MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

October 12, 2017

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

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

Planning Staff members present – Jim Duncan; Traci Wade; Tom Martin; Cheryl Gallt and Denice Bullock. Other staff members in attendance were: Vaughan Adkins, Division of Engineering; Stephen Parker and Casey Kaucher, Division of Traffic Engineering; Captain Greg Lengal and Joshua Thiel, Division of Fire and Emergency Services; and Andrea Brown and Tracy Jones, Department of Law.

II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Forester and Richardson absent) to approve the minutes of the September 14, 2017, meeting.

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

a. PLN-MJSUB-17-00055: NDC PROPERTY, UNIT 5 (11/30/17)* - located at 551 Vincent Way.
(Council District 9) **(EA Partners)**

The Subdivision Committee Recommended: **Postponement.** There were some questions concerning the closure of Vincent Way and the number of discussion items.

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. Denote purpose of amendment note on plan.
9. Denote typical lot size or identify dimensions on plan.
10. Denote private utility providers.
11. Delete note #8.
12. Denote there shall be no amendments required for a final development plan for alterations or additions to the single family homes.
13. Discuss landscape buffer adjacent to existing single family homes per the approved final development plan.
14. Discuss Vincent Way closure timing and consolidation to adjoining properties.
15. Discuss driveway location on Lots 1, 2 and 15.
16. Discuss house orientation on Lots 1, 13, 14 and 15.
17. Discuss maintenance of open space (Lot 16).
18. Discuss easement conflict and/or buildability of Lot 9.
19. Discuss existing stormwater improvements and their adequacy.

Representation present – Jacob Walbourn, attorney, requested a one-month postponement.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 9-0 (Forester and Richardson absent) to postpone **PLN-MJSUB-17-00055: NDC PROPERTY, UNIT 5** to the November 9, 2017, Commission’s meeting.

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

Note: The Planning Commission postponed this item at their August 10, 2017 and September 14, 2017, meetings. 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.

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

3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. 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 an indefinite postponement.

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

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee and carried 9-0 (Forester and Richardson absent) to indefinitely postpone **PLN-MJSUB-17-00048: THE GARDEN OF HARTLAND, UNIT 3 (AMD)**.

c. PLN-MJDP-17-00058: HENRY CLAY SUBDIVISION (DOLLY LAND CO, LLC) (ADAPTIVE REUSE PROJECT) (10/12/17)* - located at 1400 Delaware Avenue. (Council District 5) **(MLH Civil Engineers)**

Note: The Planning Commission postponed this item at their July 13, 2017, August 10, 2017 and September 14, 2017, meetings. 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.
23. Provided the Planning Commission makes a finding that the development plan meets the requirements of the Adaptive Re-use Project.

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

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

Action - A motion was made by Mr. Owens, seconded by Mr. Brewer and carried 9-0 (Forester and Richardson absent) to postpone **PLN-MJDP-17-00058: HENRY CLAY SUBDIVISION (DOLLY LAND CO, LLC) (ADAPTIVE REUSE PROJECT)** to the November 9, 2017, Commission's meeting.

d. PLN-MJDP-17-00070: ZANDALE SHOPPING CENTER & GREENLEAF MOTOR LODGE PROPERTIES (AMD) (10/12/17)* - located at 2280 Nicholasville Road. (Council District 4) **(Brandstetter Carrol)**

Note: The Planning Commission postponed this item at their August 10, 2017 and September 14, 2017, meetings. 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.

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 Ms. Mundy and carried 9-0 (Forester and Richardson absent) to postpone **PLN-MJDP-17-00070: ZANDALE SHOPPING CENTER & GREENLEAF MOTOR LODGE PROPERTIES (AMD)** to the November 9, 2017, Commission's meeting.

e. PLN-MJDP-17-00094: LEESTOWN V.A. HOUSING (11/30/17)* - located at 2250 Leestown Road (a portion of). (Council District 12) **(EA Partners)**

Note: The applicant requested postponement of this plan at the September 27, 2017, Technical Committee meeting.

The Subdivision Committee did not review this item.

The Technical Committee did not review this item.

The Staff Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner'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.

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10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Clarify ownership and maintenance of Opportunity Way.
12. Delete side yard and rear yard setback labels.
13. Addition of density of development in site statistics to determine open space requirement per Article 9 of the Zoning Ordinance.
14. Delete note #10.
15. Discuss improvements to Opportunity Way.
16. Discuss pedestrian access to school site.

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. Mundy, seconded by Ms. Plumlee and carried 9-0 (Forester and Richardson absent) to postpone **PLN-MJDP-17-00094: LEESTOWN V.A. HOUSING** to the November 9, 2017, Commission's meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, October 5, 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: Hillard Newman, Division of Engineering; and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade; Tom Martin; Cheryl Gallt; Denice Bullock; Captain Greg Lengal and Joshua Thiel, Division of Fire & Emergency Services; Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.
1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

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

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

Requests can be made to remove items from the Consent Agenda:
(1) due to prior postponements and withdrawals,
(2) from the Planning Commission,
(3) from the audience, and
(4) from Petitioners and their representatives.

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

1. PLN-MJSUB-17-00056: BROOKHAVEN SUBDIVISION, UNIT 1-F, BLOCK A, LOT 1-E (AMD) (11/30/17)* - located at 2434 Nicholasville Road. (Council District 4) **(Banks Engineering)**

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

   The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
   1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
   2. Urban County Traffic Engineer's approval of street cross-sections and access.
   3. Landscape Examiner's approval of landscaping.
   4. Addressing Office's approval of street names and addresses.
   5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
   6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
   7. Addition of conditional zoning restrictions on plan face.
   8. Amend Lot 1 to meet the frontage requirements of the B-3 zone.

