note #6 for owners of Lots 1-4

- k. PLN-MJSUB-17-00042: PATCHEN WILKES TOWNHOMES, SEC 2 (AMD) (9/3/17)\* - located at 2101 Patchen Lake Lane. (Council District 6) **(Eagle Engineering)**

Note: The purpose of this amendment is to consolidate Parcels 1 & 2, extend the access easement and subdivide Section 2 into 13 lots.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

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8. Label Lot 31 on plan and delete "Lot 31" from plan title.
  9. Delete all "consolidation" and "parcel" information and refer to Amended Lots 32 & 33.
  10. Denote Section 2 on plan.
  11. Addition of dimension information from PLAN 2016-39CA.
  12. Revise purpose of amendment note to state reconfiguring Lots 32 & 33.
  13. Denote non-buildable lots & steep slope area (previous plat (PLAN 2016-39CA).
  14. Provided the Planning Commission grants a finding for an access easement for Section 2.
- I. PLN-MJDP-17-00057: SPRING BAY & GREENDALE HILLS UNIT 3 (AMD) (9/3/17)\* - located at 1249 Greendale Road.  
(Council District 2) **(EA Partners)**

Note: The purpose of this amendment is to revise the apartment units to townhomes.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. Building Inspection's approval of landscaping and landscape buffers.
  4. Addressing Office's approval of street names and addresses.
  5. Urban Forester's approval of tree preservation plan.
  6. Department of Environmental Quality's approval of environmentally sensitive areas.
  7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
  8. Division of Waste Management's approval of refuse collection locations.
  9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
  10. Denote purpose of amendment note on plan.
  11. Denote height of building in feet on plan.
  12. Addition of all required preliminary subdivision plan information.
  13. Clarify "typical lot size" information is to be for detached homes in site statistics, or depict 10% open space requirements for each townhouse lot.
  14. Addition of number of bedrooms for townhouse units.
  15. Addition of tree protection areas for Lots 4 & 30 to the approval of the Urban Forester.
- m. PLN-MJDP-17-00059: HOSPITALITY MOTOR INNS, INC. AND BP OIL CO., INC. (DOLLAR GENERAL) (9/3/17)\* -  
located at 2167 N. Broadway. (Council District 6) **(Vantage Engineering, PLC)**

Note: The purpose of this amendment is to show the building and parking layout on Lot 3.

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. Delete note #11 (this is a final development plan).
  10. Addition of street frontage in site statistics.
  11. Addition of conditional zoning restrictions.
  12. Reconcile "tree canopy to remain" & "be provided" information (including location) with tree notes on plan.
- n. PLN-MJDP-17-00063: RIDDELL PLAZA, LOT 3 (PARKER PROPERTY) (9/3/17)\* - located at 1100 and 1180 S.  
Broadway. (Council District 3) **(The Roberts Group)**

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.

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



9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Denote: This property will need a consolidation plat prior to plan certification.
11. Move street frontage to site statistics.
12. Complete interior landscape area information in site statistics and on plan.
13. Relocate building to average a 20' setback from Simpson Avenue.
14. Resolve storm water detention relative to known area's storm water problem.

- o. PLN-MJDP-17-00064: SHARKEY PROPERTY, UNIT 1, LOT 10A (TOWNLEY CENTER) (9/3/17)\* - located at 124 Louie Place. (Council District 2) **(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.
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 height of building in feet on plan.
10. Dash utility and sanitary sewer easement.
11. Remove Aradia text.
12. Denote reciprocal access.
13. Document compliance with Art. 16-9 of the Zoning Ordinance.
14. Identify interior landscaped areas on plan.

- p. PLN-MJDP-17-00065: GREENDALE HILLS (FORMERLY CHESAPEAKE EQUINE) (CENTERPOINTE CHRISTIAN CHURCH) (AMD) (9/3/17)\* - located at 865 Greendale Road. (Council District 2) **(Thoroughbred Engineering)**

Note: The purpose of this amendment is to increase the building square footage, add sidewalks, a patio and notes to this plan.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. 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 street frontage for Citation Boulevard 559' and Greendale Road 571' in site statistics.
13. Denote location of street cross-section on plan face for Citation Boulevard and Greendale Road.
14. Addition of contour internals at 2' (per the previous development plan-DP 2010-37).
15. Denote location of pond as per previous plan.
16. Department of Environmental Quality's approval of environmentally sensitive areas such as addition of spring on property.
17. Resolve possible expansion of sanctuary seating proposed, and impact on required off-street parking.

- q. DP 2016-55: BRIGHTON PLACE SHOPPES, PHASE II (GILLIS PROPERTY) (9/26/17)\* - located at 3080 Old Todds Road. (Council District 7) **(Midwest Engineering)**

Note: The purpose of this amendment is to depict the proposed parking lot for the adjacent commercial properties. The Planning Commission originally approved this plan on June 9, 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. 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.

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

6. Bike & Pedestrian Planner's approval of sidewalks 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. Denote written scale on plan.
9. Correct Old Todds Road cross-section on plan, to include curb and sidewalk.
10. Remove "Purpose of Plan" note.
11. Denote drive aisle width on plan.
12. Correct owner's certification title.
13. Correct Planning Commission's certification.
14. Remove note #12.
15. Provide sidewalk connection to proposed building.
16. Resolve continuity of pedestrian access into existing commercial lots and along Todds Road.
17. Resolve the need for signage directing two-way/one-way traffic flow.
18. Resolve lack of tree preservation (in site statistics) along residentially zoned property.

