

**MINUTES  
URBAN COUNTY PLANNING COMMISSION  
SUBDIVISION ITEMS**

**February 14, 2019**

- 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 – William Wilson, Chairman; Will Berkley; Graham Pohl; Karen Mundy; Mike Owens; Carolyn Plumlee; Headley Bell; Larry Forester and Patrick Brewer. Bruce Nicol and Frank Penn were absent.

Planning Staff members present – Jim Duncan, Director; Traci Wade, Tom Martin, Lauren Hedge, Cheryl Gallt and Denice Bullock. Other staff members in attendance were Casey Kaucher, Traffic Engineering; Vaughan Adkins, Division of Engineering; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire & Emergency Services & Tracy Jones and Chad Edwards,

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Nicol and Penn absent) to approve the minutes of the January 10, 2019, minutes.

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

- a. PLN-MJDP-18-00076: BLACKFORD PROPERTY, PHASE 3 (AMD) (2/14/19)\* - located at 3221 BAY SPRINGS PARK AND 3385 BLACKFORD PARKWAY, LEXINGTON, KY.  
Council District 12  
Project Contact: EA Partners

Note: The Planning Commission postponed this item at their October 11, 2018, November 8, 2018, and December 13, 2018 and January 10, 2019, meetings. This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise layout of the remaining portion of Phase 3.

The Subdivision Committee Recommended: **Postponement** to discuss local street pattern.

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. 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. Addition of record plat designation.
12. Provided the Planning Commission makes a finding the plan complies with the EAMP.
13. Discuss connectivity of Wading Creek Trail and Bay Springs Park and removing cul-de-sacs.

Representation present – Nick Nicholson, attorney, requested a one-month postponement of this request to allow additional time to meet with the staff to address the reasons for postponement.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Brewer and carried 9-0 (Nicol and Penn absent) to postpone **PLN-MJDP-18-00076: BLACKFORD PROPERTY, PHASE 3 (AMD)** to the March 14, 2019, meeting.

- b. PLN-MJDP-18-00098: ATKINS PROPERTY, LOT 12 (WATTS FARM) (AMD) (2/24/19)\* - located at 3609 WALDEN DRIVE, LEXINGTON, KY.  
Council District 4  
Project Contact: EA Partners

Note: The Planning Commission postponed this item at their January 10, 2019, meetings. The purpose of this amendment is to add additional building square footage and reconfigure the parking.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the proposed development and the lack of information and zoning restrictions listed from the previous plan.

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

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

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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.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Addition of all information from previous development plan (DP 2007-88).
12. Addition of record plat designation (Cabinet L, Slide 715).
13. Denote access point for construction vehicles.
14. Denote height of building in feet on plan.
15. Denote use on property.
16. Addition of "zoning restriction note".
17. Discuss compliance with conditional zoning restrictions.

Representation present – Nick Nicholson, attorney, requested to withdraw this request.

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

Action - A motion was made by Mr. Owens, seconded by Ms. Plumlee and carried 9-0 (Nicol and Penn absent) to withdraw **PLN-MJDP-18-00098: ATKINS PROPERTY, LOT 12 (WATTS FARM) (AMD)**.

- c. **PLN-FRP-19-00001: RED MILE SQUARE, INC., TRACT D, LOT 3 (AMD) (4/7/19)\*** - located at 1151 UNITY DRIVE, LEXINGTON, KY.  
Council District 11  
Project Contact: Endris Engineering

Note: The purpose of this amendment is to subdivide one lot into 17 lots, and create easements as denoted with two asterisks (\*\*) on the plan.

The Subdivision Committee did not review this plan.

The Technical Committee and Staff Recommends: **Postponement**. There was a question regarding compliance with the required open space for the R-1T zone.

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.
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 street cross-section on plan.
8. Provided the Planning Commission makes a finding on the access easement.
9. Discuss open space for Lot 31, per Article 8-10(o)(3) of the Zoning Ordinance.