2. PLN-MJSUB-17-00058: SEBASTIAN PROPERTY, UNIT 2A (11/30/17)* - located at 2944 Trailwood Lane (a portion of). (Council District 2) **(EA Partners)**

   The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
   1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.

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2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote all proposed and existing easements.
9. Denote remaining of property per plat R-405.
10. Identify adjacent property with dashed lines.

3. PLN-MJSUB-17-00060: PARKER'S LANDING, UNIT 4, LOT 85 (AMD) (11/30/17)* - located at 1296 Cape Cod Circle. (Council District 10) **(Vision Engineering)**

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

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner'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. Delete note #12.
9. Resolve sanitary sewer service to the lot to the approval of the Division of Engineering.
10. Denote street tree quantity per lot and type per Article 6-10 of the Land Subdivision Regulations.
11. Correct note #11 to reflect Article 6-10 of the Land Subdivision Regulations.

4. PLN-MJSUB-16-00009: GOODLOE'S (OR KELLER'S) SUBDIVISION, LOT 12 (AMD) (1/2/18)* - located at 140 Indiana Avenue. (Council District 3) **(Endris Engineering)**

Note: The purpose of this amendment is to subdivide one lot into three lots. The Planning Commission originally approved this plan on September 8, 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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Denote property located in the infill/redevelopment in site statistics.
7. Addition of building line setback.
8. Complete owner's certification reference to sanitary sewer.
9. Denote that redevelopment of these lots must comply with the Downtown Streetscape Plan.
10. Denote "driveway agreement" maintenance responsibilities.

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

The Staff Recommends **Reapproval**, subject to the conditions approved on September 8, 2016.

5. 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.

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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.

6. PLN-MJDP-17-00095: BLUEGRASS EXECUTIVE PARK, UNIT 1-C, BLOCK D, SECTION 2, LOT 1 (AMD) (11/30/17)* - located at 2141 Executive Drive. (Council District 6) **(EA Partners)**

Note: The purpose of this amendment is to increase lot coverage to 9,000 sq. ft. for entry canopy and covered patios, and increase floor area by 400 sq. ft. for enclosed patio.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner'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. Remove covered patio from floodplain setback.
11. Dimension entry canopy.

7. PLN-MJDP-16-00004: NEWTOWN SPRINGS, LOT 1 (1/2/18)* - located at 1445 Newtown Center Way. (Council District 1) **(Barrett Partners)**

Note: The Planning Commission originally approved this plan on September 8, 2016, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. 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. Denote the Royal Springs Aquifer Committee's consideration and/or approval of this use prior to certification.
12. Denote: There shall be reciprocal access throughout the property.
13. Resolve circulation and use of second drive-through facility.

The Planning Commission also approved a waiver to Article 6-8(q)(3)(b) of the Land Subdivision Regulations, which governs Land Use Access, for the following reasons:
1. The applicant has demonstrated exceptional hardship, as required under Article 1-5(a) of the Land Subdivision Regulations due to the fact that a continuous median and limited accessibility to the development hinders drivers from being able to gain access to the development in a convenient, logical and orderly manner.
2. Granting the requested waiver for the full access point will allow for desirable general development as proposed pursuant to this plan and cause no detriment to the public good by allowing for convenient and logical traffic flow within the development.

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

The Staff Recommends **Reapproval**, subject to the conditions approved on September 8, 2016.

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

Ms. Wade said that the staff had received an affidavit for a sign posting for DP 2015-6: RICHARDSON PROPERTY (AMD), and everything with it appears to be in order. She noted that the address listed on the agenda is also known as 300 & 316 Hannah Todd Place, which is the property address noted on the affidavit.

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).

Audience members requesting full discussion: There were none.

Commission member requesting full discussion: There were none.

Action - A motion was made by Mr. Brewer, seconded by Ms. Mundy and carried 9-0 (Forester and Richardson 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. Cravens, seconded by Mr. Brewer, and carried 9-0 (Forester and Richardson absent) to approve the release and call of bonds as detailed in the memorandum dated October 13, from Barry Brock, Division of Engineering.

C. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

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

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

1. DEVELOPMENT PLAN

Mr. Wilson said that the next item is a continuation of the public hearing that was previously held on September 14th, and noted that there were several Commission members not present for that discussion. He asked if those members were able to review the material, which included the staff reports, video and audio recording of the case. Mr. Penn, Mr. Owens, Mr. Bell and Mr. Brewer indicated that they have reviewed all pertinent materials associated with this case.

Mr. Wilson then explained that the procedure for this case is as follows:
- Staff Report(s), including subcommittee reports (15 minute maximum)
- Petitioner's report(s) (15 minute maximum)
- Citizen Comments (15 minute maximum)
- Rebuttal & Closing Statements
  (a) petitioner's comments (10 minute maximum)
  (b) citizen objectors (10 minute maximum)
  (c) staff comments (10 minute maximum)
- Commission discusses and/or votes on the plan.

Mr. Wilson reminded Mr. Murphy and Mr. Billings that they can use their time however they choose, but if there was a member of the community wishing to speak, then their time would be included in the maximum time allowed. He asked if each party was agreeable. Mr. Murphy and Mr. Billings indicated their agreement.

Mr. Wilson said that the Commission members will have the opportunity to ask each party additional questions at the end of their respective presentations.

a. 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)**

Note: The Planning Commission continued this item at their September 14, 2017, meetings.

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

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.

Staff Presentation – Mr. Martin presented the staff's report on the Final Development Plan, and noted that the staff had distributed the following revised recommendation of approval to the Commission. He noted that this report was previously handed out at the September 14th meeting.