Note: Commission approval of this plan has since expired. The applicant now requests reapproval of the plan.

The Subdivision Committee Recommended: **Reapproval**, subject to the original condition previously approved by the Planning Commission on June 9, 2016.

Mr. Sallee noted that **PLN-MJSUB-17-00042: PATCHEN WILKES TOWNHOMES, SEC 2 (AMD)** requires the Planning Commission to make a finding for an access easement for Section 2.

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

1. The extension of the existing access easement is consistent with the Planning Commission's past approval and the intent of the Land Subdivision Regulations.

Mr. Sallee indicated 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 its discussion. (A copy of the Consent Agenda is attached as an appendix to these minutes).

Commission member and/or audience members requesting full discussion - There were none.

Commission member comment – Mr. Cravens indicated that he would be recusing himself from **PLN-MJSUB-17-00040: WILHITE PARK, UNIT 1-B, SEC 1 (AMD)**.

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee and the staff.

The motion carried 7-0 (However, Mr. Cravens recused from voting on **PLN-MJSUB-17-00040**; Brewer, Richardson, Berkley and Forester absent).

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve the release and call of bonds as detailed in the memorandum dated July 13, 2017, from Barry Brock, Division of Engineering.

Commission Comment – Mr. Wilson indicated that the motion on the Consent Agenda did not include the approval of the finding for **PLN-MJSUB-17-00042**. Mr. Sallee said that the staff presumed that the motion did include the approval of the findings for **PLN-MJSUB-17-00042**.

- 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-17-00041: LEXINGTON CLINIC, PSC, LOT 1 (AMD) (9/3/17)\* - located at 1221 S Broadway.  
(Council District 11) **(Wesley B. Witt)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote street frontage in site statistics.
7. Correct 25' floodplain setback labeling.
8. Correct varies in street cross-section to a dimension at that location.
9. Denote access easement to serve Lot 2.
10. Clarify reciprocal parking and utility note.
11. Provided the Planning Commission grants a waiver for the frontage for Lot 2.

Staff Presentation - Mr. Martin presented the staff report and a rendering of the final record plat, as well as the staff's report for the Findings for a Waiver of Land Subdivision Regulations to Article 6-4(c) pertaining to the required street frontage for the creation of a lot. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

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

1. Granting the requested waiver will not adversely affect public health, welfare and safety as the lots are governed by an approved final development plan and a conditional use permit (R-3 portion) and function as a unified development.
2. Not granting the requested waiver would constitute an exceptional hardship to the applicant by requiring the construction of an approved street in a development where it is not necessary for public safety or traffic movement purposes.

Representation – Steve Ruschell, 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.

Action - A motion was made by Mr. Owens, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve PLN-MJSUB-17-00041: LEXINGTON CLINIC, PSC, LOT 1 (AMD), as recommended by the staff.

Action - A motion was made by Mr. Owens, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve the wavier to Article 6-4(c) Land Subdivision Regulations that is associated with PLN-MJSUB-17-00041: LEXINGTON CLINIC, PSC, LOT 1 (AMD), as recommended by the staff.

- b. PLN-MJSUB-16-00010: GRASMERE, UNIT 6 (9/26/17)\* - located at 945 Bravington Way.  
(Council District 9) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 14, 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. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote note #14 and preferred approach to the arterial screening.
8. Denote arterial screening along Lot 4.

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

Note: The applicant now requests a continued discussion of this final record plat for consideration of condition #8 (above) and Article 6-10(c)(3) of the Land Subdivision Regulations to allow recordation prior to completing the required arterial screening.

The Subdivision Committee Recommended: **Approval**, subject to the original conditions previously approved by the Planning Commission, adding the following condition:

9. Provided the Planning Commission approves the bonding of the arterial screening per Article 6-10(c)(3) of the Land Subdivision Regulations.

Staff Presentation – Mr. Saltee presented the staff report and a rendering of the final record plat for **PLN-MJSUB-16-00010: GRASMERE, UNIT 6**. He indicated that the Planning Commission originally approved this plan on October 14, 2016, subject to the conditions listed on today's agenda.

The applicant now requests a continued discussion of this final record plat for consideration of condition #8 (above) and Article 6-10(c)(3) of the Land Subdivision Regulations to allow recordation prior to completing the required arterial screening. He explained that the plantings need to be in place or bonded at the time the plans are considered for certification and recordation; and since the applicant has requested for the plantings to be bonded, it would require Planning Commission approval.

Mr. Saltee said that the Subdivision Committee had recommended approval, subject to the original conditions previously approved by the Planning Commission, adding one condition. The staff recommends changing condition #9 to read: "The Planning Commission hereby requires the bonding of the arterial screening per Article 6-10(c)(3) of the Land Subdivision Regulations." This condition will bond any planting material that has not been installed on site.

Representation – Rory Kahly, EA Partners, 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.

Action - A motion was made by Mr. Penn, seconded by Mr. Cravens and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve **PLN-MJSUB-16-00010: GRASMERE, UNIT 6**, subject to the original conditions, including the revised condition #9, as presented by the staff.

## 2. **DEVELOPMENT PLANS**

- a. **PLN-MJDP-17-00062: WYNDAL SUBDIVISION, LOT 2B (9/3/17)\*** - located at 1580 Higbee Mill Road.  
(Council District 9) **(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 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. 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. Resolve improvements to Higbee Mill Road per the approved record plat.
12. Resolve emergency vehicle access during a flood event.
13. Resolve the timing of the CLOMR.
14. Provided the Planning Commission grants a waiver to Article 6-8(a) of the Land Subdivision Regulations.
15. Discuss timing of townhouse construction (development plan approval has expired).

