

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

June 13, 2019

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

Planning Staff members present – Jim Duncan, Traci Wade, Tom Martin, Lauren Hedge, Cheryl Gallt and Denise Bullock. Other staff members in attendance were Stephen Parker, Traffic Engineering; Vaughan Adkins, Division of Engineering; and Tracy Jones and Chad Edwards, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 11-0 to approve the minutes of the April 25, 2019 and May 9, 2019, meetings.

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

1. **BALL HOMES, INC. ZONING MAP AMENDMENT & BLACKFORD PROPERTY (PHASE 4) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-19-00003: BALL HOMES, INC. (AMD) (6/13/19)*- an amended petition for a zone map amendment from a Community Center (CC) zone to an Expansion Area Residential (EAR-2) zone, for 19.84 net (20.72 gross) acres, and to an Expansion Area Residential (EAR-3) zone, for 5.9 net and gross acres, for property located at 6600 Man O' War Blvd.

COMPREHENSIVE PLAN AND PROPOSED USE

The Expansion Area Master Plan (EAMP), an adopted element of the 2013 Comprehensive Plan (Expansion Area 2a), recommends Community Center (CC) land use for the subject property. The petitioner proposes to rezone the subject property to the Expansion Area Residential – 2 (EAR-2) and the Expansion Area Residential – 3 (EAR-3) zones to allow the construction of a multi-family residential development, comprised of 11 3-story and 4-story apartment buildings, at a residential density of 12.17 units per gross acre, with 308 dwelling units. Within the remaining CC zone land, the applicant is proposing a 3-story mixed, commercial and residential building with 16 dwelling units and 11,600 square feet of non-residential space.

The Zoning Committee Recommended: **Referral** to the full Commission.

The Staff Recommended: **Disapproval**, for the following reasons:

1. The requested rezoning to EAR-2 and EAR-3 is not in agreement with the Future Land Use Designations as proposed in the 1996 Expansion Area Master Plan. Subarea 2a recommends that the subject property's future land use be Community Center (CC), and the site's current zoning is in agreement with the EAMP.
 2. The requested rezoning separates the Community Center (CC) land use from the Transitional Area Overlay, which is meant to ensure that adequate land is available for civic, cultural, educational or religious institutions in or adjacent to community centers. The proposed EAR-2 and EAR-3 zones are inappropriately sited in that they isolated the remaining CC zoning.
 3. The requested rezoning is not in agreement with the Goals and Objectives of the 2018 Comprehensive Plan as it continues to promote car-centric mobility patterns, and does not promote multimodal connectivity to proposed services (Theme A, Goal #3.b, Theme D, Goal #1.b)
 4. The existing Community Center (CC) zone remains appropriate for this location for the following reasons:
 - a. The intent for the Community Center (CC) zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and non-residential uses which serve the needs of the surrounding residential neighborhoods.
 - b. The CC zone accomplishes the goal of density that is proposed by the applicant, while also allowing for a mix of uses, which are meant to provide community activity, social gathering, and connectivity desired in a well-designed neighborhood.
 - c. The need for neighborhood services will continue to increase as the rest of Expansion Area 2a is developed with multiple types of residential land use.
 5. There have been no major unanticipated changes of an economic, social or physical nature in the area of the subject property since the adoption of the 2013 Comprehensive Plan.
- b. PLN-MJDP-19-00009: BLACKFORD PROPERTY (PHASE 4) (6/13/19)* - located at 6600 MAN O' WAR BLVD.
Project Contact: EA Partners

Note: The Planning Commissions postponed this item at their April 25, 2019 and May 23, 2019, meetings. The purpose of this amendment is to propose a rezoning of the property.

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

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

1. Provided the Urban County Council rezones the property EAR 2 & EAR 3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Remove optional access through LFUCG property.
8. Revise note #11 to include the Division of Traffic Engineering.
9. Denote improvements to Man o' War Boulevard on proposed cross-section.
10. Include Community Center (CC) zone site statistics per Article 21 & 23A-9 of the Zoning Ordinance.
11. Resolve compliance with Article 23A-2(r)2 of the Zoning Ordinance (landscape buffer).
12. Resolve land use relationships as recommended by the Expansion Area Master Plan (EAMP).

Representation – Nick Nicholson, attorney, requested a postponement to July 25th to allow additional time to work with the staff before bringing the application in front of the Planning Commission.

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

Action - A motion was made by Mr. Brewer, seconded by Ms. Mundy and carried 11-0 to postpone **PLN-MAR-19-00003: BALL HOMES, INC. (AMD)** to the July 25, 2019, meeting.

2. **PLN-MJDP-19-00027: JFG ENTERPRISES, INC. (IVCP ATHENS LLC) (8/4/19)*** - located at 5301 ATHENS-BOONESBORO ROAD, LEXINGTON, KY.
Council District 7
Project Contact: Denham-Blythe Company

The Subdivision Committee Recommends: **Postponement**. There are questions regarding the required Tree Protection Plan and proposed flex space.