The Staff Recommends **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

~~10. Complete dimensions for loading dock, trash area and M.E.P~~

10. ~~11.~~ 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(o)(3) in the required study.~~

12. ~~14.~~ ~~Discuss~~ Resolve stormwater management and water quality.

Mr. Martin then presented the revised Area Character Context (including a Massing Study), and the staff's Supplemental report on the B-1 Form Base Neighborhood Business Project. (A copy of this study and staff report is attached as an appendix to these minutes).

Mr. Martin indicated that the staff was recommending the following revised conclusions:

> The applicant's proposal meets the intent of the form-based project in a Neighborhood Business (B-1) Zone. This is supported by the significant street frontage on the site that helps mitigate the impact of the proposed building on the immediate area. The height of the building will allow for a significant residential density, and a commercial retail component that will complement the existing area and neighborhoods nearby. The proposed architecture, massing and varied building height will be respectful of the area as well.

Commission Questions – Ms. Mundy asked if the window treatments are just along Pine Street or throughout the building. Mr. Martin replied the window treatments are throughout the building. Ms. Mundy then asked if there is a bus or shuttle stop close to this property. Mr. Martin replied affirmatively.

Mr. Berkley asked if the neighborhood currently has permit parking. Mr. Martin replied affirmatively, noting the time is from 7 a.m. to 5 p.m. Mr. Berkley then asked if there are 24-hours parking permits. Mr. Martin replied affirmatively, and said that the residents can request that type of permit.

Mr. Brewer asked if the number of proposed dwelling units were decreased by three. Mr. Martin replied affirmatively. Mr. Brewer then asked what is the required parking for the development. Mr. Martin explained that the revised plan proposes 159 units, which would require 210 parking spaces. The applicant is proposing 166 parking spaces along with 12 tandem parking spaces. He noted that the tandem parking spaces do not count towards the required parking.

Mr. Brewer said that the parking increased by 18, and asked if that increase included the tandem spaces. Mr. Martin replied negatively.

Mr. Wilson said that, at the September 14th meeting, he asked both attorneys to refrain from discussing the parking issue since that will be presented to the Board of Adjustment later in the month. He then said that also at the September meeting, the community had voiced their concerns with the parking. He indicated that if Mr. Murphy wanted to discuss that topic that would be his choice and likewise with Mr. Billings.

Petitioner Presentation – Richard Murphy, attorney; Tom Harrington, Jr., Core Spaces; Jeff Zelisko, Antunovich Associates; Kevin Warner, Carman; and Kevin Phillips, Endris Engineering; and Brett Malone, Integrated Engineering were present representing the applicant.

Mr. Murphy presented a PowerPoint presentation and gave a brief description of each slide.

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

Support - There was none.

Opposition Presentation – Nathan Billings, attorney, was present representing residents of this area. He distributed a packet to the Commission and gave a brief description of the information found behind each tab, as well as a UK student parking survey. (A copy of the exhibit and parking survey is attached as an appendix to these minutes).

Mr. Billings requested the Planning Commission to approve this request with the following restrictions:

1. 5 story building (1st floor commercial/parking, and 4 floors of residential with top floor stepped back minimum of 18 feet from Upper and Pine Streets (except for stairwell/elevator chase), with 5 stories being 65 feet, and 4 story being 54 feet);
2. HVAC Units shall not be observable from ground level;
3. Maximum 380 bedrooms;
4. Maximum 127 dwelling units; and
5. Meet minimum parking required by the Ordinance

Commission Questions - Ms. Mundy asked if the parking survey accounted for the UK pool cars provided to the students. Mr. Billings replied negatively, and said that the survey included students who have their own cars, either on campus or off campus. It does not include the pool share, or ride services such as Uber or Lyft. He then said that the UK data was based upon how many permits have been issued to student for parking on campus. He had assumed that if UK is providing the car then that car is not included in the permit data. Ms. Mundy said that the pool car is probably not included in any of the data. Mr. Billings said that if that data was not included then the number of cars on campus would be greater than what was shown on the survey. Ms. Mundy said that the pool cars are loaner cars and should not be counted as being owned by the students. Mr. Billings said that the loaner cars are additional cars on campus.

Mr. Brewer said that Tab 12 was quite disturbing to him and asked why was someone else's tragedy used as part of Mr. Billings presentation. Mr. Billings said that one of the issues brought up by CORE representatives was their projects are safe, but the article demonstrates that is not necessarily true. He then said that one of their concerns was the rooftop pool area, because it is not like any other project in Fayette County. He indicated that he was not taking the tragic situation lightly, but it's to show that there are safety issue with this proposal. Mr. Brewer asked if Mr. Billings believed that since these would be college students that they are more likely to jump off of a roof. Mr. Billings said that there are very reasonable assumptions that can be made to say college students who engage in such behaviors like drinking leads to mischief. He then said that he was not saying that college students are bad people, but they are more likely to engage in bad behavior than non-college students. The applicant stated that this is a risk-free safe environment, but he believes that is not necessarily true. Mr. Brewer said that he does not want to engage in a debate over this subject, but there is no place that is risk-free and the idea of bringing in a suicide to this discussion is inappropriate. People commit suicide anywhere and a rooftop pool is no different than anywhere else. It should have been excluded from the exhibit.

Petitioner's Rebuttal – Mr. Murphy said that many developments around the country have rooftop pools. He then said that as far as the survey is concerned, UK has about 28,000 students and the number of students used on the survey was a small portion of that number. It is just as easy to find the same amount of student who do not have a car. He added that they didn't not go out to find the data to use, but rather they used the data available from UK. Mr. Murphy directed the Commission's attention to Tab 8 in the opposition's packet, and said that Mr. Billings indicated that Tuscaloosa is at 85 percent of spaces/bedroom and that is because they were granted the maximum variance possible for parking at that location. All other Core Space developments and operations are under that percentage.

