

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

September 14, 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; Will Berkley; Mike Cravens; Larry Forester (departed at 5:15 p.m.); Karen Mundy; Carolyn Plumlee and Carolyn Richardson. Headley Bell; Patrick Brewer; Mike Owens; and Frank Penn were absent.

Planning Staff members present – Jim Duncan; Traci Wade; Tom Martin; Denice Bullock; Chris Bronczyk; Jimmy Emmons; Chris Taylor; Chris Woodall and Cheryl Gallt. Other staff members in attendance were: Vaughan Adkins, Division of Engineering; Kristan Curry, Division of Environmental Quality; Tim Queary, Environmental Policy; Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Joshua Thiel, Division of Fire and Emergency Services; & Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 7-0 (Bell, Brewer, Owens and Penn absent) to approve the minutes of the August 10, 2017, meeting.

III. **COMMISSION ITEM**

- A. **RESOLUTION FOR FORMER PLANNING COMMISSION MEMBER** - Mr. Wilson stated that the Commission and the staff would like to take an opportunity to honor Mr. Joseph Smith for his dedication and service to the Planning Commission and the Lexington-Fayette County community. Mr. Smith joined Mr. Wilson and the other Commission members at the podium, and Mr. Wilson read Mr. Smith's resolutions into the record. (A copy of the resolution is attached as an appendix to these minutes). Mr. Smith expressed his appreciation for the work of the Commission and the staff.

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

- a. **DP 2015-6: RICHARDSON PROPERTY (AMD)** (12/5/17)* - located at 150 & 300 Chilesburg Road.
(Council District 7) **(John Hill)**

Note: This property requires the posting of a sign and an affidavit of such. The purpose of this amendment is to remove 10 townhomes, to add 26 condominium units, and to add two 6-car parking garages. The Planning Commission approved this item at their February 26, 2015, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Addition of record plat designation in title block.
10. Rotate vicinity map to match orientation of plan.
11. Denote height of building in feet.
12. Addition of building square footage in site statistics.
13. Complete exaction information to the approval of the Division of Planning prior to plan certification.
14. Correct purpose of amendment note to delete statement #4.

Note: The applicant is requesting a reapproval of the plan.

The Staff Recommends **Reapproval**, subject to the conditions approved on February 26, 2015.

Representation present – John Barlow, applicant's representative, requested a one-month postponement because a sign is required to be posted on the property.

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

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 7-0 (Brewer, Bell, Owens and Penn absent) to postpone **DP 2015-6: RICHARDSON PROPERTY (AMD)** to the October 12, 2017, Commission's meeting.

- b. **PLN-MJDP-17-00070: ZANDALE SHOPPING CENTER & GREENLEAF MOTOR LODGE PROPERTIES (AMD)** (10/1/17)* - located at 2280 Nicholasville Road. (Council District 4) **(Brandstetter Carrol)**

Note: The Planning Commission postponed this item at their August 10, 2017, meeting. The purpose of this amendment is to remove the note restricting the drive-through lane for a fast food restaurant and to relocate the dumpster and drive-through lane.

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

The Subdivision Committee Recommended: **Postponement**. There were some questions regarding the public safety benefit of moving the approved location of the proposed drive-through lane along Zandale Drive.

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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
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. Identify boundaries of property with bold, solid lines and adjacent property with dashed lines.
9. Clarify area of amendment on vicinity map.
10. Labeled height of contours on plan.
11. Dimension access points, sidewalks and drive aisles on plan.
12. Dimension all buildings on plan.
13. Denote height of building in feet on plan.
14. Addition of street frontage in site statistics for Zandale Drive, Nicholasville Road and Lowry Lane.
15. Addition of record plat designation.
16. Discuss proposed drive-through use and location near access point to Lowry Lane.
17. Discuss proposed dumpster location next to transformer and utility easement.
18. Discuss outside patio area and any proposed seating.
19. Discuss additions to internal pedestrian system.
20. Discuss proposed use in tenant space.
21. Discuss vehicular stacking area for proposed drive-through.

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.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Berkley and carried 7-0 (Brewer, Bell, Owens and Penn absent) to postpone **PLN-MJDP-17-00070: ZANDALE SHOPPING CENTER & GREENLEAF MOTOR LODGE PROPERTIES (AMD)** to the October 12, 2017, Commission's meeting.

- c. **PLN-MJSUB-17-00048: THE GARDEN OF HARTLAND, UNIT 3 (AMD) (10/1/17)*** - located at 5116 Ivybridge Drive.
(Council District 12) **(Wes Witt)**

Note: The Planning Commission postponed this item at their August 10, 2017, meeting. The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Postponement**. There are some questions regarding the ability to provide sanitary sewer service to a proposed new lot.

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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Document release of Ashland Oil easement.
9. Denote monument information, per Article 6 of the Land Subdivision Regulations.
10. Provided the Planning Commission grants a waiver of the required lot frontage.
11. Discuss provision of sanitary sewer service to Lots 5116 and 5121.
12. Discuss engineer's certification.
13. Discuss Urban County Engineers certification.
14. Discuss the need for Improvement Plan(s).

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.

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

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee and carried 7-0 (Brewer, Bell, Owens and Penn absent) to postpone **PLN-MJSUB-17-00048: THE GARDEN OF HARTLAND, UNIT 3 (AMD)** to the October 12, 2017, Commission's meeting.

- d. **PLN-MJSUB-17-00050: GREER-HANCOCK FARM, LLC** (11/1/17)* - located at 2100 Muir Station Road.
(Council District 12) **(Foster-Roland)**

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Addressing Office's approval of street names and addresses.
3. Department of Environmental Quality's approval of environmentally sensitive areas.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Correct surveyor's certification.
6. Correct spelling in Health Department note.
7. Denote: Access to this property is provided by an access easement located in Bourbon County.
8. Denote: This plat approved by the Planning Commission, per the requirements of KRS.100.292
9. Provided the Planning Commission grants a waiver to Article 6-6(a) of the Land Subdivision Regulations.
10. Provided the Planning Commission grants a waiver to Article 6-4(c) of the Land Subdivision Regulations.

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

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

Action - A motion was made by Ms. Richardson, seconded by Mr. Forester and carried 7-0 (Brewer, Bell, Owens and Penn absent) to postpone **PLN-MJSUB-17-00050: GREER-HANCOCK FARM, LLC** to the September 28, 2017, Commission's meeting.

- e. **PLN-MJDP-17-00058: HENRY CLAY SUBDIVISION (DOLLY LAND CO, LLC) (ADAPTIVE REUSE PROJECT)** (9/14/17)* -
located at 1400 Delaware Avenue. (Council District 5) **(MLH Civil Engineers)**

Note: The Planning Commission postponed this item at their July 13, 2017 and August 10, 2017, meeting. 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 aisles 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.

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

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 two-week postponement.

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

Action - A motion was made by Mr. Forester, seconded by Ms. Plumlee and carried 7-0 (Brewer, Bell, Owens and Penn absent) to postpone **PLN-MJDP-17-00058: HENRY CLAY SUBDIVISION (DOLLY LAND CO. LLC) (ADAPTIVE REUSE PROJECT)** to the October 12, 2017, Commission's meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 7, 2017 at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Karen Mundy, Carolyn Plumlee, Will Berkley and Headley Bell. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Traci Wade; Tom Martin; Cheryl Gallt; Denice Bullock; Chris Bronczyk; Captain Greg Lengal and Joshua Thiel, Division of Fire & Emergency Services; Andrea Brown, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

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

Criteria:

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

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

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

Ms. Wade announced the following agenda items appearing on the Consent Agenda:

1. **PLN-MJSUB-17-00049: THE TOWNHOMES AT JEFFERSON STREET (WEST JEFFERSON PLACE LOT 2 AND PRESTON SUBDIVISION LOTS 19 AND 20) (AMD) (10/1/17)* - located at 500 and 508 Maryland Avenue.**
(Council District 2) **(Endris Engineering)**

Note: The Planning Commission postponed this item at their August 10, 2017, meeting. The purpose of this amendment is to subdivide two lots into 17 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. Denote: This property shall be developed in accordance with the approved final development plan.
8. Denote conditional zoning restrictions.
9. Denote number of street trees per lot on Maryland Avenue.
10. Denote required open space per lot per R-1T zone requirements.
11. Addition of access easement maintenance note on plan, per the Land Subdivision Regulations.
12. Clearly delineate reciprocal parking and access easement on Lots 20-R and 20-S.
13. Denote 10' rear yard setback on lots per Planning Commission action on December 17, 2015.
14. Complete tree canopy information.
15. Addition of north arrow on plan.
16. Resolve front yards proposed from Maryland Avenue or document approved variance.

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2. PLN-MJSUB-17-00052: NEWMARKET PROPERTY, UNIT 6-C (11/1/17)* - located at 1263 Angus Trail.
(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, access and on-street parking restrictions.
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 length of street and area of right-of-way in site statistics.
8. Denote: Exactions to the approval of the Division of Planning.