Staff Presentation – Mr. Martin presented the staff report and a rendering of the final development plan for **PLN-MJDP-17-00062**. He indicated that the Subdivision Committee recommended approval, subject to the conditions listed on today's agenda.

Mr. Martin indicated that conditions #13 and #15 are connected to each other and explained that the townhouses cannot be constructed until the Conditional Letter of Map Revision (CLOMR) is accepted by FEMA. The applicant had stated that they would be submitting the CLOMR on July 14, 2017.

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

Mr. Martin said that this request does require a waiver to Article 6-8(a) [and Exhibits 6-1 and 6-3] of the Land Subdivision Regulations, which governs street geometrics.

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

1. The waiver will have no significant impact on public safety, which is consistent with the overall intent of the Land Subdivision Regulations. The existing roadway is appropriately sized for a 25 MPH speed limit, has very little access from adjoining properties, and functions well from a water drainage standpoint.
2. Strict enforcement of the Land Subdivision Regulations street geometric requirements would constitute a hardship for the applicant, and would not provide much, if any, improvement over the existing substandard stormwater conditions impacting the public right-of-way.

Commission questions – Mr. Owens said that the Division of Fire would have access to the site off Man o' War Boulevard, and asked where the access easements are located for ingress and egress. Mr. Martin said that there are no access easements, but the Division of Fire has assured the staff that they could access the site.

Mr. Owens then asked if curb and gutter was approved for the townhouse development. Mr. Martin replied affirmatively, and said that the plat was approved with full improvements. He then said that should the Commission approve the requested waiver, it would retroactively impact the plat when it is recorded.

Mr. Penn asked if the timing of the road improvements would be done before or after the daycare center is constructed. Mr. Martin said that the road improvements and the construction should be timed together, adding that the new building would not be occupied until the new bridge is completed, which is part of the CLOMR.

Mr. Penn indicated that he was not aware that there was access to Man o' War Boulevard available from the site because everywhere he looked there was a fence. Mr. Martin said that during the staff's conversations with the Division of Fire, they have said that they can overcome any barrier and/or fence, if needed.

Mr. Wilson asked if condition #15 could be changed to resolve. Mr. Martin replied that would be appropriate, and added that condition #15 is in part related to the timing of the CLOMR.

Representation – Matt Carter, Vision Engineering, indicated that the applicant was in agreement with the staff's recommendation and requested approval.

Commission Question – Mr. Owens asked when will Clays Mill Road improvements be done. Mr. Carter said that while the bridge is being built there will be a temporary crossing over the creek, such as a culvert. He then said that the culvert would be taken out on the completion of the bridge then the site would be constructed.

Mr. Owens then asked if construction traffic would be using Man o' War Boulevard. Mr. Carter replied that the construction traffic would not be accessing Man o' War Boulevard.

Mr. Owens asked if the new bridge would be built before occupancy. Mr. Carter replied affirmatively.

Mr. Penn asked if the CLOMR applied to both properties (daycare and townhomes) and would it be obtained before construction starts. Mr. Carter replied affirmatively.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve PLN-MJDP-17-00062: WYNDALE SUBDIVISION, LOT 2B, as recommended by the staff, changing condition #15 to read: "Resolve timing of townhouse construction (development plan approval has expired)."

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve the waiver to Article 6-8(a) [and Exhibits 6-1 and 6-3] Land Subdivision Regulations that is associated with PLN-MJDP-17-00062: WYNDALE SUBDIVISION, LOT 2B, as recommended by the staff.

- b. PLN-MJDP-17-00068 (AKA: DP 2006-137): PROVIDENCE PLACE & INTERSTATE SERVICE CENTER, UNIT 6 (9/26/17)\* - located at 2200 Newtown Pike and 1931 Stanton Way. (Council District 12) (Joel Brown)

Note: This plan requires the posting of a sign and an affidavit of such.

The Planning Commission originally approved this plan on December 14, 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 parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.

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

5. Greenspace Planner's approval of the treatment of greenways/bike trails and pedestrian movement.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Approval of street names and addresses per e911 staff.
9. Approval of exaction information for the entire project by the Division of Planning.

In their approval, the Commission added the following four conditions recommended from the staff's EAMP Compliance Report, and adopting the staff's findings from the EAMP Compliance Report:

- a. That the rear of the residential structures that back to the B-5P area and that will back up to the proposed barn be buffered through landscaping equivalent to commercial/residential zone-to-zone screening.
- b. That the applicant provides additional pedestrian connections within the development to create complete pedestrian loops, to the approval of the Bike/Pedestrian Planner.
- c. That the applicant provides a more detailed plan for the common use of the central open space, prior to certification.
- d. That the applicant provides development standards for minimum architectural standards that would reflect at least some common architecture among the buildings.

The Planning Commission reapproved this plan on June 14, 2007, subject to original conditions, adding the following condition:

10. Resolve conflict between dwelling location and existing construction easement prior to certification.

Note: The Planning Commission reapproved a continued discussion for this plan on February 28, 2008, to allow the addition of a single family residential unit to the plan. This plan was certified on March 18, 2008. The applicant now requests reapproval of the plan since no building permits can be issued for the property, under Art. 21-4(e) of the Zoning Ordinance.

The Subdivision Committee Recommended **Postponement** due to lack of representation.