Mr. Murphy presented a series of photographs and gave a brief description of each. He said that this development is part of the UK campus and it is owned by the University of Kentucky. He indicated that before submitting this application, they met with the different government divisions, who are in agreement the applicant's proposal. He then said that as for the retail use, they are very confident that there will be a grocery store on the first floor. This project is in close proximity to the campus and it's very different from the other first floor properties that are downtown with vacancies.

Mr. Murphy indicated that there are several buildings downtown that are over four stories tall and within the general vicinity there are existing parking garages that have upwards of seven floors. He said that the Institute of Traffic Engineers Parking Manual was used to determine the parking generator for this development; and when reviewing an urban apartment building/retail facility, the peak hour demand for parking was 177 spaces. They are providing 178 parking spaces, including the tandem spaces. He said that the Historic South Hill neighborhood currently has permit parking from 7 a.m. to 5 p.m. and they can request a permit that is 24 hours a day, 7 days a week.

Mr. Murphy said that this proposal agrees with the 2013 and 2018 Comprehensive Plan. This development will be pedestrian, bicycle and transit friendly, it will be using an underutilized parking lot to provide a greater density along a major corridor. The development will provide walkability to the biggest employer and educational facility in Lexington, and it meets every criterion that has been established in the Comprehensive Plan. He indicated that this type of development is geared toward student housing versus having students living in single family homes near campus.

<u>Citizen Rebuttal</u> - Mr. Billings said that this is not a UK project, and not exempt from the Ordinance. The Planning Commission wants to use the size, dimensions and scale of the existing UK buildings to approve the request. This would result in a project that mimic an entity that gets to do whatever they want without complying with the Zoning Ordinance, the Land Subdivision Regulations, or the Comprehensive Plan. The University of Kentucky may be a component of the area, but the area is more than just two dormitories and a 7-story parking garage. The area is comprised of one- and two-story commercial buildings; one- and two-story historic structures and one- and two-story mixed-use developments. The Planning Commission should not buy into an argument of allowing this request because of the type of buildings that are on the UK campus.

Mr. Billings said that they do not disagree with a number of comments made by Mr. Murphy, and they are in agreement with the development, which is why they have drafted a motion of approval. However, they are not agreeable to the scale of the development. His clients believe limiting the number of residential floors to four is acceptable for this area. His clients have not opposed the nearby projects, and they are not opposing this project, they only want the project to be in scale with the surrounding area.

Mr. Billings requested that the Planning Commission approve this project, subject to the restrictions previously outlined in his presentation. He asked for the Commission to entertain their motion and grant the conditions at the conclusion of this hearing.

Mr. Billings indicated that he had seven minutes remaining and he would like to offer that time to any citizens present to speak to this request. Mr. Murphy voiced his objection (*inaudible*). Mr. Wilson explained that, at the beginning of the case, it was explained that there was a total of 25 minutes to use and it could be used however each of the attorney deemed. Mr. Wilson noted Mr. Murphy's objection for the record.

Jean Scott, 371 S. Mill Street, believed that this development would damage the nearby historic neighborhoods. The Comprehensive Plan encourages the preservation of the historic districts, while keeping the downtown area livable and viable. If the Commission turns their back on the South Hill Historic neighborhood for the University of Kentucky, it would damage the goals for Lexington. She requested that the Commission use the conditions that were provided by Mr. Billings.

Alan Bartley, 353 S. Mill Street, said that the Commission recently approved the zone change for The Hub and the neighborhood understands that infill is needed to keep the Urban Service Area boundary intact. However, the reason the zone change was not contested was because there is no neighborhood within the general vicinity to that zone change. Another difference between the zone change and this site, is that the zone change proposed a development across from a UK building, whereas this development is proposed across from an historic area.

Mary Campbell, 328 S. Mill Street, indicated that the homeowners in this area are invested in their properties to create a neighborhood that is safe and viable. She believes that it is ironic that this development wants to change the area by bringing in the negative aspects that will come with the proposed development.

Joy Moore, 477 S. Mill Street, said that the neighbors embrace change, but not as the current proposal stands. She said that there is clearly a division or boundary between the UK campus and the historic neighborhood. She hopes that the Commission would take that into consideration.

<u>Staff Rebuttal</u> - Mr. Martin said that this project does comply with the Zoning Ordinance for the B-1 Form Based Project, and based on the definition provided by the Form Based Code Institute, it notes that a form based code is a land development regulation that fosters predictable built results in a high quality public realm by using physical form and it is not to be confused with design guidelines or general state codes that are regulatory. He then said that form based codes are created and drafted to implement a community plan. This was done through the changes to the B-1 zone to include

the form based project. It is all about the physical environment, the massing, the spacing and the height. It is not about the use or economics of a project.

Mr. Martin said that the area that was studied includes both two- to four-story buildings, and also six- to eight-story buildings, varying in massing and height. He said that the staff believed this development does comply with the Zoning Ordinance, and recommended that the following finding is adopted should the Commission choose to approve this request.

> The applicant's proposal meets the intent of the form-based project in a Neighborhood Business (B-1) Zone. This is supported by the significant street frontage on the site that helps mitigate the impact of the proposed building on the immediate area. The height of the building will allow for a significant residential density, and a commercial retail component that will complement the existing area and neighborhoods nearby. The proposed architecture, massing and varied building height will be respectful of the area as well.

<u>Commission Questions</u> – Ms. Plumlee asked if there were projects adjacent to a historic district in other states. Mr. Harrington replied that there are projects immediately adjacent to a historic district in Tucson (II) and Flagstaff. He said that they generally build next to neighborhoods to help keep the student pressure off of the nearby neighbors.