3. PLN-MJSUB-17-00053: L.P. WITT - BUSINESS SUBDIVISION (VISUMATIC) (AMD) (11/1/17)* - located at 856 and 860 Porter Place. (Council District 11) **(G.B. Stacy Land Surveying)**

Note: The purpose of this amendment is to delete the building setback.

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

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. Addressing Office's approval of street names and addresses.
 4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 5. Addition of survey monuments, per Article 6 of the Land Subdivision Regulations.
 6. Complete property owner's information on the adjacent property with deed book and page.
 7. Correct owner's certification.
 8. Clarify area of amendment and identify all lots on plan.
 9. Delete existing 40' building line.
 10. Correct owner's certification and Urban County Engineer certification.
 11. Resolve width of KU easement on property and new building line setback proposed.
4. PLN-MJSUB-17-00061 (AKA PLAN 2006-220F): GESS PROPERTY, UNIT 2-E (CHILESBURG) (12/5/17)* – located off Hays Boulevard. (Council District 7) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 12, 2006. Section 1 of this plan was recorded on October 11, 2007, and Section 2 was reapproved on August 12, 2010 and granted a one-year extension on August 11, 2011, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation areas.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Complete exaction information to the approval of the Division of Planning.
8. Greenspace Planner's approval of the treatment of greenways, bike trails and pedestrian movement.
9. Correct and label access cross-sections.
10. Clarify the connections of greenspace area.

Note: The applicant is requesting a reapproval of Section 2.

The Staff Recommends **Reapproval**, subject to the conditions approved on August 11, 2011.

5. PLAN 2016-67F: LEXMARK INTERNATIONAL, INC. (FKA IBM) SECTION 2 (12/5/17)* - located at 361 W. Loudon Avenue.
(Council District 1) **(Vision Engineering)**

Note: The purpose of this amendment is to create one additional lot in this development, and to move Lots 9 & 10 to Section 1 of this development. 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.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.

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

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. Correct Urban County Engineer's certification.
11. Recordation for Section 1 shall occur prior to certification and recordation of this plan.
12. Addition of 20' building lines on Lot 2, and relocate its lot frontage along unimproved Freight Blvd.

Note: The applicant is requesting a reapproval of the plan.

The Staff Recommends **Reapproval**, subject to the conditions approved on July 14, 2016.

6. PLAN 2016-69F: WYNNDALE SUBDIVISION, LOT 2 (AMD) (12/5/17)* - located at 1580 Higbee Mill Road.
(Council District 9) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots. The Planning Commission originally approved this plan on July 14, 2016, 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. 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. Denote: This property shall be developed in accordance with the approved final development plan.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Correct engineer's/surveyor's certification.
13. Correct Planning Commission's certification.
14. Correct Urban County Engineer's certification.
15. Resolve timing of Higbee Mill Road improvements and possible waiver.

Note: The applicant is requesting a reapproval of the plan.

The Staff Recommends **Reapproval**, subject to the conditions approved on July 14, 2016.

7. PLN-MJDP-17-00067: WAGON WHEEL UNIT 3 (CHARTER RIDGE) (RIDGE BEHAVIORAL HEALTH SYSTEM) (AMD) (10/1/17)* - located at 3050 Rio Dosa Drive. (Council District 7) **(The Drafting Board, Inc.)**

Note: The Planning Commission postponed this item at their August 10, 2017, meeting. The purpose of this amendment is to add buildable floor area to a site maintenance structure.

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

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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 6. Division of Waste Management's approval of refuse collection locations.
 7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 8. Addition of written and graphic scale (i.e. 1" = 20', 1" = 40' or 60').
 9. Correct note regarding record plat designation.
 10. Clarify contour intervals (at 2') in area of amendment.
 11. Dimension width for all walkways in the area of amendment.
 12. Denote location of street cross-section information on the plan face.
 13. Identify any existing easements on plan.
 14. Correct note #6.
 15. Delete note #8.
8. PLN-MJDP-17-00085: MICHAEL GENTRY PROPERTY, LOT 2 (11/1/17)* - located at 3270 Richmond Road.
(Council District 7) **(Midwest Engineering, Inc.)**

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

Note: The purpose of this amendment is to expand the building and revise the parking layout.

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

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. Addition of graphic scale on plan.
 10. Increase font size of bearings and distances of boundary.
9. PLN-MJDP-17-00087: HAMBURG PLACE FARM (TUSCANY, UNIT 1, LOT 169) (YMCA PAVILION) (AMD) (11/1/17)* -
located at 2681 Old Rosebud Road. (Council District 6) **(Brandstetter Carroll, Inc.)**

Note: The purpose of this amendment is to incorporate the outdoor athletic facility into a development 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 record plan name on adjacent property.
 13. Addition of elevation on topography lines.
 14. Addition of conditional zoning restrictions on plan.
 15. Clarify tree protection acreage.
 16. Clarify pavilion square footage.
 17. Clarify note regarding the Board of Adjustment approval prior to plan certification.
10. PLN-MJDP-17-00091: CHEROKEE PARK SUBDIVISION, LOT 2 (OFFICES FOR DR. JOHN W. GILBERT) (AMD)
(11/1/17)* - located at 1721 Nicholasville Road. (Council District 3) **(Vision Engineering)**

Note: The purpose of this amendment is to reduce the building footprint and add a drive-through.

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

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.
11. PLN-MJDP-17-00019: MAPLELEAF SUBDIVISION, LOT 10 (THRIVE CHURCH) (AMD) (11/28/17)* - located at 3162
Mapleleaf Drive. (Council District 7) **(Brandstetter Carroll, Inc.)**

Note: The purpose of this amendment is to revise the building footprint, vehicular circulation and parking provided for Lot 10 and the overall site statistics. The Planning Commission originally approved this plan on April 13, 2017, subject to the following conditions:

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

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

Note: The applicant now requests a continued discussion of this final development plan to increase the total square footage on Lot 10 and to add a second floor to the building.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. Delete "minor" from purpose of amendment.
 11. Denote area of second floor on building on Lot 10.
 12. Improve plan legibility and include information from certified DP 2016-63.
12. DP 2016-39: WYNNDALE SUBDIVISION (12/5/17)* - located at 1580 Higbee Mill Road.
(Council District 9) **(Vision Engineering)**

Note: The purpose of this amendment is to depict a townhouse development with the required parking on the subject property. The Planning Commission approved this item at their May 12, 2016, meeting, 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, landscape buffers and required arterial screening.
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 difference between 20' access easement along east property line and correct base roadway information on plan prior to certification.
12. Denote reference to Article 19 to the approval of Water Quality.
13. Provide full half-section improvements to Higbee Mill Road along entire frontage (per Article 6-8(p) of the Land Subdivision Regulations), unless a waiver is approved by the Planning Commission.
14. Denote maintenance responsibility for common areas and access easement, per the Land Subdivision Regulations.
15. Denote details of proposed landscaping next to R-1C properties.
16. Denote: A LOMR shall be approved prior to the issuance of a building permit for the townhomes.
17. Addition of 10' building line on all townhouse lots.

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

Note: The applicant is requesting a reapproval of the plan.

The Staff Recommends Reapproval, subject to the conditions approved on May 12, 2016.

Ms. Wade said that PLN-MJSUB-17-00049 does require the Planning Commission to make a finding to allow the approved lots to have their sole access via an access easement, rather than via a public or private street. The staff believes that the findings for appropriateness to use the access easements as sole access for certain lots are as follows:

1. Allowing for the townhouse lots to be accessed only via the access easement is appropriate for the proposed development and consistent with the infill and redevelopment provisions of Article 1-5(c) the Land Subdivision Regulations.
2. The property is subject to an approved final development plan, and the use of the access easement for these 8 lots will not negatively impact public health and safety. This is consistent with the intent of the Land Subdivision Regulations.

Ms. Wade 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 was none.

Commission Comments – Mr. Wilson confirmed that PLN-MJSUB-17-00049 does require the Planning Commission to make a finding in the motion. He then reminded the members that DP 2015-6: RICHARDSON PROPERTY (AMD) was previously postponed due to signage issues.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy and carried 7-0 (Brewer, Bell, Owens and Penn absent) to approve the items listed on the Consent Agenda, as recommended by the Subdivision Committee and the staff.

B. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Mr. Forester, seconded by Ms. Richardson, and carried 7-0 (Brewer, Bell, Owens and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated September 14, 2017, from Barry Brock, Division of Engineering.

C. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items were 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-17-00045: DENTON FARMS, INC, UNIT 2, LOT 2 & A PORTION OF LOT 3 (AMD) (10/1/17)* - located at 3935 Tatton Park. (Council District 7) **(John Hill L.S)**

Note: The Planning Commission postponed this item at their August 10, 2017, meeting. The purpose of this amendment is to subdivide tract 3 into 12 lots (10 buildable).