Staff Comments – Mr. Martin said that the staff had received written and verbal communication 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 (Nicol and Penn absent) to postpone **PLN-FRP-19-00001: RED MILE SQUARE, INC., TRACT D, LOT 3 (AMD)** to the March 14, 2019, meeting.

- d. **PLN-MJDP-18-00075: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD) (2/14/19)\*** - located at 3650 BOSTON ROAD, LEXINGTON, KY.  
Council District 9  
Project Contact: EA Partners

Note: The Planning Commission postponed this item at their October 11, 2018, November 8, 2018, December 13, 2018 and January 10, 2019, meetings. The purpose of this amendment is to revise the development for a car wash.

The Subdivision Committee Recommended: **Postponement** until a revised development layout is submitted for review.

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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. Addition of all building dimensions on the development plan.
11. Addition of all sidewalk and VUA dimensions or typical.
12. Revise site statistics to meet new B-6P requirements.

Staff Comments – Mr. Martin said that the applicant's representative sent word that he was caught in traffic due to an car accident, and requested a one-month postponement to allow additional time to continue working on the design of the proposal.

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 9-0 (Nicol and Penn absent) to postpone **PLN-MJDP-18-00075: WILLOW OAK SHOPPING CENTER (MILLPOND CENTER) (AMD)** to the March 14, 2019, meeting.

- IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, February 7, 2019, at 8:30 a.m. The meeting was attended by Commission members: Carolyn Plumlee, Mike Owens, Will Berkley and Karen Mundy. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Casey Kaucher & Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Hal Baillie, Cheryl Gallt, Lauren Hedge, Denice Bullock, Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire & Emergency Services; & Tracy Jones and Chad Edwards, 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 were 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:

- a. PLN-MJSUB-19-00001: COVENTRY (BELMONT FARM), UNIT 9 (4/7/19)\* - located at 2450 GEORGETOWN ROAD, LEXINGTON, KY.  
Council District 2  
Project Contact: EA Partners

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Urban Forester's approval of tree preservation plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Denote the site is within the Royal Springs Aquifer.
8. Resolve timing of completion and dedication of Huntly Place.

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- b. PLN-MJDP-19-00001: EASTWOOD UNIT 6, SECTION 2, LOT 6 (AMD) (4/7/19)\* - located at 2472 FORTUNE DRIVE, LEXINGTON, KY.  
Council District 6  
Project Contact: Vision Engineering

Note: The purpose of this amendment is to revise the parking layout, increase the lot coverage, and decrease the building square footage.

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 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.

- c. PLN-MJDP-19-00004: TRADELAND GARDEN (REALTY UNLIMITED BLUE GRASS, LLC) (4/7/19)\* - located at 1760 N. BROADWAY ROAD, LEXINGTON, KY.  
Council District 1  
Project Contact: Thoroughbred Engineering

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
  2. Urban County Traffic Engineer's approval of street cross-sections and access.
  3. 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. Denote the Royal Springs Aquifer Committee's consideration and/or approval prior to certification.
  9. Proposed access to the approval of KYDOT and the Division of Traffic Engineering.
  10. Revise note #5 to include standard note per the Division of Engineering.
  11. Remove gravel area depicted in northeast corner of site.
  12. Addition of note resolving the timing of development and/or improvements, and proposed use of the property.
- d. PLN-MJDP-19-00006: HAMBURG PLACE MALL, UNIT 1, PARCEL 2, OUTLOT 6 (FIRESTONE COMPLETE AUTO CARE) (AMD) (4/7/19)\* - located at 2155 PAUL JONES WAY AND 2145 SIR BARTON WAY, LEXINGTON, KY.  
Council District 6  
Project Contact: Gresham Smith

Note: The purpose of this amendment is to add building square footage and parking on Parcel 2, Outlot 6.

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 and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Addition of bearings and distances on plan.
11. Label existing and proposed easements on property.
12. Resolve timing of record plat to create the Outlot 6 of Parcel 2.
13. Resolve parking lot circulation.