Mr. Owens said that he had reviewed the material from the September 14th meeting, and it did not surprise him that this development plan was revised. He then said that he appreciated the revision, and asked if there was any consideration given to having the building setback further on Upper Street. Mr. Zelisko explained that they felt Pine Street was an important element for the setback. Also, the impact would be lessened on Upper Street due to the width of the street. He said that further down Upper Street is the Center Court development and throughout this area the height of the buildings are different than what they are proposing at this location. Mr. Zelisko said that they tried to revise the development plan, but from a functional standpoint, they designed the building where the elevators can access the rooftop area. He noted that there will be fence around the pool area that is upwards of six feet in height.

Ms. Mundy asked how long has this underutilized property being vacant. Mr. Murphy replied more than 40 years. Ms. Mundy said that the University of Kentucky had acquired this land from the previous hospital; and if the Commission does not approve this development plan, and if this property were to revert back to the University of Kentucky, then they could develop the land and build anything they want. Mr. Murphy replied affirmatively and said that the University of Kentucky is exempt from zoning. They may submit a Public Facility Review to the Commission, but nothing else.

Mr. Wilson asked if the HVAC units be visible from the ground level. Mr. Zelisko replied that the HVAC units would be screened from view.

Mr. Penn said that he was not present at the September 14th meeting, but he also reviewed all of the information. He then said that the Historic South Hill Neighborhood and Mr. Billings have made a lot of difference with what this plan looked like. Regardless of how the Commission votes, he wanted them to know that they did make a difference. Citizen involvement is always important in these types of situations and it shows their commitment to their neighborhood.

Ms. Plumlee said that the South Hill Historic District is very special and the applicant had stated that they have developed next to an historic area in Tucson. However, everyone present in the chamber knows that Lexington, KY is very special. She said that to have a development in close proximity to an historic area steps on the mission statement in the Comprehensive Plan of protecting successful neighborhoods. She then said that parking is a major issue and the neighborhood would not be accessible, which is not fair to those residents. She believed that this development would change the character of the South Hill neighborhood.

<u>Action</u> - A motion was made by Ms. Plumlee, seconded by Mr. Penn to approve the development plan for **<u>PLN-MJDP-17-00088: STEPHENS & WINSLOW SUBDIVISION (THE HUB AT LEXINGTON I)</u>**, with the following conditions:

1. 5 story building (1st floor commercial/parking, and 4 floors of residential with top floor stepped back minimum of 18 feet from Upper and Pine Streets (except for stairwell/elevator chase), with 5 stories being 65 feet, and 4 story being 54 feet);
2. HVAC Units shall not be observable from ground level;
3. Maximum 380 bedrooms;
4. Maximum 127 dwelling units; and
5. Meet minimum parking required by the Ordinance

She indicated that she wished to use the information behind Tab 9 as the findings of fact.

Mr. Wilson confirmed that there is a motion on the floor to approve **<u>PLN-MJDP-17-00088</u>** subject to the conditions provided by Mr. Billings and the revised conditions recommended by the staff.

Discussion of Motion – Ms. Mundy asked if the parking can be addressed that is required by the Zoning Ordinance. Ms. Jones said that the Commission can address the required parking, but the Commission cannot vary what is listed in the Zoning Ordinance, because that would be decided by the Board of Adjustment. She then said that if the Commission approves this development with what is required by the Ordinance, the Board of Adjustment still has the option to vary the parking requirement.

Mr. Brewer asked if the staff was agreeable with the motion on the floor and would this cause a hardship on the applicant.

Mr. Berkley said that there has not been any evidence and it may not be feasible on the applicant's part to limit the bedrooms or dwelling units, as suggested in the motion.

Mr. Cravens agreed with Mr. Berkley and said that they have revised their development plan and the type of material that would be used. He believed that the concerns of the neighborhood have been addressed and he is not in favor of penalizing the applicant by decreasing the number of units.

Mr. Wilson confirmed that there is a motion on the floor to approve **PLN-MJDP-17-00088**, subject to the conditions provided by Mr. Billings and the revised conditions recommended by the staff.

Mr. Cravens made a motion to amend the motion on the floor by eliminating Mr. Billings conditions and only using the conditions provided by the staff. Mr. Berkley seconded the motion.

Discussion of motion – Mr. Owens indicated that he would prefer to vote on the original motion; and if that motion failed, then the Commission can propose a second motion. Mr. Wilson said that according to Parliamentary Law a motion has been made and seconded; therefore, it must be discussed. He then said that the Commission must vote on the amended motion, then address the first motion.

Mr. Penn said that Mr. Owens comment was very well received and the Commission should either vote the motion up or down.

Mr. Wilson said that the Commission must vote on the amended motion then go back to the original motion on the floor. He noted that the amended motion is to approve the development plan for **PLN-MJDP-17-00088: STEPHENS & WINSLOW SUBDIVISION (THE HUB AT LEXINGTON I)**, without the conditions listed by Mr. Billings.

The amended motion carried 5-4 (Penn, Owens, Plumlee and Brewer opposed; Forester and Richardson absent).

Ms. Jones said that with the five conditions removed, the staff recommendation is the only conditions remaining. Mr. Wilson replied that was correct, and said that the amendment to the motion was to remove the conditions put forth by Mr. Billings.

Ms. Wade said that if the Commission wanted to adopt the Area Character & Content Study, those findings are provided in the staff report and the motion should state that the development plan meets the B-1 Zoning Ordinance. Mr. Wilson said that motion could be made separate from the first motion.