Should this plan be reapproved, the conditions approved by the Planning Commission at their June 14, 2007, meeting are recommended, adding the following two conditions:

11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Addition of a second Planning Commission certification (with today's date) on the plan.

Staff Presentation – Mr. Martin presented the staff report and a rendering of the final development plan for **PLN-MJDP-17-00068 (AKA: DP 2006-137)**. He briefly explained that the Planning Commission originally approved this plan on December 14, 2006, subject to the conditions listed on today's agenda. The Planning Commission then reapproved this plan on June 14, 2007, subject to original conditions, adding one condition as noted on today's agenda. This plan was certified on March 18, 2008, and the applicant now requests reapproval of the plan since no building permits can be issued for the property, under Article 21-4(e) of the Zoning Ordinance. The Subdivision Committee had recommended postponement due to lack of representation, and should this plan be reapproved, the staff recommends adding the following two conditions:

11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Addition of a second Planning Commission certification (with today's date) on the plan.

Mr. Martin said that the Planning Commission and the Urban County Council recently approved a text amendment to the Community Center zone. This text amendment now allows some of the existing structures to be used as banquet facilities. Any modifications to the property would require a permit and possibly an amendment to the development plan.

Mr. Martin said that the staff is recommending reapproval of the request.

Commission Questions - Mr. Owens asked if there are any new proposed structures on the site. Mr. Martin replied affirmatively. Mr. Owens then asked if there is an existing barn on the site. Mr. Martin replied that the applicant would need to respond to the question.

Representation – Joel Brown, property owner, indicated that he was in agreement with the staff's recommendation and requested reapproval.

Commission Questions – Mr. Owens asked if the proposed new structure is the existing barn, and if so, will it be reused or replaced. Mr. Brown replied affirmatively, and said that the barn is a historical building that will be preserved and possibly be used for a commercial use.

Mr. Owens then said that during the text amendment hearing, he expressed his concern with the lack of a residential area in the Community Center zone. He then said that there needs to be a way to require more residential in the Community Center area. The commercial development seems to come first and the residential development never

comes afterwards. He indicated that he is having a hard time believing that the residential development backing up to those barns will be built or occupied with the current conditions on the site.

Mr. Owens asked if there are any specific plans for the barns and out buildings. Mr. Brown replied negatively, and said that it is his hope that these structures can be used for commercial purposes. He then said that the property is on the market and the inquiries have ranged from drug rehabilitation facilities to special event venues. Mr. Owens said that it seems there is no way to require the residential component in the Community Center zones.

Mr. Owens asked if the barns were to be used for commercial uses was there adequate parking available. Mr. Sallee said that when the development plan was initially approved the parking was in compliance. He then said that even though it may appear that the parking does not meet the requirements, he cannot imagine the staff missing that requirement. Mr. Owens said that these are large barns that can house a lot of activities, which means parking is important. He then said that anything that occurs on this property would need a development plan to show how everything would flow. Mr. Sallee said that if the applicant wanted to change the use of the property then an amended development plan would need to be considered by the Planning Commission showing the proposed uses and parking calculations. Mr. Brown said that the development plan being presented only shows the use of one building and the parking requirement is in compliance. He indicated that if the other buildings were proposed to be used then the development plan would be amended.

Mr. Penn said that he does not want to give future land owners the impression that the Community Center aspect was not important. The residential housing is an important part of the Community Center zone and future land owners should be made aware of it so that the residential portion is not ignored. This has nothing to do with the reapproval, but everything to do with how the property is marketed to future land owners. Mr. Brown replied affirmatively.

Mr. Owens agreed that the reapproval was not the issue, but there needs to be some aspect of the residential component in the Community Center zone. He asked if there is a way to tie the commercial development with the residential development to ensure that the residential development is built. Mr. Sallee said that the Commission does have the ability to impose timing restrictions on one use over another use. The commercial use can be limited to a certain number until the residential portion is completed. Mr. Owens asked what would the staff recommend. Mr. Sallee said that from the staff's perspective, they would prefer to meet with the applicant to discuss the issue before making a recommendation to the Commission. With the development plan being 11 years old, this issue has never presented itself until now, so time would be needed for staff to review it.

Mr. Sallee indicated that the applicant had submitted the proper documentation, and an affidavit for the posting of a sign.

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

Commission Questions – Mr. Owens asked if a condition could be added to resolve the possibility of phased construction for residential and commercial to the staff's satisfaction. Mr. Sallee indicated that a resolve condition would be fine, but "to the approval of the staff" is bothersome. Ms. Jones said that a resolve condition can be added, but constructing a condition on the fly makes the staff a little nervous. She said that resolving the timing in conjunction with the residential and commercial would be appropriate, and asked if this would then be reviewed by the Commission. Mr. Sallee said that if the staff and the applicant were not in agreement then the request would be considered by the Planning Commission.

Mr. Penn asked if a discussion item could be added to include the residential portion of the Community Center zone. He said that with the property being on the market, he wanted the next property owner to know and understand what was expected in a Community Center zone. The property and house is very unique and full of history, so he wants to add a condition that would trigger a further discussion in the future. Mr. Sallee suggested the Commission consider the following condition:

"Resolve timing of residential development compared to commercial use on the subject property."

Ms. Jones suggested that following language be added to the proposed condition:

"Resolve timing of residential development compared to the development of the commercial use on the subject property."