Ms. Wade noted 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).

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Audience members requesting full discussion - There were none.

Commission member requesting full discussion - There were none.

**Action** - A motion was made by Mr. Berkley, seconded by Mr. Forester, and carried 9-0 (Nicol and Penn absent) to approve the items listed on the Consent Agenda, as presented by the staff.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Berkley, seconded by Ms. Mundy, and carried 9-0 (Nicol and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated February 14, 2019, 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 Subdivision Committee 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-18-00016: GOODPASTOR & GOODWIN PROPERTY (SUNSET ACRES) (JAMES K. & SUSAN D. THORNBERRY PROPERTY) (AMD) (4/22/19)\* - located at 3459, 3501, 3513 HALEY ROAD, LEXINGTON, KY  
Council District 12  
Project Contact: Thoroughbred Engineers

Note: This development plan requires the posting of a sign, and an affidavit of such. The purpose of this amendment is to subdivide three lots (211.26 total acreages) into five lots (Tract 1B-49.97 acres; Tract 2B-40.04 acres; Tract 3B-40.54 acres; Tract 4B-40.00 acres and Tract 5B-40.71 acres) in an A-R zone.

The Planning Commission approved this item at their May 10, 2018, 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. Addressing Office's approval of street names and addresses.
4. Urban Forester's approval of tree protection area(s) and required street tree information.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote all non-buildable areas.
8. Denote adjacent property with dashed lines.
9. Correct owner's certification.
10. Correct 300' setback on Lots 1B & 4B.
11. Correct Planning Commission certification.
12. Denote KYDOT's approval of proposed access to Lot 5B (Haley Road).
13. Remove old property line notations from plan.
14. Addition of Urban County Engineer Certification.
15. Remove side yard setback from plan.
16. Provided the Planning Commission grants the requested waiver to required frontage for Lots 1B and 4B per Article 6-4(c) of the Land Subdivision Regulations.

The Planning Commission also granted a waiver to Article 6-4(c) Subdivision Regulations, pertaining to the required street frontage for the subdivision of three Agricultural Rural (A-R) lots into five lots for the following reasons:

1. Granting the requested waiver will not adversely affect public health, welfare and safety as the lots are limited to agricultural use and will not be utilized by the general public on a consistent basis.
2. Granting the waiver is consistent with the intent of Article 1-5(a) of the Land Subdivision Regulations for Exceptional Hardship.

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3. Granting the waiver is consistent with Article 6-4(j) of the Land Subdivision Regulations governing subdivisions in the A-R zone.

This recommendation was made subject to the following additional requirements:

- a. The existing driveways to be utilized as the access easements shall be reconstructed to the approval of the Divisions of Traffic Engineering and Engineering prior to certification of the final record plat.
- b. Maintenance responsibilities for the access easements shall be denoted on the final record plat.

Findings for appropriateness of access easements as sole access for certain lots:

1. Allowing each of the single lots to be accessed only via the access easement is appropriate for the proposed subdivision and consistent with Article 1-5(a) the Land Subdivision Regulations.

Note: The applicant is requesting a continued discussion to reduce the driveway from 14' wide to 10' wide.

The Subdivision Committee Recommended: **Postponement**, due to lack of representation at the Subdivision Committee meeting.

Staff Presentation - Mr. Martin directed the Commission's attention to the final subdivision plan, and noted that the staff did receive the affidavit for the sign posting, as required by the Land Subdivision Regulations. He noted that the Planning Commission previously approved this request on May 10, 2018, and as part of their approval, they also granted a waiver to Article 6-4(c) Subdivision Regulations, subject to the conditions listed on today's agenda.

Mr. Martin said that this request was a continued discussion to reduce the existing driveway width from 14' wide to 10' wide, as well as removing the following condition from the previously approved requirements for the waiver:

- a. The existing driveways to be utilized as the access easements shall be reconstructed to the approval of the Divisions of Traffic Engineering and Engineering prior to certification of the final record plat.