The Subdivision Committee Recommended: Postponement. There were concerns regarding the traffic issues on Ellerslie Place at its intersection with Richmond Road.

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.

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

6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote location of detention.
9. Denote HOA maintenance responsibility for non-buildable lots on plan.
10. Correct purpose of amendment note.
11. Denote building line for Lots 21 and 22.
12. Denote exactions to the approval of the Division of Planning.

Staff Presentation – Mr. Martin presented the staff's report on the Final Record Plat, noting that the Subdivision Committee had recommended postponement due to the traffic issues on Ellerslie Place at its intersection with Richmond Road. However, that issue has been resolved and all parties involved are agreeable; therefore, the staff is now recommending approval, subject to the conditions listed on today's agenda.

Representation – John Barlow indicated that he was in agreement with the staff's recommendation, and requested approval.

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

Action - A motion was made by Mr. Berkley, seconded by Ms. Richardson and carried 7-0 (Brewer, Bell, Owens and Penn absent) to approve **PLN-MJSUB-17-00045: DENTON FARMS, INC, UNIT 2, LOT 2 & A PORTION OF LOT 3 (AMD)**, as recommended by the staff.

2. **DEVELOPMENT PLANS**

- a. **PLN-MJDP-17-00061: THE PENINSULA & SQUIRES APARTMENTS (AMD) (9/14/17)* - located at 440, 478 and 480 Squires Road. (Council District 7)** **(EA Partners)**

Note: The Planning Commission postponed this item at their July 13, 2017 and August 10, 2017, meeting. The purpose of this amendment is to replace 53 townhomes with apartments, and to develop a new subdivision.

The Subdivision Committee Recommends: **Postponement**, due to the remaining discussion items.

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. Revise "existing tree canopy" information to include conditional zoning buffer areas, and cross-hatch those areas.
13. Denote H.O.A. maintenance of clubhouse area and "view to water" lot proposed (Lot 164).
14. Label proposed stormwater basin locations on plan (per Article 21-6(a)(9) of the Zoning Ordinance).
15. Denote BOA approval of conditional use permit for clubhouse/private club.
16. Discuss timing and legal structure of providing access to Squires Road for single family homes.
17. Discuss timing of creation of 20-acre school site.

Staff Presentation – Mr. Martin presented the staff's report on the Preliminary Subdivision Plan/Final Development Plan, noting that the Subdivision Committee had recommended postponement due to the remaining discussion items.

The applicant submitted a revised development plan on September 6th. With that submission as well as several meetings with the staff, it has allowed the following revised conditions. The staff is recommending 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.

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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. Revise "existing tree canopy" information to include conditional zoning buffer areas, and cross-hatch those areas.
- ~~13. Denote H.O.A. maintenance of clubhouse area and "view to water" lot proposed (Lot 164).~~
13. 14. Label proposed stormwater basin locations on plan (per Article 21-6(a)(9) of the Zoning Ordinance) or denote alternative methods to the approval of the Division of Engineering.
14. 15. Denote BOA approval of conditional use permit for clubhouse/private club prior to issuance of a building permit.
15. 16. ~~Discuss~~ Denote timing and legal structure of providing access to Squires Road for single family homes.
16. 17. ~~Discuss~~ Denote timing of creation of 20-acre school site.
17. Denote that Best Management Practices shall be utilized in the development of the property, including within the conditional zoning buffer, and BMPs shall be clearly enumerated in the Improvement Plan progress report per Article 4-5(b) of the Land Subdivision Regulations and prior to the Notice to Proceed per Article 4-5(d) of the Land Subdivision Regulations.
18. Denote the front yard setback for the apartments adjacent to the northwest frontage along Squires Circle (R-4 zone).
19. Resolve the location of parking and orientation of proposed apartment buildings adjacent to the northwest frontage along Squires Circle (R-4 zone).

Planning Commission Question – Ms. Plumlee said that the Urban County Council had imposed a condition to prohibit any type of structures within the buffer surrounding the water. Mr. Martin replied affirmatively, noting that that restriction is clearly denoted on the plan.

Ms. Plumlee asked how far back to the water's edge do the single family lots go. Mr. Martin explained that around the complete perimeter of the subject property, there is a strip of land between the development and the water's edge, that is owned by Kentucky American Water Company; and the future homeowners will not own any part of the land that touches the reservoir.

Ms. Plumlee affirmed that the future property owners would not own the land adjacent to the reservoir nor would they be allowed to have any structures within the 50-foot buffer. Mr. Martin replied affirmatively, adding that the 50-foot buffer is setback from the homeowner's property line.

Representation – Nick Nicholson, attorney, Buddy Goodwin, Ball Homes and Tom Kimmerer, Venerable Trees, Inc. along with Rory Kahly and Tom Hatfield, EA Partners were present on behalf of the applicant.

Mr. Nicholson said that, since this plan was last reviewed by the Planning Commission, there have been some changes to the development plan. The first change to the site was the incorporation of the adjacent apartments. The addition of the apartments will not increase the density or change the density restrictions that were imposed by the Urban County Council.

Secondly, with the school being one of the primary benefactors, they are proposing to connect the trail to the school site and adjust the width to 8 feet. Even though most of the older trail is not next to a public road, the areas that are the width of the trail would be adjusted to 8 feet. There are some areas where the width of the trail will only be the size of a sidewalk.

Thirdly, the width of the street around the school has been widened to accommodate the student drop-off and pick-up; and finally, the applicant has rearranged the clubhouse and the pool area to ensure that significant Cherry tree has a sufficient tree protection buffer.

Mr. Nicholson said that these changes are in no way indicative of how much work has been put in behind the scenes, working with the different divisions of government, to make sure that they can say the different divisions approve of this development plan. He briefly explained that they have worked with the Divisions of Engineering and Water Quality regarding an alternative method that would address water quality treatment on site (condition #13).

Mr. Nicholson then explained that they have also spoken with Traffic Engineering to discuss the street width around the school, Squires Road alignment and any general improvements that can be done in the surrounding area. He noted that there is a note on the plan that indicates the applicant will be donating funds to Traffic Engineering to be used for traffic calming and multi-model transportation system improvements between Richmond Road, Man o' War Boulevard and Alumni Drive.

Mr. Nicholson also explained that the area near the water's edge will have two primary notes that will address 1) the notice and coordination between Mr. Kimmerer, Venerable Trees, and the Division of Environmental Services and

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how the conditional zoning area will be handled during the development; and 2) how any future property owners will be notified of the conditional zoning restrictions on their lot. He noted that the Planning Commission recommended very stringent conditional zoning restrictions governing the development of the 25' strip of land around the lakes edge. This restriction included the protection of existing trees with a diameter of a 3" or higher, the environment and the reservoir. The Urban County Council took that restriction even further by increasing the buffer area from 25' to 50' and decreased the diameter of the tree from 3" to 1.5" or higher. Both the Planning Commission and the Urban County Council agreed that the removal of hazardous, diseased or dying trees and invasive species was allowed. The language that was approved by both bodies was thoroughly vetted and the applicant has agreed to abide by that language and placed it on the development plan. There will be a cooperative process between the Urban Forester and Mr. Kimmerer to determine which trees will be removed. Condition #17 is an additional layer of protection to ensure that all the appropriate steps are taken.

Mr. Nicholson indicated that the Planning Commission will hear similar testimony that was given during the public hearing held by the Planning Commission and the Urban County Council when this property was rezoned. At that time, the testimony included a request not to remove any invasive species and native species should be replanted at the same density. There was no reason then, and there is no reason now, to implement those requests. This is an area that is covered with incredibly stringent conditional zoning restrictions language. The applicant has also committed in writing to work with the applicable LFUCG divisions with the removal process. There is also a condition on the development plan stating that the applicant will have to tell the staff, in writing, exactly what will be done during the infrastructure phase. The Planning Commission has done their duty by recommending conditional zoning restrictions and by upholding the staff's recommendation on the proposed development plan.

Mr. Nicholson indicated that the applicant was in agreement with the staff's revised recommendation, and requested approval.

Commission Question – Ms. Mundy asked how will the Kentucky American Water Company access the land surrounding the water for maintenance. Mr. Nicholson said that there is land access that Kentucky American Water Company can use, but they can also use the water as an access.

Citizen Support - There was none.

Citizen Opposition – Nathan Billings, attorney, was present presenting residents of this area. He presented a PowerPoint presentation to the Commission and gave a brief description. (A copy of the PowerPoint presentation is attached as an appendix to these minutes).

Mr. Billings proposed the following notes to be added to the development plan:

Note #1

- Require the following buffer/zone to be clearly identified:
 - 50-foot conditional zoning buffer;
 - the stormwater 50-foot riparian zone;
 - the storm water 25-foot no mow area and;
 - floodplain boundary (FBL) and no-building lines.
- Stormwater Manual buffer shall be from the floodplain boundary.