Mr. Sallee replied affirmatively. Ms. Jones said that the condition should be strongly worded because the Commission does have significant interest in this issue. Mr. Wilson confirmed that the language would read: "Resolve timing of residential development compared to the development of the commercial use on the subject property." Mr. Penn and Mr. Owens agreed. Mr. Cravens indicated his objection to the proposed language and said that this type of condition has not been placed on any other Community Center zones. He then said that the residential portion has not been built, and it is the property owners right to build whatever they want. He added that the residential portion will be built and it is not fair to single out the applicant because he is the last person in front of the Commission. He also added that this condition could hurt the applicant's ability to sale the property. Mr. Owens replied that the residential portion has not been built yet and perhaps it's because the Commission has not required that it be built. He then said that

there is nothing saying that the Community Center areas will not come before the Commission in the future. Mr. Brown asked if the Knights Inn property is required to have a residential component as well. He said that he was told that since his residential home consist of an 8,000 sq. ft. structure and 2,500 sq. ft. structure those two structures fulfilled the residential component of the Community Center zone. He indicated that any potential buyers are being told that the property is zoned Community Center, so nobody is trying ignore those requirements.

Mr. Wilson said that the applicant has requested reapproval of this development plan. He then said that the Commission has expressed concerns regarding the residential use and this is the reason why the Commission is asking for the additional condition. Mr. Wilson understood Mr. Cravens point about asking this particular applicant to go the additional step when it has not been done in the past with any other applicant. Ms. Plumlee's comment was inaudible.

Mr. Cravens said that the Zoning Ordinance does not require either the residential or commercial portions to develop at the same time, or right after the other. He then said that the members cannot make stuff up and with this type of condition the Commission is changing the Zoning Ordinance. The Zoning Ordinance must be followed as it has been done in the past, the Commission cannot just change the Ordinance. Mr. Penn understood Mr. Cravens point, but the Commission does not change zones on the properties because of its past history. He added that if the applicant wants to keep the Community Center zone then the residential portion needs to be addressed. Mr. Cravens said that if the applicant keeps the current zone then the Zoning Ordinance needs to be consulted to see what it required. He then said that the Community Center zone does not say the residential portion has to be built first or at the same time. He added that if the Commission imposes this condition then a text amendment needs to be required to change the Zoning Ordinance.

Mr. Owens asked if the Law Department would weigh in on whether or not the Commission can attach this condition in accordance with the Zoning Ordinance. Ms. Jones said that the Article 23A-9(a) which reads: *The intent of the Community Center zone is to implement the community center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and non-residential uses which serves the needs surrounding residential neighborhoods.* Article 23A-9(b) list 31 items that are principal uses in the Community Center zone and those include a private club as well as single family, multi-family, townhouses and so forth. She said that Mr. Cravens point was the Zoning Ordinance does not spell out how the commercial and/or residential areas are to be built; and what the Commission was saying the intent of the Community Center zone was not being met if both commercial and residential areas are not being built at the same time or relatively close together. She added that it is up to the Commission as to how the intent of the Community Center zone is interpreted or how it is enforced.

Action - A motion was made by Mr. Owens, seconded by Ms. Plumlee to approve **PLN-MJDP-17-00068 (AKA: DP 2006-137): PROVIDENCE PLACE & INTERSTATE SERVICE CENTER, UNIT 6**, as recommended by the staff, adding condition #13. "Resolve timing of residential development compared to the development of the commercial use on the subject property."

Discussion of Motion – Mr. Cravens asked what does resolve mean. Mr. Wilson said that the staff and the applicant would need to discuss this particular item to determine how to address it; and if it cannot be resolved then the staff would present it to the Commission for their consideration. Mr. Cravens then asked what if the staff agrees. Mr. Wilson then said that the plan would not be presented to the Commission. Mr. Cravens said that he does not see the point of adding the condition.

The motion as carried 6-1 (Cravens opposed; Brewer, Richardson, Berkley and Forester absent)

- c. PLN-MJDP-17-00083 (AKA DP 2003-111): J.T.C. PROPERTY, TRACT 2, LOTS 1-A (AMD) AND 1-B (9/26/17)\* - located at 1751 Atoma Drive. (Thoroughbred Engineering)

Note: The purpose of this amendment is to revise development of Lot 1-A. The Planning Commission originally approved this plan on November 13, 2003, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross sections.
3. Building Inspection's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.
5. Department of Fire's approval of circulation.
6. Department of Sanitation's approval of dumpster locations.
7. Complete lot dimensions.
8. Resolve disposition of 40' temporary drainage and storm sewer easement prior to plan signature.

Note: This plan was certified on November 8, 2004, after meeting all eight conditions. The applicant now requests reapproval of the plan since building permits can no longer be issued for the property under Art. 21-4(e) of the Zoning Ordinance.

The Staff Recommends: Reapproval, subject to only condition #6 approved for this development on November 13, 2003, adding the following conditions:

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



2. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
3. Addition of a second Planning Commission certification (with today's date) on the plan.

Staff Presentation – Ms. Gallt presented the staff report and a rendering of the final development plan for **PLN-MJDP-17-00083 (AKA DP 2003-111)**. She briefly explained that the Planning Commission originally approved this plan on November 13, 2003, subject to the conditions listed on today's agenda. This plan was certified on November 8, 2004, after meeting all eight conditions. The applicant now requests reapproval of the plan since building permits can no longer be issued for the property under Art. 21-4(e) of the Zoning Ordinance. The staff is recommending reapproval, subject to condition #6 approved for this development on November 13, 2003, adding the following conditions:

2. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
3. Addition of a second Planning Commission certification (with today's date) on the plan.