Mr. Brewer asked if the finding should be included in the motion. Mr. Wilson indicated that the finding would be a second motion. Mr. Brewer said that findings are normally incorporated into a motion. Ms. Jones explained that because the previous motion was to adopt something different than what was recommended by the staff, that motion and what the Commission provided had no findings. The Commission made that motion with the five additional conditions, which was rejected with the amended motion. The Commission is now back to adopting the development plan and must make a finding to adopt the form based study that was associated with it due to the Zoning Ordinance. At this point, the Commission has made a motion without the finding. She explained that the motion on the floor can be voted on, then the Commission can move to adopt the study and the finding; or amend the motion on the floor to include the study. She said that one way or another, the Commission will have to adopt the study as a finding.

Mr. Wilson asked if the first part of the motion was denied, then the form based study is irrelevant. Ms. Jones replied affirmatively, said that if the motion approves the development plan, then the Commission must adopt the form based study. Mr. Wilson replied affirmatively.

Mr. Brewer asked if the motion on the floor was taking action on the original motion. Mr. Wilson replied that is correct. Mr. Brewer asked if Ms. Plumlee would withdraw the original motion, creating a clean slate. Mr. Wilson explained that the motion on the floor does not require Ms. Plumlee to withdrawn it, rather the body of the Commission can withdraw the motion.

Mr. Owens confirmed that the motion on the floor could be withdrawn to create a clean slate. Mr. Wilson agreed that the body can withdraw the motion and create a new motion.

Action - A motion was made by Mr. Owens, seconded by Mr. Brewer and carried 9-0 (Forester and Richardson absent) to withdraw the motion on the floor.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens and carried 8-1 (Plumlee opposed; Forester and Richardson absent) to adopt the form based study development plan for **PLN-MJDP-17-00088: STEPHENS & WINSLOW SUBDIVISION (THE HUB AT LEXINGTON I)**, as recommended by the staff, to include the adoption of the Area Character & Content Study.

Mr. Murphy confirmed that the motion passed included the finding that the staff presented to the Commission. Mr. Wilson replied affirmatively.

Note: A recess was declared by the Chair at 3:36 p.m. and the meeting re-convened at 3:46 p.m.

2. FINAL SUBDIVISION PLAN

a. PLN-MJSUB-17-00057: WILLIAMS PROPERTY, LOTS 1 & 2 (AMD) (11/30/17)* - located at 3401 and 3409 Country Club Drive. (Council District 7) **(EA Partners)**

Note: The purpose of this amendment is to subdivide Lots 1 and 2 into three lots and add an access easement to all lots created.

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. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of conditional zoning restrictions to plan.
8. Addition of note #2 from plat Cab. R, Sl. 418 (landscape note).
9. Denote setback per the approved final development plan single family lots.
10. Revise note #10 to specify exact waiver granted under Article 6-8(b)(f) of the Land Subdivision Regulations.
11. Resolve sanitary sewer access for Lot 19.
12. Resolve orientation of homes on Lots 1 and 19, per previous plat at time of final development plan.
13. Provided the Planning Commission grants a waiver to Article 6-2(a) & 6-6 of the Land Subdivision Regulations.

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

Mr. Martin presented the Staff Report and Findings for a Waiver of Land Subdivision Regulations for Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations, pertaining to the required provision of public sanitary sewer facilities to a lot prior to the recordation of the record plat. (A copy of the Petition for a Waiver of Land Subdivision Regulations is attached as an appendix to these minutes).

The Staff Recommended: **Approval of the requested waiver**, for the following reasons:
1. Granting the requested waiver will not adversely affect public health and safety as proposed Lot 19 shall be served by the existing system when the lateral is constructed.
2. Not granting the requested waiver would constitute a hardship to the applicant by requiring the construction of a lateral line prior to construction of the single family home contrary to standard construction practices.

This recommendation is made subject to the following requirement:
a. Prior to certification of the final record plat, the sewer easement for Lot 19 shall be approved by the Division of Engineering.

Mr. Martin indicated that the staff was recommending changing condition #10 to read: "Resolve orientation of homes on Lots 1 and 19, per ~~previous plat at time of~~ the final development plan.

Commission Questions – Mr. Penn asked if the sanitary sewer could be linked with the access easement. Mr. Martin indicated that the location of the sanitary sewer was unknown at this time; and said that the Division of Engineering would need to work with the applicant to determine the best location.

Representation – Laura Watcher, EA Partners, indicated that the applicant was in agreement with the staff's recommendation, as well as the recommendation made on the waiver report.

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

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* - 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 9-0 (Forester and Richardson absent) to approve the development plan for **PLN-MJSUB-17-00057: WILLIAMS PROPERTY, LOTS 1 & 2 (AMD)**, as recommended by the staff, changing condition #12 to read" Resolve orientation of homes on Lots 1 and 19, per ~~previous plat at time of~~ the final development plan;" and to grant the waiver(s) to Article 6-2(a) and 6-6(b) of the Land Subdivision Regulations, as recommended by the staff.

3. DEVELOPMENT PLANS *(cont.)*

a. PLN-MJDP-17-00092: DISTILLERY DISTRICT-WEST, UNIT 1 (ADAPTIVE RE-USE PROJECT) (MIDDLE FORK OUTDOOR KITCHEN) (AMD) (11/30/17)* - located at 1151, 1158, 1170, 1178, 1186, 1200, 1210, 1224 and 1228 Manchester Street. (Council District 2) **(Abbie Jones Consulting)**

Note: The purpose of this amendment is to add an outdoor kitchen area.

The Subdivision Committee Recommended: **Postponement**, due to parking concerns.

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. Landscape Examiner'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. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Revise purpose of amendment note.
12. Correct amendment number in plan title.
13. Document off-site parking agreement prior to certification.
14. Discuss timing of parking lot construction in Phase 2.
15. Discuss timing of pedestrian improvements along Manchester Street.