Note #2

- Within the fifty-foot conservation easement buffer, all existing plants of a size in excess of one and one-half inch caliper shall be preserved, except for dead, diseased or otherwise hazardous plants (which shall only be removed with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive areas); provided, however that
- Any plant to be removed must be removed manually with no heavy equipment, and stumps of invasive woody plants will be carefully painted with herbicide so that re-sprouting does not occur, and
- For every plant in excess of one and one-half inch caliper, a native tree, woody plant or shrub approved by Division of Environmental Services shall be planted.

Note #3

- A Phased-approach to building lots adjacent to the fifty-foot conditional zoning buffer, resulting in disturbance of no more than 1/3 of the boundary, with construction of successive phase could begin upon 80% of build-out of (final reclamation) of disturbed perimeter.

Note #4

- Developer shall install and maintain construction barrier fencing along the fifty-foot conditional zoning buffer, and shall maintain active silt control structure and vegetate any vacant lot.
- No construction or removal of plants shall be permitted within the (fifty-foot (50) conditional zoning buffer even if allowed under the conditional zoning restriction and Note #2), until the developer submits its plan for construction or plants remove to the Division of Environmental Services and the Urban Forester, identifies the construction to

occur and/or plants to be removed, and identifies the number and type of plants to be replanted as a result of such construction and/or removal.

Note #5

- Within fifty-foot conservation easement buffer, the placement of any buildings or structure (including accessory structures, fences and play structures) within this buffer shall be prohibited.

Note #6

- Developer is required to create an HOA to maintain administer and enforce fifty-foot conservation easement buffer and Lot 164.

Note #7

- The multi-use trail shall be created by a public easement no less than 12 feet wide in favor of LFUCG on all final record plats containing any portion of the multi-use trail.
- The multi-use trail shall be constructed by the developer, be no less than 12 feet wide, of asphalt or concrete, and dedicated to LFUCG.

Mr. Billings' proposal included requiring compliance with the following Articles noted in the Land Subdivision Regulations:

- Article 4-5(a) Infrastructure development agreement
 - Article 4-5(b) Improvement Plan Progress Report (Report to the Planning Commission when complete approximately thirty percent of the infrastructure design)
- Planning Commission update at its next meeting.

Mr. Billings requested that the Commission disapprove the development plan for the following reasons:

1. The development plan does not comply with the requirements of the Zoning Ordinance and other laws.
2. There are existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property.

Commission Questions – Ms. Plumlee asked which notes are being requested to be amended. Mr. Billing replied that they are not recommending amending any notes on the development plan, but rather add seven additional notes to the development plan. The staff and the applicant does not believe these notes are necessary, but they submit that the plan should be denied until those notes area added to the plan. Ms. Plumlee then asked if Mr. Billings was suggesting to add all seven notes that were listed in the PowerPoint presentation. Mr. Billings replied affirmatively.

Ms. Mundy said that there are three buffers, which included the Kentucky American Water Company land, the 25-foot buffer that was recommended by the Planning Commission and the additional 25-foot buffer that was imposed by the Urban County Council. The property owners cannot use the area within the 50-buffer area or the land that is owned by Kentucky American Water Company. Mr. Billings said that the Commission's assumption of the buffers were incorrect. He explained that the buffer between the water line and the property line is owned by Kentucky American Water Company. It is incorrect to call that area a "buffer" because the development plan cannot control anything on the other side of the property boundary. They believe the Stormwater Quality Management Manual can be applied from the water line across the property boundary line protecting the riparian zone, which is not denoted on the development plan.

Ms. Mundy said that the water is owned by the Kentucky American Water Company; and in her mind, this is a reservoir, not a lake. It seems that the regulations for a lake are being tied to this reservoir, but there is nowhere in the regulations that mentions reservoir. Mr. Billings said that in his opinion the body of water can be called a reservoir, but it is a lake. If someone with the city or on the Planning Commission is making a legal determination that they do not believe the body of water qualifies as a lake, then he would at least like the clarity to be made on public record so they would know if they need to challenge this determination and figure out if that decision is correct or incorrect.

Ms. Mundy said that, since it is publicly held, it limits the Planning Commission on their ability to be able to put any kind of mandates on what Kentucky American Water does with that body of water, because this is their body of water, and it's not publicly accessible. Mr. Billings replied that that is not true. There are lots of regulations pertaining to this body of water and Kentucky American Water cannot do whatever they want. The question was which regulations apply and which regulations do not. They want total clarity as to what is and what is not enforceable when moving forward. On behalf of the property owners, they want to specifically know what the decision will be; and if the decision turns out to be that the Planning Commission does not believe this request should have on-site Stormwater Management, they will respect that decision. They do not want this swept under the rug.

Ms. Mundy said that she is not trying to argumentative, but rather she is trying to resolve these inconsistencies. Mr. Billings said that the development plan will not control Kentucky American's use of the land between the property boundary and wherever the water line is located, no matter if it is 2 feet or 20 feet. They are not disagreeing on that issue. However, they want the boundary line protected.

Walt Gaffield, 2001 Bamboo Drive, was present on behalf of the Fayette County Neighborhood Council. He entered several photographs into the record, and said that the new Stormwater Manual does require a 50' no mow zone. He said that they are requesting additional buffer requirements to be added to the final development plan, as well as signage to be used to differentiate where the boundary begins and ends. He indicated that it is standard practice to use a Homeowners Association to maintain a buffer area. They believe that the Planning Commission should rule that invasive species should be specifically taken out by hand, not by large equipment, as well as requiring planting of native species once the invasive species and/or dead trees have been removed.

Mr. Gaffield indicated that the Comprehensive Plan recommends minimizing disruption of natural features when building new communities; identifying and protecting natural resources and landscapes before development occurs; and protecting and enhancing the natural and cultural landscapes.

Addison Hosea, 3276 Hunters Point Drive, expressed concern regarding the quality of the stormwater runoff. He said that the final development plan does not include retention basins and there is an apparent intention to allow the water to run directly into the reservoir. This property has been used as a dumping location for asbestos waste by Kentucky American Water. The quality of water in the reservoir has been diminished over the years and will be impacted by this development. Lake Ellerslie is the backup water supply for the Kentucky American Water Company, supplying about 13 percent of the drinking water.

Mr. Hosea said that he hopes that the Planning Commission and the different divisions of the LFUCG will require Ball Homes to address these concerns by adding the notes that were previously requested. He then said that notes should be required to address the retention basin, protection of the riparian buffer and to cleanup the asbestos.

Suzanne Bhatt, 1000 Rain Court, said that there is no language to protect the buffer from excessive thinning during the construction phase or clear cutting of the trees once the lots are sold to homeowners. Without these protections the tree buffer will be significantly diminished or eliminated. The tree buffer serves a critical role by protecting the existing animals that inhabit this area; filtering the water before entering the reservoir, and protecting the character of the existing neighborhoods. In the previous tree survey, Ball Homes stated that they would replant the area with trees where the invasive species were removed. Now Ball Homes is proposing to use grass, which will result in degradation of the buffer. In 2013, Kentucky American Water cited significant decline in the reservoir water quality due to the adjacent development. By adding this additional development, without protecting the current buffer, will further decline the reservoir water quality and lead to erosion. She said that Section 9-3 of the Stormwater Manual defines a buffer zone to be composed of trees and/or shrubs; and if anything is removed, it must be replaced with a native tree or shrub, as opposed to lawns and grass. Otherwise this is a violation of the Stormwater Manual.

Ms. Bhatt said that despite Ball Homes claims of not having control over the Kentucky American Water land, their attorneys have clearly stated they are seeking to have water front property with the possibility of boat docks. This is counter to a dense functional tree buffer, meaning that the tree buffer is at a significant risk if strong protective language is not mandated on the final development plan. The buffer should be maintained as a whole by a Homeowners Association and not divided into multiple lots, which would make management difficult.

Ms. Bhatt requested that the Planning Commission adopt the notes that were previously presented by Mr. Billings. She then said that the neighbors have bent over backwards in compromising with the applicant and they did not fight the development, but rather they wanted to protect some aspect of the environmental sensitive area. Strong language needs to be added to preserve the tree canopy and to ensure it remains intact.

Bob Kennedy, 3296 Buckhorn Drive, applauded the applicant's effort with traffic calming, but this development will produce more traffic, placing a significant strain on the street system, than any residential neighborhood development. It is a poor plan to have a high density development located within the interior existing neighborhood, forcing the traffic on nearby residential streets in order to get on an arterial roadway.

Mr. Kennedy said that the bicycle trail has become nothing more than a glorified sidewalk along Squires Circle. The trail is not wide enough for a safe two-way bicyclist traffic and in no way will it be an adequate addition to the planned bicycle facilities for this area. The old Squires bike path is under the old standards, but they want the trail to be 12 feet.

Mr. Kennedy then said that this development plan does not contain sufficient notes in keeping with the spirit and intent of the Council decision to ensure the preservation of the 50-foot buffer and the tree canopy.