Representation – Kurt Wilteselback, Thoroughbred Engineering, indicated that the applicant was in agreement with the staff's recommendation and requested reapproval.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn and carried 6-1 (Plumlee opposed; Brewer, Richardson, Berkley and Forester absent) to reapprove **PLN-MJDP-17-00083 (AKA DP 2003-111): J.T.C. PROPERTY, TRACT 2, LOTS 1-A (AMD) AND 1-B**, as presented by the staff.

- d. **DP 2016-63: MAPLELEAF SUBDIVISION (AMD)** (9/26/17)\* - located at 3110 Mapleleaf Drive.  
(Council District 7) **(Barrett Partners)**

Note: The purpose of this amendment is to provide a right-in/right-out turn on Man o' War Blvd. The Planning Commission originally approved this plan on July 14, 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. 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. Provided the Planning Commission grants a waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations.

The Planning Commission also approval a waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations, for the following reasons:

1. The requested intersection spacing wavier will have no negative impact on public safety to vehicles, or pedestrians, if correctly designed, which is consistent with the basic intent of the Land Subdivision Regulations.
2. Strict enforcement of the current 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 Mapleleaf Drive and Man o' War Boulevard.

This recommendation was 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, and to the Bike & Pedestrian Planner.

Note: Commission approval has since expired. The applicant requests reapproval of this plan.

The Staff Recommends: **Reapproval**, subject to the original approved this plan on July 14, 2016.

Staff Presentation – Mr. Sallee presented the staff report and a rendering of the amended final development plan for **DP 2016-63: MAPLELEAF SUBDIVISION (AMD)**. The Planning Commission originally approved this plan on July 14, 2016, subject to the conditions listed on today's agenda. The Commission's approval has since expired and the applicant now requests an extension of the Commission's original approval.

Representation – Tony Barrett, Barrett Partners, indicated that the applicant was in agreement with the staff's recommendation and requested a one-year extension of the Commission approval.

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

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

Action - A motion was made by Mr. Owens, seconded by Ms. Mundy and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve the one-year extension for **DP 2016-63: MAPLELEAF SUBDIVISION (AMD)**, as presented by the staff.

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

- A. ELECTION OF OFFICERS** – The Chair said that Commission's By-laws state that at the first regular meeting in July, the Commission shall elect a Chairperson, Vice-Chairperson, Secretary, and Parliamentarian. He indicated that the Nominating Committee discussed the slate of officers at the last work session and is ready to present its slate for consideration by the Planning Commission. Nominations may also be made from the floor.

The current officers are as follows:

|                  |   |                 |
|------------------|---|-----------------|
| Chairperson      | - | William Wilson  |
| Vice Chairperson | - | Frank Penn      |
| Secretary        | - | Carolyn Plumlee |
| Parliamentarian  | - | Karen Mundy     |

Action - A motion was made by Mr. Cravens, seconded by Mr. Owens and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to move and close the nomination seats.

Nominating Committee recommendation:

|                  |   |                 |
|------------------|---|-----------------|
| Chairperson      | - | William Wilson  |
| Vice Chairperson | - | Frank Penn      |
| Secretary        | - | Carolyn Plumlee |
| Parliamentarian  | - | Karen Mundy     |

Action - A motion was made by Mr. Cravens, seconded by Mr. Owens and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to approve the Planning Commission's Slate of Officers, as presented by the Nominating Committee.

- B. DELEGATION OF SECRETARY'S DUTIES** – The Chair said that the Commission's past procedure for carrying out the Secretary's duties, except for signing minutes, has been to delegate that authority to the Director of the Division of Planning and his staff.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 7-0 (Brewer, Richardson, Berkley and Forester absent) to delegate the Secretary's duties, with the exception of signing minutes, to the Director of the Division of Planning and his staff.

*Note: A recess was declared by the Chair at 3:02 p.m. and the meeting re-convened at 3:09 p.m.*

- C. BOAR 2017-1: MICHAEL AND KAREN SHEETZ** – an appeal to the Planning Commission to modify a Certificate of Appropriateness Condition approved by the Board of Architectural Review, for property 239 Desha Rd.

The Staff Recommends: Approval to modify Condition (2) to allow new 6/6 windows, for the following reasons:

1. Although the approval of a Certificate of Appropriateness by the Board of Architectural Review was consistent with their charge in interpreting the Design Guidelines established by the local Historic Preservation Commission, in this specific case, Condition (2) may be modified to allow the use of 6/6 windows, and the addition would remain in compliance with the guidelines.
2. The use of 6/6 double-hung windows is consistent with previous approvals within the Ashland Park Historic District, that previously determined the acceptability of the 6/6 windows for additions to a historic residential structure as proposed at 239 Desha Rd.

Staff Presentation – Ms. Peacher presented the staff report on the Board of Architectural Review Appeal for Michael and Karen Sheetz (BOAR 2017-1), for property located at 239 Desha Road. (A copy of the staff report is attached as an appendix to these minutes).

Historic Preservation Presentation – Ms. Kerr submitted into the record the Certificate of Appropriateness application, Article 13 of the Zoning Ordinance (Historic Preservation section) and the Design Guidelines. She indicated that she had several photographs of the subject properties to show to the Commission, if needed. She concluded by requesting that the Planning Commission uphold the BOAR decision by disapproving this request.

Appellant's Presentation – Ken Par, Wilmes & Associates Architects, was present representing Mr. Michael and Karen Sheetz. He indicated that the applicant was in agreement with the Planning staff's recommendation and requested the Commission's approval.