Mr. Martin said that the Division of Fire did make a site visit, and they are comfortable with the existing circumstance on the property and they agree condition a. could be removed.

Mr. Martin said that the staff was recommending approval, subject to the previous conditions listed on today's agenda, removing condition a. from the waiver recommendation.

Representation present – Daniel Rehner, Thoroughbred Engineering, indicated that the applicant was in agreement with the staff's recommendation, and requested approval, removing condition a. from the waiver request.

James Thornberry, applicant, was present to speak on the history of the farm and the reasons why he was requesting the Planning Commission to allow the driveway to be reduced from 14' wide to 10' wide.

Audience members - There were none.

Action - A motion was made by Mr. Brewer, seconded by Mr. Bell, and carried 9-0 (Nicol and Penn absent) to approve **PLN-MJSUB-18-00016: GOODPASTOR & GOODWIN PROPERTY (SUNSET ACRES) (JAMES K. & SUSAN D. THORNBERRY PROPERTY) (AMD)**, as recommended by the staff.

Action - A motion was made by Mr. Brewer, seconded by Mr. Bell, and carried 9-0 (Nicol and Penn absent) to approve the waiver to Article 6-4(c) Subdivision Regulations for **PLN-MJSUB-18-00016: GOODPASTOR & GOODWIN PROPERTY (SUNSET ACRES) (JAMES K. & SUSAN D. THORNBERRY PROPERTY) (AMD)**, as recommended by the staff, removing condition a.

## 2. **DEVELOPMENT PLANS**

- a. **PLN-MJDP-18-00099: BLUEGRASS STOCKYARDS PROPERTY** (2/24/19)\* - located at 375 LISLE INDUSTRIAL AVENUE, LEXINGTON, KY.  
Council District 2  
Project Contact: AGE Engineering Services, Inc.

Note: The Planning Commission postponed this item at their January 10, 2019 meeting.

The Subdivision Committee Recommended: **Referral to the Full Commission**. There were some questions regarding compliance with Article 8-22(o)(4) of the Zoning Ordinance and lack of adequate infrastructure to serve the proposed use.

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.

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4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Dimension all buildings.
13. Dimension court yards, swimming pool and pool house.
14. Denote Floor Area Ratio (FAR) per Article 21 of the Zoning Ordinance.
15. Remove survey notes and manhole elevations.
16. Denote height of retaining wall in feet.
17. Denote cross-sections for S. Forbes Road and Lisle Industrial Avenue.
18. Denote front building setback line.
19. Remove proposed access to S. Forbes Road.
20. Discuss compliance with Article 8-22(o)(4) of the Zoning Ordinance, specifically (a) locational, (c) building setback and (e) mixed-use requirements.
21. Discuss stormwater management.
22. Discuss the adequacy of the area infrastructure to support a residential use.
23. Discuss timing to resolve sanitary sewer conflict with proposed buildings.

Staff Presentation - Mr. Martin directed the Commission's attention to the preliminary development plan, and indicated that the staff had received a revised plan on January 25, 2019 that addressed many of the technical issues identified by the Technical Committee and the Planning Staff, including several of the requirements under Section 8-22(o)(4) of the Zoning Ordinance. However, one major concern remains relative to the locational requirements for an Industrial Mixed Use Project (IMU), as stated in Article 8-22(o)(4)(a) of the Zoning Ordinance.

Mr. Martin said that the Industrial Mixed Use is a very specific land use, and this type of land use is tied to the adopted Newtown Pike Extension Small Area Plan (2002). He directed the Commission's attention to the Newtown Pike Extension Small Area Plan, and explained under the Commercial Development Recommendations for Land Use Strategies for Commercial and Industrial Development Recommendations, the small area plan proposed a new Industrial Mixed Use Land use category to permit this type of mixed use in the Newtown Pike area. Subsequently, the Newtown Pike Extension Small Area Plan also listed Industrial Development Recommendations, which specifically speaks to the types of uses that could be included in an IMU. In 2002, this type of land use was relatively a new trend for this area, but it could be found in high-tech cities such as San Francisco, California. There are some light industrial uses that could be combined with residential to create a live/work environment. For example, landscaping services, sportswear embroidery or t-shirt manufacturing, and so forth. The Newtown Pike Extension Small Area supports industrial development that looks to the newer trends in industrial uses.