Ramesh Bhatt, 1000 Rain Court, agreed with the previous comments made by the audience members. He said that the applicant has stated that their expert will work with Kentucky American Water when managing the buffer area. The concern is with Ball Homes' statement that the removal of trees will result in grass areas. Grass alone will not protect the water quality of the reservoir and Ball Homes should be required to replant this area with native trees and shrubs because that will protect the water quality. Without a buffer the water quality of the reservoir will only become worse. Also, since part of the buffer area is within the 100-year floodplain, mowing is not allowed. If Ball Homes only replants grass, not trees or shrubs, that is a violation of the Stormwater Manual. If the buffer does not look like a

buffer, then future homeowners will not realize there is a buffer area and will disturb the area. Strong language is needed to protect this area; otherwise the buffer will only be on paper.

Wendy Henry, 1012 Coolwater Court, said that the management of the reservoir has greatly declined since it was sold to outside entities. If the Planning Commission believes that Kentucky American Water is going to do anything about the water quality or maintain the buffer areas, they are mistaken. She has witnessed Kentucky American Water cutting down trees, inside the barrier, and not replace those trees, causing more erosion. Kentucky American Water is not doing anything about it. She encouraged the Planning Commission not to believe that Kentucky American Water will be concerned with or maintain our drinking water. That will be placed on the citizens because we are the ones who are consuming the water, and we are the ones who need to protect the water. She asked that the Planning Commission protect the water through enforcement and development plan requirements.

Rebuttal – Mr. Nicholson said that the development plan notes and the conditions set by the staff address all of the concerns that have been mentioned today. The notes and conditions may not address their concerns to the extent desired, but those concerns have been addressed. He said that note #11 specifically says that the applicant must follow the Stormwater Manual, its denoted on the development plan.

Mr. Nicholson said that the PowerPoint presentation only confused the situation and could result in rash decisions being made instead of trusting the different government divisions, who are required to approve any development plan. He added that Mr. Kimmerer will be working with the Urban Forester, who will be on-site making the decisions as to what can and cannot be removed. The objections made are more about protecting a viewshed versus protecting the watershed. Kentucky American Water has issued letters about the water quality impact from this project, and they do not have any concerns with this development because it is only 0.29 percent of the acreage draining into the reservoir. Richmond Road and the golf club drain directly into this reservoir already. The grass that they will be sowing will have a positive impact on the area around the reservoir. Any type of replanting only disrupts the soil more and that is not good for the area.

Mr. Nicholson said that condition #17 allows the Planning Commission not to make the very decisions that the residents are asking them to make. He then said that the Commission does not need to make the determination as to how much Honeysuckle needs to be removed, that is what the Urban Forester and Environmental Services will determine.

Mr. Nicholson said that the conditional zoning language is not vague, or ambiguous in any way, shape, or form. It is very clear to say "you shall not remove except for....." He then said that the buffer is very identifiable as is every property line in Lexington. This is why the conditional zoning restrictions was set 50 feet from the property line. It will not be from the water edge, it's not from the top of the bank, it's not any arbitrary line. It is exactly from the property line. The final record plat will establish where the property line is located and the conditional zoning restrictions will be placed on every final record plat.

Mr. Billings said that the Commission has heard a lot of evidence about this case and asked if someone were to purchase a house near the water, could they see where the property boundary line was located. There will be no markers to indicate where the line will be, but rather it will be an ambiguous line between the waters edge and the house, unless the Planning Commission protects that area.

Mr. Martin said that the development plan has a required note listed on it stating that this property shall be developed in conformance with the requirements of the Stormwater Manual. The staff does not require the entire Ordinance to be noted on a development plan and the staff is not going to require the entire Stormwater Manual to be listed on a development plan. This will be part of the Division of Engineering review process, and the applicant has to follow the regulations. He said that Article 26 of the Zoning Ordinance governs tree protection plans and must be followed on the development.

Mr. Martin indicated that the staff was disturbed with the statement "things are being sweep under the rug" and he is certain that the Planning Commission does not sweep things under the rug. It has been his experience that no staff whether it is Division of Engineering, Traffic Engineering, Environmental Services or Water Quality, will sweep anything under the rug. The staff is very conscientious about their job and they seek the best development that is allowed under the law. This development is subject to the current standards, that are more stringent than what has been used in the past when the surrounding neighborhoods were developed.

Mr. Martin said that he sits on the Committee for Storm Water Quality and it's the older neighborhoods that have the most problems with water quality, not the new developments.

Commission Questions – Ms. Plumlee asked if boat docks will be allowed. Mr. Nicholson indicated that he is unaware of any plans for boat docks and there is no easement in place. He said that the reservoir is a parcel and any type of use must be worked out with the property owner. He added that Lake Ellerslie Fishing Club uses the water and there is a very stringent easement as to who can and cannot use the water and what can and cannot be placed on the water. He indicated that he is not sure how docks would be allowed with the current language on the development plan. Ms. Plumlee confirmed that there will be no docks at this time. Mr. Nicholson replied that there

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are no easements for docks, he has not reviewed the Lake Ellerslie agreement and he does not know how the LFUCG would feel about structures being placed in the 50-foot buffer area when the development plan states no structures within the 50-foot buffer zone. It would be his guess a dock would be considered a structure and not allowed.

Ms. Plumlee said that this case has gone on for a while and there has been multiple questions asked, she would be more at ease if the dock issue was addressed. Mr. Nicholson understood, and said that technically any dock that could be built would need on the water, which is owned by the Kentucky American Water Company and not part of this development.

Ms. Plumlee said during Mr. Billings' presentation there were seven notes and copies were not distributed. Mr. Billings said that he believes the notes are appropriate, but since staff had not recommended these notes, they were requesting disapproval of this request.

Ms. Mundy said that there were claims made of asbestos being on the property. She then said that if asbestos were found on the property then the construction company would use proper methods of removing the asbestos. Mr. Nicholson clarified that there are very specific remediation protocols that are in place, should asbestos be discovered on the site. He then said that this is an infill project and most infill project require some type of remediation. Ms. Mundy said that that claim concerned her due to the possible runoff into the reservoir. She said that the reservoir is technically not used for consumption and Jacobson Park water is only used during extreme droughts. She wanted to make sure if asbestos was discovered, it would be taken care of properly. Mr. Nicholson replied affirmatively.

Mr. Wilson said that there was testimony given that if the diseased trees and shrubs were removed it would be replaced with grass, and asked why would grass be beneficial versus a tree. Mr. Nicholson said that the "grass" is not your typical grass, and the removal of the invasive species alone will create a dramatic improvement to the water quality, especially to the nitrogen runoff caused by the Honeysuckle shrub. Mr. Wilson confirmed removal of the brush and diseased trees will actually improve the water quality of the reservoir. He asked if that is done then what will be put back. Mr. Kimmerer explained that Honeysuckle is a real insidious plant and explained that the ground beneath it is bare because there are no native herbs, no native shrubs or no native grasses growing under it. He said that Honeysuckle is also known to release nitrogen into a body of water, so by removing that plant will be the first step in improving the water quality of the reservoir. He then said that they are planning to plant a mixture of native grass and herbs about 2 feet in height that will trap any sediment and prevent nitrogen runoff in the water. The process of removing any invasive species will dramatically improve the quality of the water that is flowing into the reservoir.

Mr. Kimmerer said that there had been some misstatements, and pointed out the over story in this strip of woods will not be disturbed, but rather the invasive species within the understory will be removed. Except for the removal of Ash trees that are dying, the tree canopy will be about the same as it is now.

Mr. Gravens said that the Planning Commission can only do a few things, some items can be placed on the development plan, but some items do not belong on the development plan. From his experience, once a development plan is approved by the Planning Commission, the hard work comes from the different divisions in the LFUCG who approve the plan. When a request is filed with the staff the Planning Commission has a deadline to act on that request, but as for the different divisions, there is no deadline. There are other developments around a waterway, and there has been no problems in those areas

Action - A motion was made by Mr. Gravens, seconded by Ms. Mundy to approve **PLN-MJDP-17-00061: THE PENINSULA & SQUIRES APARTMENTS (AMD)**, as recommended by the staff.

Discussion of motion – Ms. Plumlee said that as staff reminds us often what is seen on the development plan is not the same as what is shown on the final development plan. She then said that the applicant submitted a letter dated October 3rd, suggesting there would be a trail around the reservoir. Now on the current submittal there is no trail shown around the reservoir.

Ms. Plumlee said that the buffer is somewhat of a disappointment and the neighbors have concerns about that. She then said that another disappointment through this process is the donut hole. In the center of the development is the school, but there has been no participation by the school board. She asked if there will be trees planted or parking available on the school site. Will off-street parking be required, if so will this require wider streets. She suggested adding a 20th condition requiring a homeowner's association to address the enforcement of the buffer.