Staff Presentation – Mr. Martin presented the staff's report on the Final Development Plan. He explained that the staff had recommended approval to the Subdivision Committee, but due to the parking concern on the site, they had recommended postponement. The staff is still recommending approval, subject to the conditions listed on today's agenda.

Commission Questions – Mr. Owens asked if the completed parking lot was paved. Mr. Martin replied affirmatively. Mr. Owens then asked where is the Distillery District West, Unit 1; and if there are any improvements made would those property owners be involved. Mr. Martin pointed out the Distiller District West, Unit 1 on the rendering, and said that there are multiple property owners along Manchester Street that would be involved in the improvements.

Mr. Brewer asked if the parking associated with the proposed outdoor kitchen was located across Manchester Street. Mr. Martin replied affirmatively. Mr. Brewer then asked, in the interest of pedestrian safety, if a bridge is needed to cross Manchester Street. Mr. Martin said that people will cross the street at the shortest point to get to the activities. Mr. Brewer said that for pedestrian safety, either a signalized light or a bridge should be installed. Mr. Martin said that Manchester Street is a state road and they are very reluctant to have any type of crossing mid-block. In the future, there will be a pedestrian crossing near the Town Branch trail head that would bring people to and from this area. He said that the staff was concerned with the development itself, the parking and the pedestrian safety in and out of the site. Mr. Brewer said that this is a great development and should be encouraged and protected. Mr. Martin agreed.

Mr. Penn said that he visited this establishment, and the outdoor patio was larger than the restaurant. His concern is the outdoor kitchen is only requiring five additional parking spaces. Mr. Martin said that the parking requirement is based on the number of seats on the approved plan. Mr. Penn said that the staff needs to be very careful, because the patio seating is definitely larger than the seating inside.

Representation – Abby Jones, engineer, noted that the right-of-way improvements to Manchester Street will occur when Phase II comes on line. This is not referenced on any development plan note, but rather noted on a separate document. She indicated that the applicant was in agreement with the staff's recommendation, but asked for condition #12 to be deleted.

Commission Questions – Mr. Bell asked how many parking spaces would be available across Manchester Street. Ms. Jones replied more than five spaces. Mr. Bell then asked what is the total number of available parking space across Manchester Street. Ms. Jones said that the areas across Manchester Street has not yet been striped so to determine that number would be difficult. There are parking areas further away from Manchester Street that could be

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

used if needed. Mr. Bell asked if the parking being proposed on the development plan is the most that can fit in that area. Ms. Jones believed that their proposed parking is as much as seven spaces. Mr. Martin said that the exhibit submitted at the Subdivision Committee meeting indicated nine parking spaces are to be provided across Manchester Street. Mr. Bell said that people will park wherever they want, and he was curious as to how many parking spaces are in the area. Mr. Martin replied that parking is part of the staff's concern.

Mr. Brewer asked if conditions #14 and #15 could be deleted now that those were discussed. Mr. Martin replied affirmatively. Mr. Brewer then asked if condition #12 could also be deleted. Mr. Martin replied affirmatively.

Mr. Bell said that this project is making the Commission aware of other issues and asked if it's fair to penalize this project, and not others. Mr. Martin said that this is a small amendment to a very large development. He then said that it would not be fair to place the entire burden on this applicant since there are other people involved.

Mr. Penn believed that there will be more seats than what is anticipated and five parking spaces would not be enough. He indicated that it does not matter how many spaces have been striped, but rather if a car can fit in the area. He said that, sooner or later, regardless of what the Planning Commission does with this case, the State of Kentucky and the City need to realize that Manchester Street is a very dangerous road, and at the very least it deserves street lights or a lighted crosswalk. The Division of Traffic Engineering needs to contact the property owners to install lights, because this area is a safety hazard for pedestrians.

<u>Citizen Comment</u> – Jacob Walbourn, attorney, representing one of the Distillery District property owners, indicated that if the Commission approves the proposed rendering they have no objection and will not need to sign the plan.

<u>Commission Questions</u> - Mr. Bell said that there are multiple property owners along Manchester Street, and asked if it would take an accident to address the pedestrian safety issues. Mr. Walbourn said that his client does not own the building that is associated with this request, and generally speaking, no you don't want to wait for an accident to occur, because it would not only be bad for the City, but it would be bad for the property owners. If the area gets a reputation that it is unsafe, then no one will come to this area. The Urban County Government and the Commonwealth of Kentucky can do whatever is necessary to fix the situation in this area. In terms of what the Planning Commission can request for this area, the Law Department would need to provide guidance. The staff has already stated that any subsequent amendments would be reviewed with great scrutiny. Mr. Walbourn noted that permits have been pulled for the parking lots on the eastern side of the large building. This site has many property owners and it's a complicated relationship, but they are working together to make this project work. He said that there are significant legal breaks for the parking, based upon an adopted Zoning Ordinance text amendment from 12 years ago.

<u>Citizen Comments</u> (cont.) Mike Meuser, also representing the applicant, said that there has been a lot of discussions about improving the safety of this area, but what needs to be known is this area was formerly an industrial area. That type of use did not have sidewalks, or lights installed and providing city services to this area has been difficult. The other challenge for this area is that Manchester Street is a state road, and the State is very reluctant to make improvements or even have a lighted crosswalk. He explained that people will come to the restaurants or bars then cross Manchester Street to see a show at the large music hall located on the other side of Manchester Street.