Mr. Martin said that the Newtown Pike Extension Small Area Plan was the catalyst for industrial mixed use land uses. Subsequently, the 2007 Land Use Map incorporated this concept in certain areas, but the 2013 Comprehensive Plan did not specifically identify the IMU use in any text and the future land use map was discontinued when the Comprehensive Plan was adopted. However, the Newtown Pike Extension Small Area Plan does remain a supporting document to the adopted Comprehensive Plan. It is the staff's opinion that this reference to the Small Area Plan and the specific location identified within the SAP supports the specific locational criteria of the Zoning Ordinance.

Mr. Martin indicated unless or until additional information is incorporated into the Comprehensive Plan, the only locations recommended by the Plan are those recommended by the Newtown Pike Extension Small Area Plan. Therefore, the staff is recommending disapproval of the preliminary development plan for the following reasons:

1. The property does not meet the locational requirements for the Industrial Mixed Use Project as specified in Article 8-22(o)(4)(a) of the Zoning Ordinance.
2. The proposed development and site are not consistent with the policy intent of the Industrial Mixed-Use as defined by the Newtown Pike Extension Small Area Plan, adopted by the Planning Commission on August 22, 2002, and as amended per Planning Commission conditions of November 18, 2002.
3. The existing infrastructure of the immediate area is inadequate to support the proposed residential land use in a manner that is safe and maintains the public welfare.
4. In addition, the applicant seeks to alter the essential character of the development and immediate area. The appropriate manner in which to seek such a change is through a Map Amendment Request (MAR), also known as a zone change. A zone change would permit the required notice to be provided to adjoining property owners and nearby neighborhood associations as required by Article 6 of the Zoning Ordinance and KRS 100.
5. Under Article 21-4(d) of the Zoning Ordinance, the Planning Commission may disapprove a development plan if it finds the plan does not comply with the requirements of the Zoning Ordinance, or if it finds that there are

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existing or potential flood, drainage, traffic, topographic, health, safety, nuisance or other similar problems relating to the development of the subject property.

Mr. Martin added that should the Planning Commission approve this plan, the following conditions should be required:

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. ~~Dimension all buildings~~ Adjust buildings to meet the requirements of Article 8-22(o)(4)(c).
13. ~~Dimension court yards, swimming pool and pool house.~~
14. ~~Denote Floor Area Ratio (FAR) per Article 21 of the Zoning Ordinance.~~
15. ~~Remove survey notes and manhole elevations.~~
16. ~~Denote height of retaining wall in feet.~~
17. ~~Denote cross sections for S. Forbes Road and Lisle Industrial Avenue.~~
18. ~~Denote front building setback line.~~
19. ~~Remove proposed access to S. Forbes Road.~~
13. 20. ~~Discuss~~ Resolve compliance with Article 8-22(o)(4) of the Zoning Ordinance, specifically (a) locational, (c) building setback and (e) mixed-use requirements.
21. ~~Discuss stormwater management.~~
14. 22. ~~Discuss~~ Resolve the adequacy of the area infrastructure to support a residential use at the time of a Final Development Plan.
15. 23. ~~Discuss~~ Resolve ~~timing to resolve~~ to remove sanitary sewer conflict with proposed buildings at the time of a Final Development Plan.

Commission Questions – Mr. Owens asked where is the subject property located on the Newtown Pike Extension Small Area Plan. Mr. Martin pointed out the location of the site on the PowerPoint presentation. Mr. Owens then asked if the subject property was out of the boundaries of the Newtown Pike Extension Small Area Plan. Mr. Martin replied affirmatively.