Commission Comments and Questions – Mr. Cravens asked if the existing windows have storm windows on the outside. Mr. Par replied affirmatively. Mr. Cravens then asked if storm windows will be used with the new windows. Mr. Par replied affirmatively. Mr. Cravens asked if there is vinyl or aluminum on the overhang of the house. Mr. Par said that at some point in the past the existing trim was covered in vinyl. He then said that his clients had explored the idea of removing the vinyl and if needed replacing whatever is underneath the vinyl. If it turns out that the wood has rotted then the vinyl will remain intact. The new addition would be using painted wood. No vinyl will be used.

Mr. Cravens said that the old windows will be taken off the house and installed on the new addition, and asked where will the new windows be installed. Mr. Cravens said that in reviewing the elevation it seems that there are windows on the rear of the house that are 4/4. Mr. Par briefly explained that Exhibit A illustrates the windows without muttons. Mr. Cravens said that the rendering the Commission was given shows the rear windows as 4/4 pane windows. He asked the appellant to clarify what they were proposing. Mr. Par explained what was approved by the BOAR, and said that the Board would allow them to use the old windows but the windows had to be without muttons. He then said that if the Commission was reviewing the hand drawing showing 4/4 pane windows that was a conceptual drawing, but his clients have moved beyond that idea. Mr. Cravens said that the 4/4 is on the narrow windows, and asked if the appellants wanted to use the 4/4 pane windows. Mr. Par replied negatively. Mr. Cravens then asked if the appellants want to use 6/6 pane windows. Mr. Par replied affirmatively. Mr. Cravens asked would the size of the windows be changed. Mr. Par asked if Mr. Cravens was referring to the concept drawing. Mr. Cravens replied negatively, and said that on the one-story addition the exhibit depicted 4/4 pane windows. Mr. Cravens asked that Mr. Par review what was given to the Commission. Mr. Par explained that what the Commission has in their hand was a drawing that was used when the different configurations were being established, and this was presented to the BOAR. The Board denied their request, which led to the drawing being changed. Mr. Cravens asked where is the new plan. Mr. Par directed the Commission's attention to the overhead projector, which illustrated what the BOAR had approved. Mr. Cravens said that the drawing is showing 1/1 pane windows. Mr. Par replied that is correct. Mr. Cravens said that the 1/1 pane windows is not what the appellants want. Mr. Par directed the Commission's attention to the overhead projector to illustrate what the appellants were requesting for approval. Mr. Cravens said that the drawing shows 4/4 panes on the back windows. Mr. Par replied that is correct. Mr. Cravens asked if the windows will be clad windows. Mr. Par said that the rear windows would also be wood. Mr. Cravens said that the appellant would not be using clad. Mr. Par indicated clad would not be used. Mr. Cravens then asked if the windows would be true divide light. Mr. Par replied that the windows would be true divide light, single glazed wood windows.

Mr. Wilson said that the appeal was 1/1 pane windows to 6/6 pane windows. Mr. Par replied that is correct. Mr. Wilson said that the drawing depicts 4/4 pane windows. Mr. Par explained that there are several different types of windows on the house, and said that the smaller windows are 4/4, two casement windows are 6/6, a fix picture window in the center. He said that he previously misspoke when he said 6/6 and the submitted a letter explaining that the appeal was to be able to use muttons in the windows of the new construction, whether it is 4/4 or 6/6. Mr. Wilson said that the Commission does not have the letter to review. Mr. Par said that the Planning staff had submitted a packet that included the letter as Exhibit A. Mr. Wilson said that the confusion is Option 1, which reads "repurpose 6 existing double hung windows with 6/6". He then said that 6/6 has been constantly noted throughout the hearing, but when reviewing the exhibit for the design of the windows it reads 4/4. Mr. Par explained that some of the windows are different sizes and 6/6 muttons cannot be used in all of the windows so that is why the smaller windows show 4/4 divided lite. He then said that the appeal is not the number of lights but rather using muttons.

Michael Sheetz said that mutton windows with divided lite are considered historic, but window companies do not have historic windows to purchase. He then said window companies have modern windows with divided lite that are 4/4 or 6/6, not 1/1. He then said that if the windows were historic then he would agree, but 6/6 windows are being sold today as non-historic windows.

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

Staff Rebuttal - Ms. Kerr requested the Commission to uphold the BOAR decision to deny this application. She disagrees with the comment made about the different type of windows and explained that this could create an unfavorable outcome if issues are ignored. She said that no one was suggesting that people only used 6/6 or multi-pane windows in the past or people only use 1/1 windows in the present. The reality of what is needed should reflect the two different eras of construction by having a legitimate contrast in the window articulations.

Commission Questions – Mr. Penn said that when the BOAR allowed the old windows to be moved to the new addition, which is counter to the staff's argument one way or the other. He asked what is the difference in allowing the old windows to be moved the new addition. Mr. Kerr said that the staff recommended that all 12 windows be 1/1 pane windows, not a mixture. She then said that the BOAR expressed that good windows should not be thrown out, which opened the door to reuse the old windows on the new addition. This is the first time this type of decision has happened.

Staff Rebuttal - Ms. Peacher had no rebuttal.

Representation Rebuttal - Mr. Par said that his clients wanted to reuse and restore the existing windows. It was an unusual request to use the old windows on the new addition.

Commission Questions and/or Comments - Mr. Bell asked how long has this dispute being going on. Mr. Par gave a brief history on the subject property and the timing of the applications.