Mr. Wilson indicated that an amendment to the motion on the floor had been made and asked if there was a second. The amend motion failed due to lack of a second.

Mr. Berkley said that there has been a lot of work done on this development plan request since the beginning, and enough restrictions have been added to this property. He then said that he is disappointed that the Urban County Council decision to reduce the density from 500 units to 450 units. The staff had vetted this plan for months and

made those recommendations and in light of where the Planning Commission is in the Comprehensive Plan process, he was shocked that that was done with no real basis.

Mr. Wilson agreed with Ms. Plumlee suggestion about the Homeowners Association conditions, but he could not second the motion.

The motion carried 6-1 (Plumlee opposed; Brewer, Bell, Owens and Penn absent).

Note: A recess was declared by the Chair at 3:45 p.m. and the meeting re-convened at 3:55 p.m.

- b. PLN-MJDP-17-00073: LIBERTY HEIGHTSSUBDIVISION, BLOCK A (A PORTION OF LOTS 1, 2 & 3 AND ALL OF LOT 4) (CATLETT, HAMPTON, GRIFFITH PROPERTIES, INC.) (10/1/17)* - located at 780 Winchester Road. (Council District 5)
(EA Partners)

Note: The Planning Commission postponed this item at their August 10, 2017, meeting. This plan requires the posting of a sign and an affidavit of such.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Correct plan title.
12. Dimension typical parking spaces and drive aisles.
13. Denote height of building and building addition in feet on plan.
14. Clarify contour line numbering & information (including intervals).
15. Revise off-street parking areas to comply with Article 18-2(c) of the Zoning Ordinance or denote landscape variance approved by the Board of Adjustment, on plan.
16. Addition of Tree Canopy information on plan, or denote Planning Commission approval of a waiver, under Article 26 requirements.
17. Resolve whether or not this development can satisfy all the Adaptive Re-use Project requirements.
18. Resolve location and type of public art display on the property.
19. Provided the Planning Commission makes a finding the plan meets the criteria for an Adaptive Re-use Project.

Staff Presentation – Mr. Bronczyk presented the staff's report on the Final Development Plan, noting that the Subdivision Committee had recommended approval, subject to the conditions listed on today's agenda.

On August 21st, the applicant submitted a revised development plan to the staff addressing several conditions outlined by the Subdivision Committee on August 3rd. The staff can now recommend approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping 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. Correct plan title.~~
- ~~12. Dimension typical parking spaces and drive aisles.~~
- ~~13. Denote height of building and building addition in feet on plan.~~
- ~~14. Clarify contour line numbering & information (including intervals).~~
11. 15. Revise off-street parking areas to comply with Article 18-2(c) of the Zoning Ordinance or denote landscape variance approved by the Board of Adjustment, on plan.

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

12. 16. Addition of Tree Canopy information on plan, or denote Planning Commission approval of a waiver, under Article 26 requirements.
- ~~17. 17. Resolve whether or not this development can satisfy all the Adaptive Re-use Project requirements.~~
13. 18. Resolve location and type of public art display on the property.
14. 19. Provided the Planning Commission makes a finding the plan meets the criteria for an Adaptive Re-use Project.

Mr. Bronczyk stated that conditions #11 & #13 could be deleted.

Mr. Bronczyk said that the applicant has requesting a waiver of the required 10% tree canopy for a B-4 zoned property located at 780 Winchester Road. The entire site is paved and circulation is somewhat constrained, which makes it difficult to achieve the 10% tree canopy. The staff believes that a 5% reduction is acceptable. The staff is recommending a partial approval of the requested waiver, for the following reason:

1. Requiring the full ten percent canopy requirement would constitute a hardship because the site is completely paved and the constraints of the built environment are significant.

This recommendation is made subject to the following additional requirement:

1. The applicant should provide fifty percent of the required tree canopy (a total of 5%) in a location agreed upon in consultation with the Urban Forester.

Mr. Bronczyk then said that the staff has reviewed the applicant's supporting documentation and revised development plan, and finds that the applicant has now demonstrated minimum compliance with the adaptive reuse criteria.

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

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

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy to approve **PLN-MJDP-17-00073: LIBERTY HEIGHTS SUBDIVISION, BLOCK A (A PORTION OF LOTS 1, 2 & 3 AND ALL OF LOT 4) (CATLETT, HAMPTON, GRIFFITH PROPERTIES, INC.)**, as recommended by the staff, noting the finding that the plan meets the criteria for an Adaptive Re-use Project and granting the waiver to Article 26 Tree Protection Standards.

Discussion of Motion – Ms. Mundy asked if the motion on the floor included removing conditions #11 and #13. Mr. Kahly noted that the staff had indicated that the following conditions could be deleted.

11. Revise off-street parking areas to comply with Article 18-2(c) of the Zoning Ordinance or denote landscape variance approved by the Board of Adjustment, on plan.
13. Resolve location and type of public art display on the property.

Mr. Cravens confirmed that conditions #11 and #13 are to be removed. Mr. Bronczyk replied affirmatively.

Mr. Cravens amended the motion to include the removal of conditions #11 and #13. Ms. Mundy seconded the motion.

The motion carried 7-0 (Brewer, Bell, Owens and Penn absent).

- c. **PLN-MJDP-17-00088: STEPHENS & WINSLOW SUBDIVISION (THE HUB AT LEXINGTON I) (11/1/17)* - located at 500 & 519 S. Upper Street. (Council District 3) (Carman)**

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

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. Complete dimensions for loading dock, trash area and M.E.P
11. Provided the Planning Commission adopts the required context study as part of its approval of the development plan.
12. Denote: Board of Adjustment's approval of parking variance prior to plan certification.
13. Denote context study neighborhood integration design features, per Article 8-16(o)(3) in the required study.
14. Discuss stormwater management and water quality.

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

Staff Presentation – Mr. Martin presented the staff's report on the Final Development Plan, noting that the Subdivision Committee had recommended approval, subject to the conditions listed on today's agenda. He distributed email correspondence that the staff had reviewed regarding this request. (A copy of the emails are attached as an appendix to these minutes).

On September 7th, the applicant submitted a revised development plan to the staff addressing several conditions outlined by the Subdivision Committee at their last meeting. The staff can now offer the Planning Commission a revised recommendation for this Development Plan.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~10. Complete dimensions for loading dock, trash area and M.E.P~~
10. 14. Provided the Planning Commission adopts the required context study as part of its approval of the development plan.
11. 12. Denote: Board of Adjustment's approval of parking variance prior to plan certification.
- ~~13. Denote context study neighborhood integration design features, per Article 8-16(e)(3) in the required study.~~
12. 14. Discuss Resolve stormwater management and water quality.

Mr. Martin also submitted the staff report for the B-1 Form-Based Neighborhood Business Project, and noted that the staff believes that the form-based neighborhood business project can improve its compliance with the B-1 form-based code objectives by providing additional detail on the use of supplemental landscaping in the required Area Character and Context Study (revised condition #10). The staff recommends adopting the Form Based Neighborhood Business Project Study with one condition:

1. Provide a revised Area Character and Context Study illustrating the supplemental landscaping concepts that match the development plan.

Representation – Richard Murphy, attorney; Tom Harrington, Jr. and Andrew Wiedner, Core Spaces; Jeff Zelisko, Antunovich Associates; Kevin Warner, Carman; and Eddie Mesta & Brett Malone, Integrated Engineering, indicated that they were in agreement with the staff's revised recommendation, and requested approval.

Jeff Zelisko, Antunovich Associates submitted the Area Character and Context Study and gave a brief description of their proposal. (A copy of the study is attached as an appendix to these minutes).

Mr. Murphy presented several photographs of nearby structures and gave a brief description of each, as well as the request for proposal UK-1709-17. (A copy of the photographs and proposal are attached as an appendix to these minutes).

Mr. Murphy indicated that the applicant would be making a Board of Adjustment application, and that the Board would make the decision about any parking variance. He said that if there will be discussion about the parking then he would like to present the Commission the information. Mr. Wilson said that the Commission would prefer to hold on that topic, because a parking variance is associated with the Board of Adjustment and out of the Commission's control. Mr. Murphy said that if parking is discussed then he would need more than the 3 minutes to adequately respond. Mr. Wilson said that, if the question comes up, he would caution the members because normally this type of request would go before the Board of Adjustment. Mr. Murphy indicated that they wanted to present this case to the Planning Commission first to determine how many units will be approved. He added that the closer a development is to campus, the fewer parking spaces that will be needed for the students.

Citizen Support - There was none.

Citizen Opposition – Nathan Billings, attorney, was present representing residents of this area. He presented a PowerPoint presentation to the Commission and gave a brief description of the neighborhood's concerns. (A copy of the PowerPoint presentation is attached as an appendix to these minutes).