Mr. Berkley asked if the Newtown Pike Extension Small Area Plan was the only area that this type of use could be located. Mr. Martin replied that is correct. Mr. Berkley then asked how long does a small area plan stay useful. Mr. Martin said that there are a few Small Area Plans that are very old and may not be as relevant, but small area plans are incorporated and referenced continuously as the Comprehensive Plan is updated. The staff believes the Newtown Pike Extension Small Area Plan remains as long as the roadway is under construction.

Mr. Pohl asked if the staff could elaborate on the inadequacy of the infrastructure. Mr. Martin said that the staff does not believe there are any sewer capacity issues, and as sites are developed, they must adhere to the stormwater requirements. There is a concern with the pedestrian and road infrastructure because areas like this are isolated and not close to pedestrian's connections. If approved, this site would be required to make improvements along the frontages, which will include improvements to the road, pedestrian access and so forth. The rest of the immediate area will not have the same improvements.

Mr. Berkley said that one of the staff's recommendations is for the applicant to seek a zone change, but the issues that have been raised by the staff will still be present with a potential zone change hearing. Mr. Martin replied affirmatively, and said that the staff believes a zone change would be the appropriate way to get out in front of the issues that have been raised. A zone change would also allow any stakeholders, businesses owners and citizens the opportunity to voice their concerns through a public hearing process.

Mr. Wilson said that the staff was also recommending a text amendment. Mr. Martin said that another option would be for the applicant to submit a text amendment to redevelop this site.

Representation present – Nick Nicholson, attorney, along with Doug Gooch, AGE Engineering and Jeff Stidham, Greystone Real Estate were present representing Jim Akers, who owns the Bluegrass Stockyards Property.

Mr. Nicholson briefly spoke on the history of the site, and said that his client made the decision to redevelop the property because there have been no interested buyers in the land. He said that it is no surprise that there are people interested in this type of mixed use development, so they researched what type of potential this site could have and what type of trends there are, as well as what regulations they need to comply with due to a timing

restriction they were under. He said that there is a principle permitted use that allows the exact type of development that they have been approached to build.

Mr. Nicholson directed the Commission's attention to a PowerPoint presentation, and gave a brief description of the proposed design and why they believe this proposal is in complete agreement with the Zoning Ordinance, Land Subdivision Regulations and the Comprehensive Plan. (A copy of the PowerPoint presentation is attached as an appendix to these minutes). He indicated that the applicant was in agreement with the staff's conditions and requested approval.

Commission Questions – There were none.

Audience members - There were none.

Staff Rebuttal – Mr. Martin said that the staff was not going to say they do not support the Comprehensive Plan, Infill & Redevelopment or utilizing the mixed use concept. In many ways this request can be viewed as a good plan, but that does not mean it fits the Comprehensive Plan at this location or it meets the Zoning Ordinance. As staff had stated, locational requirements are based on the Newtown Pike Extension Small Area Plan, which is still incorporated within the Comprehensive Plan. To a certain degree, this proposed use is meeting the letter of the law, but it is not meeting the spirit of an industrial mixed-use.

Mr. Martin said that there is a concern with the lack of transparency in moving forward with this plan; whereas, if it were a zone change, there could be a greater input from other invested interest groups in the community, not just from the residents or the nearby neighborhood. A zone change allows anyone to speak on the loss of the land as an industrial use or their concerns with the type of use. He said that approving an industrial mixed use project and keeping this land zoned as I-2 does not necessarily make the land available for an industrial use development, particularly a more intense development. If and when a large residential component is placed on this property, that action would inhibit any use of the property for any other I-2 use because it becomes a non-compatible use.

Mr. Martin said that the staff was concerned with the location of the site and a zone change would certainly set the stage for a future development, which was why the staff would support the zone change approach. He then said that this plan does not meet the requirements of the Zoning Ordinance, nor is it consistent with the Comprehensive Plan.