Ms. Mundy explained that the Planning Commission recently reviewed an appeal where the BOAR wanted the appellant to replace all of the vinyl windows on a townhouse. With that request, the Planning Commission decided to agree with the appellant. Now with this appeal, the BOAR gave the appellant permission to repurpose six windows, but is requiring the appellants to use something different for the other windows. Ms. Mundy indicated that this appeal is a very confusing because of the BOAR's inconsistent decisions. She then said that she is not familiar with the BOAR guidelines and she struggles with the Board's decisions. Mr. Kerr said that there are a lot of complicated things and that is why there is a struggle. She then said that vinyl windows are a direct violation of the guidelines and the process of the historic areas has not allowed vinyl to be utilized in any way, shape or form since 2009. The recent townhouse appeal is not relevant to the current appeal.

Ms. Kerr said that it was unusual and it is the first time that the Board allowed historic windows to be installed in a new addition. The Design Guidelines are used in every application, and each application is reviewed specifically to that house, that setting, and so forth. The Design Guideline's intent is applied on case-by-case basis, reflective on what the property owner is requesting and the existing condition. With that in mind, the request was to add a rear addition. The staff falls back on the intent of the design philosophy for new construction, which is what the Commission sees reflected in why to go with a 1/1 window. She said that the windows are going to express themselves as created at the time the addition is constructed and it is not going to suggest that the new addition has ever been a part of the historic house. As proposed, the windows will be viewed as not being created in 2017, but rather viewed as the windows seem to match the historic house. At the end of the day, buildings tell a story.

Ms. Kerr invited the Planning Commission to meet with the Historic Preservation staff to review and discuss the Design Guidelines to gain a further understanding as to how the guidelines are illustrated. Ms. Mundy said that after the townhouse appeal, she did review the Design Guidelines and because of her profession as a realtor, she struggles with the value added and the value taken away with some of the guidelines. Ms. Kerr indicated that some people will see the new addition as a great addition, where others may not be so thrilled. Everybody can have their opinion, but the Design Guidelines have to have some rational.

Ms. Mundy said that to preserve the historic value is more important than trying to change the value. Mr. Kerr said that the Design Guidelines reflect both. First and foremost, the guidelines protect the historic resources and not doing any harm or change to those. However, the guidelines open the door for there to be a more contemporary approach to new free standing houses or new additions. The form, scale, heights, setback and so on should fit as well. She gave an example of a historical community, and said that Colonial Williamsburg wants everything to look like old Colonial Williamsburg even if the house was built a few years ago. Ms. Mundy replied that is correct. Ms. Kerr said that each community is different and will vary, but Lexington is in the middle with the intent of the Design Guidelines.

Appellant Rebuttal - Michael Sheetz said that the overriding concern with the Design Guidelines with historic renovations is that there is an obvious demarcation between a 1925 and 2017. He then said he does not believe anyone will have a concern because they would be able to tell that the new addition was not constructed in 1925. The flexibility should be there as long as the flexibility does not create the impression that the new addition was constructed in 1925.

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn to approve the appeal for **BOAR 2017-1: MICHAEL AND KAREN SHEETZ** to allow the use of 6/6 and 4/4 windows in the new addition, based on the following reasons:

1. Although the approval of a Certificate of Appropriateness by the Board of Architectural Review was consistent with their charge in interpreting the Design Guidelines established by the local Historic Preservation Commission, in this specific case, Condition (2) may be modified to allow the use of 6/6 or 4/4 windows, per Exhibit A, Drawing #2 and the addition would remain in compliance with the guidelines.
2. The use of divided lite double-hung windows is consistent with previous approvals within the Ashland Park Historic District that previously determined the acceptability of divided lite windows for additions to a historic residential structure as proposed at 239 Desha Rd.

Mr. Owens asked that the Exhibit A, Drawing #2 be shown on the overhead projector to reflect the motion on the floor (A copy of the Exhibit A, Drawing #2 is attached as an appendix to these minutes).

The motion carried 7-0 (Brewer, Richardson, Berkley and Forester absent)

Mr. Wilson indicated that he would like to take Ms. Kerr up on her offer of providing more education on the Design Guidelines, and also invited his fellow Commission members to join him. He noted that perhaps this could be done during at an upcoming Work Session. Ms. Kerr replied that the staff would be very glad to provide the Commission members more information about the Design Guidelines.

## VII. STAFF ITEMS

Mr. Duncan congratulated the members on their reappointment, as well as welcomed the newest members to the Planning Commission. He reminded the members of the upcoming work session on Thursday, July 20<sup>th</sup> and said that the meeting will be held on the 3<sup>rd</sup> floor in the Phoenix Building.

Mr. Wilson thanked Mr. Bell for providing his service to the community.

Mr. Penn said that Mr. Sallee had informed the Commission members about his retirement at the end of the month. He then said that he wanted to invite the members of the Planning Commission and the staff to join in a celebration at the Thoroughbred Club, July 26<sup>th</sup>. Mr. Wilson said that an RSVP is requested to determine the number of people who will be joining the celebration.

**VIII. AUDIENCE ITEMS** – There was none.

**IX. NEXT MEETING DATES**

|                                                                                                             |                        |
|-------------------------------------------------------------------------------------------------------------|------------------------|
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .....                | July 26, 2017          |
| <b>Zoning Items Public Hearing</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers .....      | <b>July 27, 2017</b>   |
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....               | August 3, 2017         |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .....                    | August 3, 2017         |
| <b>Subdivision Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers ..... | <b>August 10, 2017</b> |

**X. ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 3:24 PM.

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William Wilson, Chair

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Carolyn Plumlee, Secretary

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