<u>Commission Questions</u> – Mr. Penn asked if there is anything that the Planning Commission can do to help. Mr. Meuser said that he was unsure, but they could meet with the Division of Planning and Traffic Engineering. Ms. Abbie Jones said that city-owned street lights could be installed as long as the State approves those lights. Mr. Penn said that the Division of Traffic Engineering will need to decide that pedestrian safety is an issue and take it to the Council.

Mr. Owens said that this will not be decided today. There are other issues associated with this problem, like who will pay for the improvements. He suggested that the staff come together and seriously start taking about the safety of this area. The TIF has been dissolved and these infrastructure problems have been delayed. Ms. Abbie Jones suggested adding a condition requiring all of the property owners and the Division of Traffic Engineering to meet within a reasonable time frame on the safety issue. Mr. Wilson asked if the Commission could add that condition. Ms. Tracy Jones indicated that would not be a very good idea because the problem is larger than this particular development.

Mr. Wilson asked what is the staff recommending. Mr. Martin said that the staff had recommended approval to the Subdivision Committee, who in turn recommended postponement.

<u>Action</u> - A motion was made by Mr. Brewer, seconded by Mr. Owens and carried 9-0 (Forester and Richardson absent) to approve the development plan for **<u>PLN-MJDP-17-00092: DISTILLERY DISTRICT-WEST, UNIT 1 (ADAPTIVE RE-USE PROJECT) (MIDDLE FORK OUTDOOR KITCHEN) (AMD)</u>**, as recommended by the staff, deleting conditions #12, #14 and #15.

b. <u>PLN-MJDP-17-00093: HAMBURG PLACE-B-5P & B-6P AREA HIGHWAY COMMERCIAL (TIME TO SHINE CAR WASH) (AMD)</u> (11/30/17)* - located at 2320 Grey Lag Way. (Council District 6) **(Thoroughbred Engineering)**

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

Note: The purpose of this amendment is to add a self-service car wash with access drives and parking on Outlot 7.

The Subdivision Committee Recommended: **Postponement**, due to the number of conditions.

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. Landscape Examiner'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. Remove "future" over note #5.
11. Remove "fire station site" from plan face.
12. Addition of all metes and bounds on property.
13. Clarify area of amendment on vicinity map.
14. Addition of dimensions on parking area and walkways.
15. Denote construction access point on plan.
16. Addition of building dimensions on plan.
17. Addition of building height on plan.
18. Denote location and dimensions of vacuum units.
19. Correct date on Planning Commission certification.
20. Correct plan number in site statistics for Outlot 7.
21. Denote Board of Adjustment's approval of PLN-BOA-17-00065 on plan prior to certification.
22. Revise purpose of amendment to denote car wash is "self-service".

Staff Presentation – Ms. Gallt presented the staff's report on the Final Development Plan, noting that the Subdivision Committee had recommended postponement due to the number of conditions listed.

The applicant submitted a revised development plan on October 10th addressing several concerns that were identified by the Subdivision Committee. Based upon that revised development plan, the staff can now offer the Planning Commission the following revised recommendation.

The Staff Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner'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. Remove "future" over note #5.~~
~~11. Remove "fire station site" from plan face.~~
10. ~~12.~~ Addition of all metes and bounds on property for the entire development plan.
~~13. Clarify area of amendment on vicinity map.~~
~~14. Addition of dimensions on parking area and walkways.~~
~~15. Denote construction access point on plan.~~
~~16. Addition of building dimensions on plan.~~
~~17. Addition of building height on plan.~~
~~18. Denote location and dimensions of vacuum units.~~
~~19. Correct date on Planning Commission certification.~~
~~20. Correct plan number in site statistics for Outlot 7.~~
~~21. Denote Board of Adjustment's approval of PLN-BOA-17-00065 on plan prior to certification.~~
~~22. Revise purpose of amendment to denote car wash is "self-service".~~

Representation – Brent Combs, Thoroughbred Engineering, indicated that the applicant was in agreement with the staff's recommendation.

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

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer and carried 9-0 (Forester and Richardson absent) to approve the development plan for **PLN-MJDP-17-00093: HAMBURG PLACE-B-5P & B-6P AREA HIGHWAY COMMERCIAL (TIME TO SHINE CAR WASH) (AMD)**, as recommended by the staff.

VI. COMMISSION ITEMS

A. PLANNING SERVICES

Mr. Duncan announced that Ms. Traci Wade had accepted the position of Planning Services Manager, which means that there are now two vacancies to fill with the Planning Services section.

B. UPCOMING MEETINGS

Mr. Duncan briefly explained that the members on the Council will meet on October 17th to continue their review with the Goals and Objectives.

Mr. Duncan also noted that the staff would be presenting several reports outlining the zone change process to the Planning and Public Safety Committee on October 17th. He explained that currently KRS 100 gives the option for the Planning Commission to actually make the final decision on any zone change request unless there is a specific request for that application to be reviewed by the Council. This would be more for any uncontested zone changes that may be caught up during the Council's break. Mr. Duncan said that the staff would also be speaking to Council Committee regarding the ZOTA for conditional use. He then said that the staff would also report on the public input for the Comprehensive Plan.

Mr. Duncan noted that the next work session is scheduled for October 19th, and it will include staff presentations regarding the Bike and Pedestrian Master Plan, the draft Rural Land Management Plan and two text amendment for the Land Subdivision Regulations.

C. PAULSEN FAMILY

Mr. Wilson expressed the Commission's condolences to the Paulsen family on the loss of their family member.

VII. STAFF ITEMS – There were none.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Work Session, Thursday, 1:30 p.m., 3rd Floor Phoenix Building .... October 19, 2017
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... October 25, 2017
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **October 26, 2017**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... November 2, 2017
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... November 2, 2017
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **November 9, 2017**

X. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 4:31 PM.

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William Wilson, Chair

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Carolyn Plumlee, Secretary