Commission Questions – Ms. Plumlee said that to consider this development as an I-2 land use is a misnomer and asked if this request was approved would that create a shortage for possible locations in the community. Mr. Martin replied affirmatively.

Ms. Mundy said that this property has been vacant for three years and there has been no one interested in the land, but yet the staff is worried about taking the land out of "production" and suggests the land go through a zone change. If the zone change was approved that would also create a shortage. She indicated that she likes the idea of the property being rezoned, but she is struggling with why a zone change is a better solution. Mr. Martin said that a zone change would be a more transparent process and it would allow the entire community the opportunity to voice their opinions and concerns on the request and possible impacts it could have on the I-2 land, its availability and impacts to the immediate area.

Ms. Mundy asked if the staff felt it is alright to take the land out of an I-2 zone through a zone change, because the zone change would allow the community to discuss the request. Mr. Martin said that whether or not the staff believes the zone change was appropriate or whether or not there is land available, a zone change would allow more discussions on the request.

Ms. Mundy said that she is struggling with staff's position because the land has been vacant for three years and now there is a request to develop the land.

Mr. Berkley understood that this request was outside of the boundaries for an Adaptive Reuse Project, but asked how it would be different in terms of transparency. Mr. Martin said that there is no area notification, but there is a signage requirement that is similar to posting a sign for a zone change. Mr. Berkley asked if the signage requirement was the only difference. Mr. Martin replied affirmatively.

Mr. Pohl asked what does the staff mean when saying this project was not meeting the spirit of an industrial mixed use project. Mr. Martin said that the verbiage in the Newtown Pike Extension Small Area Plan clearly speaks to the industrial mixed-use with small businesses and a live/work environment. He then said that from reviewing the literature in other communities these types of uses tend to be smaller in size within a live/work environment, and include a mixture of activities. This project is larger with an overwhelming residential component and in the staff's opinion it does not meet the spirit of a real live/work environment. He said that it could be that particular zone is no longer effective in the community, but it is consistent with the vision of the Newtown Pike redevelopment area. As far as the trail system, this land is in proximity to the trail, and it will be an excellent public facility to help the entire area.

Mr. Pohl said that the reuse of the buildings on Manchester Street exhibit the spirit of industrial mixed-use, and the fact that Lexington's housing shortage will continue to get worse, he believed that the synergy between both areas could meet the spirit of the industrial mixed-use. Mr. Martin said that with good integration between the Distillery District and the proposed request the two areas could grow together.

Petitioner's Rebuttal – Mr. Nicholson said that with regards to the notification to the stakeholders in the area, his client did have a meeting with the surrounding business, the Meadowthorpe Neighborhood and the nearby residents to discuss the proposed project. He indicated that there was no one present at today's meeting in opposition to this request and everyone that they had spoken to was in support.

Mr. Nicholson said that, as far as the spirit of the industrial mixed-use, the developments on Manchester Street were recommended for industrial mixed-use on the Newtown Pike Extension Small Area Plan. He then said that the Planning Commission recently approved more units than what this request is proposing in the Distillery District area. There has been a change to the spirit to what industrial mixed-use means, and what is being developed. He said that 2002 was a very long time ago when looking at today's market, and the Manchester Street area has changed.

Mr. Nicholson said that this request is in close proximity to the Distillery District, but it is not part of the Distillery District and cannot be governed by the same regulations as the Distillery District.

Commission Questions – There were none.

Commission Comments and Discussion – Mr. Owens said that he was a fan of mixed-use development and the applicant is trying to comply with the requirements. He believes that this project would be the beginning of a live/work environment in this area. He added that infill and redevelopment should be considered throughout the Urban Service Area, particularly if the land is vacant and underutilized not just within the defined Infill & Redevelopment Area. He indicated that the Distillery District was vacant for many years and did not have the infrastructure in place, but over time things change as will this area.

Mr. Owens said that the language in the Newtown Pike Extension Small Area Plan could be used to support the project, and he believes that the proposed request is in compliance with the Comprehensive Plan. He then said that the Land Use Map was removed in order to allow flexibility of development.