Mr. Billings requested the Planning Commission to deny this request for the following reasons:

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

1. Article 8-16(o)(3) – form-based provisions violate the “vagueness” doctrine and this project cannot be approved under it.
2. Even if it was vague, the Hub’s application and Area Character and Context Study does not satisfy the necessary requirements/elements.
3. Even if the study contained necessary requirements/elements, it fails to justify the approval of a form-based project.

Commission Questions – Mr. Wilson asked the staff when does the Commission need to vacate the Council Chambers. Mr. Duncan replied that the Urban County Council has a 6 o’clock meeting in the chambers. He said that the Commission can relocate to the 3rd floor in Phoenix Building at this time or stay a little longer in the chambers. He then said that the Phoenix Building will not have media available, but audio recording will be available and used for the minutes. Mr. Wilson asked if the meeting could continue until 6 p.m. Mr. Duncan replied that the meeting should recess before that time. Mr. Wilson replied that he preferred to stay in the chambers for 15 more minutes to record audience’s comments on record. Mr. Duncan said that their comments will be on audio record, not recorded on video. Mr. Wilson said that the meeting will continue for 15 more minutes.

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

Citizen in Opposition – Alan Bartley, 353 S. Mill Street, directed the Commission’s attention to page 8 of the Area and Context Study, and briefly explained the difference between development and suitable, good development. He opined that people do not come to Lexington for the concrete or tall buildings, but rather the character of an area. This is very important to an economist to consider the possible negative outcome for the area. He said that a neighborhood is not the house directly across the street, but rather the entire area.

Mr. Bartley said that even though parking is not being discussed, the proposed parking will be a major issue for this area. There is parking congestion, speeding, vandalisms and so forth. The students are not the ones who live in this neighborhood. The proposed request is close to UK, but it will not be the same as living on campus.

Mr. Bartley said that the use and the height of the building is very important. Having retail would benefit this area and the height of the building staying at 4 stories would enhance the character of the area.

Jennifer Kaufman, S. Mill Street, said that this area is a family-oriented neighborhood and they moved to the downtown area for the architectural features, the historic charm and the walkability to and from work. This area has a mixture of baby-boomers, young professional, college students and so forth who reside in it. She said that development should complement and enhance the area, like South Hill Crossings and Center Court. These are good infill and redevelopment projects and more projects of this nature are needed in the downtown area. She said that the Planning Commission is not obligated to approve just anything that is submitted. The form-based study is important, the concept is important and she hopes that the Commission would yield to their concerns.

Daniel Breazeale, 358 S. Upper Street, indicated that he has lived in this area for many years, and during that time this is the first time he has seen a development that would have a negative impact on the area.

Bill Johnson, 645 W. Short Street, was present representing the Bluegrass Trust for Historic Preservation. He directed the Commission’s attention to page 13 of the Area Character and Context Study, and said that their concern is with the size of the building relative the neighborhood character. The development is student-oriented and their applicant’s website cites that their projects are a “flagship brand offering best-in-class student housing, designed for every aspect of college life.” He opined that this project sounds a lot like a student dormitory.

Mr. Johnson said that the Zoning Ordinance calls for dormitories to be owned by a school, as well as considers each bedroom as a separate dwelling unit; and one parking space per dwelling unit. He said that Core Spaces is not a school, but by the definition they are constructing a dormitory. Placing several hundred cars on the surrounding streets that are already packed is hard to comprehend. Most homeowners are dependent on off-street parking. With an increase in density and the lack of available parking, the neighborhoods will become less desirable.

Mr. Johnson said that with the negative impact that this request will have on the surrounding area, the Bluegrass Trust for Historic Preservation is against this application and cannot support the request.

Note: A recess was declared by the Chair at 5:45 p.m. and the meeting re-convened at 6:00 p.m on the 3rd floor, Phoenix Building.

Citizen in Opposition continuation – Mary Campbell, 328 S. Mill Street, said that they believed that the neighborhood and the UK had reached a compromise on the Jersey Street project after attending the meetings in beginning July of last year. Then they were surprised this year with a completely different design than what they were shown. They invested a lot of time to get a win-win proposal but it was not reciprocated.

B. Rutherford Campbell, 328 S. Mill Street, said that real economic costs for projects include: increased congestion, noise, reduced parking spaces for homeowners and increased probability for petty crimes. This creates a less than desirable area downtown and less desirable to the homeowner, because they have to endure the cost. He said that

this is unfair to both the neighborhood and Lexington. If this request is approved, the development sends a clear message to people that their investments and/or their quality of life is not safe.

Tom Icherwood, 333 S. Upper Street, said that he recently moved to Lexington this year. He said that he and his wife wanted to move back to Kentucky and reside in an urban environment. Their choice was the South Hill Historic Neighborhood. He indicated that he is familiar with residence halls and this proposal falls in line with that type of housing. He said that what is being proposed is beautiful, and will more than likely cost more than the average student housing facility, and residents more than likely will own an automobile. The ratio that is being proposed to cover the need for parking is different than the ratio from other universities. He said that when parking is provided for 146 cars, where does the 147th car go or the 200th car go to park.

Kelly Bartley, 353 S. Mill Street, said that she supports the opinions that have been expressed at today's hearing. She then said that this is not just an historic area, but this is a family neighborhood where everyone interacts with each other. The density, the scale and parking components of this project will not enhance or complement the character of the area in which it is placed. Increasing traffic from this development will negatively impact the character of the neighborhood. Students will bring intoxication, related vandalism and safety issues, which will not enhance or complement the character of this area. She stated that the density, height and the parking is too much for this area. It will not enhance, or complement the area. The residents are in favor of infill development, but this project will place over 400 students at the doorstep of a historic area. She requested for the Planning Commission to reject this proposal, in its current form.

Guy Jones, (no address given), said that he was in agreement with the previous comments made. He then said that the South Hill area is neighborhood friendly where everyone knows their next door neighbor. The downtown area has parking issues already, and with this proposal it will only get worse. This request will add nothing to South Hill Historic area and it will not revitalize the downtown area. He indicated his opposition to the request.

Cathy Lowe, 432 S. Mill Street, said that there are no driveways in the area where she lives, it is on-street parking only, which means parking permits must be purchased. It is already a competition for the residents to find a parking space and this proposal will only add to that competition. She opined that congestion in this area will increase, as will the accidents. Also the issues with stormwater and sanitary sewer are a problem in this area, and this proposal will further impact the already existing issues. The project will increase the traffic, the design of the project does not reflect the South Hill Historic area and the students will want their cars.

Brenda Stewart, 345 S. Limestone, said that the property currently has a parking lot 150 spaces that are used every day by the nearby restaurants and businesses; without that parking those businesses will close their doors. The Planning Commission does not want these restaurants and businesses to go under and asked that the Commission use their commonsense. She said that the students will want their cars and this proposal will be adding over 400 more cars, which this area cannot sustain. She requested that the Planning Commission not approve this request.

Jean Scott, 371 S. Mill Street, said that her family moved to this area because of the area character, its livability, the walkability of the area, and safety. She indicated that she has worked in the field of urban and regional planning, which includes the use of form-based codes and other design tools used to achieve projects that are compatible with and enhance the surrounding neighborhoods. In the plans current form, there was no consideration as to how this request would impact one of the oldest historic Lexington neighborhoods. The end result will be a positive benefit to the developer, but it will be a negative impact on the nearby neighborhood, who will endure the cost. The study should not be approved because it does not adequately demonstrate how the proposed project will enhance the character of the South Hill Historic neighborhood. The neighborhood is not opposed to infill and redevelopment, but the development should be planned to enhance and complement the livability of the historic areas in Lexington. This proposal is not in agreement with the Comprehensive Plan or the Zoning Ordinance, and it creates a bad precedent for future developments and other neighborhoods. She requested the Planning Commission deny this proposal.

Duvall Headley, (no address given), said that when there are a lot of young adults in an area it creates a problem that may result in bodily harm. He said that when past developments were approved, the neighbors were promised retail uses, but many of those developments are vacant. As for the parking situation, currently the homeowners cannot find a parking space near their homes or in their driveways. The off-street parking restrictions are not enforced so the parking is unbearable. If this project removes the current parking lot, then the businesses that have been in the area for a long time will go under. As for the project's amenities, a rooftop pool plus the younger students would result in a lawsuit down the road. The issues with this project include the additional parking, having more than 2 bedroom units, retail uses failing, and will the city be liable if something goes wrong.

Commission Questions – Mr. Berkley said that he is excited that Core Spaces is looking at our community, but he is not familiar with this type of product. He then said that he is concerned about the parking situation and asked if this request can be continued to allow additional evidence to be submitted and answer questions about the other projects that Core Spaces has completed, the parking ratios and how those projects impacted that area. Mr. Wilson asked if Mr. Berkley is suggesting continuing the entire case. Mr. Berkley replied affirmatively. Ms. Plumlee disagrees with continuing the case to another meeting.

Mr. Cravens said that the parking is never enough according to the neighbors, plus the Board of Adjustment will determine the amount of parking on this site. Mr. Wilson replied that the request will need to go before the Board of Adjustment. Mr. Cravens asked what if the Planning Commission approves this request, but the Board of Adjustment denies the application. Mr. Wilson said that this application is contingent upon the Board of Adjustment's approval, so if it was not approved by the BOA then it would void the Planning Commission's approval. This has been done in the past with other applications.

Mr. Duncan explained that the Board of Adjustment will address the parking, and said that should the Board not approve the parking reduction the applicant is seeking then the applicant would need to submit a new plan for the Planning Commission to review. The Board's decision does not mean the whole development is invalid. Mr. Martin added that the applicant is proposing 489 bedrooms and the required parking is 213 parking spaces.

Mr. Cravens asked if the applicant was given the transit stop and bicycle reduction. Mr. Martin replied affirmatively. Mr. Cravens then asked if the project is still 65 parking spaces short. Mr. Martin replied affirmatively. Mr. Wilson indicated that is where the variance comes in.

Mr. Wilson said that it has been suggested to continue this item for one month. Mr. Berkley asked if the applicant would have to agree to the continuance or could a motion to continue the case be made. Ms. Jones said that the Commission could continue this case, but they need to be aware of the deadline of November 1, 2017.

Mr. Cravens asked when will the Board of Adjustment hear the applicant's parking variance.

Mr. Berkley said that he needs to hear more information and it is unknown if the applicant can provide that information at this time; therefore, he suggests that this item be continued.

Ms. Mundy said that she has mixed emotions all the way around because parking was not to be discussed since that will be a BOA decision. Now everything seems to be hinging upon the parking. This is an underutilized property and this was one of the things that the Goals and Objectives tried to address.

Ms. Richardson said that the parking issue cannot be solved today and this will be heard by the Board of Adjustment. She also has mixed emotions because density, infill and a reduction of parking has been talked about over the last few months. She asked is this what the Commission really wants. She said that the Commission has forwarded the Goals and Objectives to the Council and now there is a problem with a project that meets that vision.

Mr. Wilson said that he will allow Mr. Murphy and Mr. Billings the opportunity to rebut what has been discussed. Afterwards the Commission can make a decision to continue this request or take action. Mr. Murphy said that had asked the Commission if they wanted to review the parking during his presentation, but the members indicated no. He had also stated that if parking were to be presented then he would need more time than what is normally allowed. If he is limited to under 7 minutes, then it cannot be done. He expressed that the information on the parking needs to be fully presented to the Commission to see if that information is sufficient enough; if it is not, they are agreeable to continue this case. Mr. Billings indicated his disagreement and said that now there are timing issues and he does not want to be prejudice by this taking a turn for the worse. Mr. Wilson said that Mr. Billings would be granted the same time as Mr. Murphy. Mr. Billings indicated that he understood, but he needs to know how much time will be allowed. Mr. Wilson said that it seems that the time that would had been given will not be enough. There are several members who want the information on parking, but at the same time that is out of the Commission's purview. Mr. Berkley said that it is not out of the Commission's purview. Mr. Wilson said that if the applicant goes to the Board of Adjustment, who in turn deny the applicant's request, then the applicant would have to come back to the Commission with a new plan. He then said that the parking is not out of the Commission's purview completely, but the parking has to be resolved with another body. Ms. Jones indicated that is correct, and said that if the Board of Adjustment approves the applicant's request, then the Commission would not hear about the parking.

Mr. Wilson asked if the Commission can allow extra time for the applicant to speak to the parking issues. Ms. Jones replied affirmatively, and said that Mr. Billings would need to be allowed the same amount of time. Mr. Wilson replied affirmatively. Mr. Billings objected and said that the amount of time was clarified via email, and according to the Bylaws, additional time needs to be requested 48-hours prior to a hearing. He said that he is not trying to be argumentative, but now he is being caught with his hands tied behind his back. Ms. Jones said that Mr. Billings is not being caught with his hands behind his back if the Commission will be granting the same amount of time as Mr. Murphy. Mr. Billings said that since the meeting is no longer in the Council Chambers, he has no access to the PowerPoint presentation, and believed that his clients were being prejudiced by a reasonable request. If this case is continued or postponed that is a different situation, but if this case moves on tonight, he has to take this position to protect his client's rights.

Mr. Murphy said that he had asked the Commission if the members wanted to talk about parking. The reply was no. he then said that every person who has spoken mentioned parking. He did not object because he believes every citizen should have the right to express themselves. At the same time, parking was mentioned and he was not allowed to respond. He believes he has the right to respond to the parking and if the Commission wants to hear that testimony that would be fine; otherwise, it can be continued.

Mr. Wilson asked if this case could be continued. Ms. Jones replied that the plan can be continued, but a decision must be made by November 1st. If the applicant is agreeable to a continuance and the Commission wants to continue this case that would be fine. The November deadline is set by the statute. This item should be continued, not postponed; otherwise the information heard would be lost and repeated.

Mr. Wilson asked if Mr. Murphy's presentation could have included the parking under the time set time. Mr. Murphy replied affirmatively.

Mr. Berkley asked if this case were to be continued, which agenda would the item fall on. Mr. Murphy replied October 12th.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy to continue **PLN-MJDP-17-00088: STEPHENS & WINSLOW SUBDIVISION (THE HUB AT LEXINGTON I)** to the October 12, 2017, Commission's meeting.

Discuss of motion - Ms. Plumlee expressed her opposition and indicated that this case should be acted on since the neighbors are present.

Ms. Mundy said that she has a problem with everyone being allowed to talk about the parking, especially since it was said in the beginning no one can talk about the parking until this application is reviewed by the BOA.

Ms. Plumlee said that parking is not the only issue. Ms. Mundy agreed that there are other issues as well.

Mr. Cravens said that in fairness to Mr. Murphy, he did stop speaking on the parking. He then said that the Commission has more responsibility than the Board of Adjustment because the BOA is only modifying the parking where the Commission is responsible for the entire site and the structure.

Mr. Duncan said that the applicant could have easily made their variance application to the BOA before bringing the development plan to the Planning Commission. He then said that it is unknown whether that would make a difference. Mr. Cravens said that if the applicant sought the Board's approval first then the parking issue would be in place, which could influence the Commission.

Mr. Martin said that yes the Commission does have some authority, they could require all parking to be denoted on the plan, but the applicant could still be granted a variance from the BOA.

Mr. Wilson said that he agrees with Mr. Cravens and said that there are more items for the Commission to work on as opposed to the just parking. There is the height of the building the architectural features and so forth.

The motion carried 5-1 (Plumlee opposed; Brewer, Bell, Owens and Penn absent) to continue this case to the October 12, 2017, meeting.

Mr. Wilson asked for the members who are not present, if they listen to the audio would they be able to participate in the discussion. Ms. Jones explained that the members who are not present and wish to participate they would have to 1) watch the video on this case until the hearing ends to move to the Phoenix Building and 2) listen to the audio where the meeting starts. This would place those members in the same position as the members who are present today. If they do not watch the video or listen to the audio they would just sit and not vote on this case.

Mr. Wilson then asked if the continuance would begin at the rebuttal stage. Ms. Jones said that with the meeting being a month away it is unknown what both parties may do during that time.

Mr. Billings requested an outline as to how the meeting would proceed.

Mr. Murphy said that if the continuance begins at the rebuttal, then the Commission would not receive any more information on the parking. Mr. Wilson said that the rebuttal time could be extended. Mr. Murphy said that there needs to be some flexibility with the time to be able to respond to whatever issues are mentioned. Limiting the time to two minutes would not be sufficient time for the rebuttal testimony on the issues that were mentioned. Mr. Wilson replied that he agreed, and in terms of the preparation for the two parties the continuance may start with the applicant representative making their presentation then the opposing council making their presentation. Both having a time limit. Ms. Jones said that the staff can stay in touch with Mr. Murphy and Mr. Billings to see where they are then at the continuation hearing the staff can inform the Commission, and then a decision can be made. Mr. Wilson said that that would be agreeable. Ms. Jones said that if there is a discussion between both parties before the hearing the staff can inform the Commission to determine how to proceed at the hearing. Mr. Wilson said that when more time is needed the representatives notify and request that time before the hearing.

Mr. Cravens requested to hear more testimony on the parking. Mr. Berkley and Ms. Richardson noted their agreement. Mr. Wilson said that all parties would have the same time limit to make their presentation.

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

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

A. **UPCOMING MEETINGS**

Mr. Duncan briefly explained that the next work session will include training for the Annual report for MS4 staff presentation regarding a text amendment for the Land Subdivision Regulations and update the members on the Council's review with the Goals and Objectives.

VII. **STAFF ITEMS** – There were none.

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

IX. **NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building.....	September 21, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 27, 2017
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 28, 2017
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 5, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	October 5, 2017
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	October 12, 2017

X. **ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 7:05 PM.

William Wilson, Chair

Carolyn Plumlee, Secretary