Mr. Owens said that the applicant did submit a revision before the Subdivision Committee meeting, but the staff did not revise the list of conditions and that is the only reason why the Subdivision Committee recommend referral to the full Commission versus an approval recommendation.

Mr. Brewer said that the Planning Commission has a professional staff for a reason and he does not go against their recommendations lightly. He agreed with what the staff was saying, but also believes changing the dynamics of this area would be more beneficial than the risks. He said that this project will tie in with the Distillery District nicely and make a good fit.

Ms. Plumlee said that she was concerned with not supporting the Newtown Pike Extension Small Area Plan or the staff's recommendation. She then said that the City spends money creating these small area plans, but the recommendation of the small area plan is ignored.

Ms. Mundy said that the Newtown Pike Extension Small Area Plan states "phasing out industrial uses within some subareas is also recommended. These lands are now better suited for commercial and mixed use development". She then said that in her mind, with the changes on Manchester Street, this is one of the 10 acre lots that would be called underutilized. The Subdivision Committee saw the revised plan, but there were no revised conditions and at that time, she liked what the applicant was proposing and felt it was a good plan that demonstrates a mixture of uses.

Mr. Wilson said that there was staff testimony that this is a good plan with the exception of the Zoning Ordinance requirements and Mr. Nicholson said that this is a preliminary development plan and they are willing to discuss the concerns in the future. He said that perhaps the staff recommendation should had been a postponement rather than a recommendation of disapproval.

Action - A motion was made by Mr. Owens, seconded by Mr. Berkley, to approve **PLN-MJDP-18-00099: BLUEGRASS STOCKYARDS PROPERTY**, with the conditions set forth by the staff.

Discussion of Motion – Mr. Pohl asked if condition #13 should be deleted or remain. Mr. Owens believed that condition #13 has been resolved. Ms. Wade said that there are still some compliance issues with the location of the building and the staff would prefer to maintain at least a portion of that condition. If the Commission is deciding that the locational requirement is being met that is fine, but the staff would prefer the entire condition be resolved.

Mr. Wilson understood the staff would prefer to keep condition #13 intact, but asked what part of condition #13 should remain. Ms. Wade said that the plan in front of the Commission does not meet the setback requirement. Mr. Nicholson said that the setback requirement is 2 feet off and they are agreeable to shift the building line toward the street. He noted

that this is also noted in condition #12 (Adjust buildings to meet the requirements of Article 8-22(o)(4)(c)). Ms. Wade agreed.

Mr. Wilson said that condition #12 would remain and condition #13 would be deleted from the list of conditions. Mr. Owens and Mr. Berkley agreed to the change in the motion.

The motion was amended and carried 7-2 (Wilson and Plumlee opposed; Nicol and Penn absent).

#### V. COMMISSION ITEMS

A. WORK SESSION – Mr. Duncan reminded the Commission members that their next work session the staff would be demonstrating how Place Builders apply on zone change request. The meeting will be open to the public, but the interaction would only be between the staff and the Planning Commission.

B. NEW STAFF MEMBER – Mr. Duncan introduced Marc Petitfrere who is part of the COACH Internship Program and will be working with the Division of Planning until Spring.

VI. STAFF ITEMS – There were none.

VII. AUDIENCE ITEMS – There were none.

#### VIII. NEXT MEETING DATES

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|------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Work Session, Thursday, 1:30 p.m., 3 <sup>rd</sup> Floor Phoenix Building .....                                        | February 21, 2019        |
| Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .....                           | February 27, 2019        |
| <b>Zoning Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....                  | <b>February 28, 2019</b> |
| Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .....                          | March 7, 2019            |
| Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .....                               | March 7, 2019            |
| <b>Subdivision and Zoning Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers ..... | <b>March 14, 2019</b>    |

IX. ADJOURNMENT - There being no further business, the Chair adjourned the meeting at 3:14 PM.

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William Wilson, Chair

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Carolyn Plumlee, Secretary

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