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. 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. Denote Tree Protection Plan per Article 26 of the Zoning Ordinance.
11. Correct street cross-section C-C/D-D to meet the requirements of the Land Subdivision Regulations.
12. Denote lot coverage and floor area ratio per Article 21 of the Zoning Ordinance.
13. Discuss timing of force main relocation.
14. Discuss proposed flex space and required parking.
15. Discuss timing of water line relocation.
16. Discuss required Agricultural Rural (A-R) zone setback around pump station lot.

Citizen Comments – Richard Murphy, attorney, was presenting representing the adjoining property owners. He said that Nathan Billings, who is the applicant's attorney, gave him the impression that this item would be postponed today. He said that during their conversation, they both agreed this item would be postponed today so that they could meet to discuss his client's concerns with the proposed development of this property. He indicated that the property owner may have changed their mind, but to be fair to his clients, Mr. Murphy requested a one-month postponement to allow additional time to work with the staff before bringing the application in front of the Planning Commission.

Representation - Joshua Lewis, representative for IVCP Athens, LLC, explained that the development plan meets all of the conditions listed on the agenda, as well as resolving the discussion items that were noted by the Subdivision Committee. They did inform the staff that they were going to postpone this item, but decided they would move forward instead. The postponement request had nothing to do with the neighboring property owner. They were under the impression that the adjoining property owner's concerns had been resolved. They are not trying to dodge the adjoining property owner, but they would prefer to have the development plan heard at today's meeting.

Staff Comments – Ms. Wade informed the Planning Commission that they have until August 4, 2019, which is 90-days from the filing of the application to take action on the development plan.

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Citizen Comments – Mr. Murphy said that it is not possible to produce his clients for today's meeting and it would not be fair to his clients if this request were to move forward. He relied upon what Mr. Billings had told him, which was this item would be postponed for one month. He then said that his clients do have concerns with this request, but he is confident that those issues can be resolved at their meeting next week.

Action - A motion was made by Mr. Owens, seconded by Ms. Mundy and carried 11-0 to postpone **PLN-MJDP-19-00027: JFG ENTERPRISES, INC. (IVCP ATHENS LLC)** to the July 11, 2019, meeting.

3. **PLN-FRP-19-00014: WAITS/MOORE LTD. PARTNERSHIP PROPERTY (AMD)** (8/4/19)* - located at 2100 AND 2200 OLD HIGBEE MILL ROAD, LEXINGTON, KY.
Council District 10
Project Contact: Vision Engineering

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

The Subdivision Committee did not make a recommendation on this item.

The Technical Committee and Staff Recommends: **Postponement**. There are questions regarding the sanitary sewer service to the property and right-of-way dedication.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Correct purpose of plat.
10. Denote Agricultural Urban (A-U) zone front yard setback.
11. Denote non-conforming use discontinuation agreement (Note #19 from Preliminary Subdivision Plan).
12. Document notification to consenting property owners (Note #17 from Preliminary Subdivision Plan).
13. Discuss land surveyor certification.
14. Discuss removal of temporary structure.
15. Discuss Urban County Engineer's certification.
16. Discuss sanitary sewer service.
17. Discuss improvements to Old Higbee Mill Road.
18. Discuss need for waiver(s).

Representation – Matt Carter, Vision Engineering, indicated that they failed to mail out the required notification before the application was submitted, and requested a one-month postponement to allow additional time to comply with the notification requirement.

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

Action - A motion was made by Mr. Penn, seconded by Mr. Brewer and carried 11-0 to postpone **PLN-FRP-19-00014: WAITS/MOORE LTD. PARTNERSHIP PROPERTY (AMD)** to the July 11, 2019, meeting.

3. **PLN-FRP-19-00005: CROSSROADS CHRISTIAN CHURCH (AMD)** (6/13/19)* - located at 4128 TODDS ROAD, LEXINGTON, KY.
Council District 12
Project Contact: EA Partners

Note: The Planning Commission postponed this item at their April 11, 2019 and May 9, 2019, meetings. This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to subdivide one tract into two lots.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

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9. Discuss sanitary sewer line to A-R lot.
10. Discuss location of proposed access point(s).
11. Discuss right-of-way improvements to Todds Road.

Staff Comments – Mr. Martin said that the staff had received 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 Mr. Owens, seconded by Ms. Plumlee and carried 11-0 to postpone **PLN-FRP-19-00005: CROSSROADS CHRISTIAN CHURCH (AMD)** to the July 11, 2019, meeting.

4. **PLN-MJSUB-19-00006: TUSCANY, UNIT 15** (6/13/19)* - located at 1970 WINCHESTER ROAD (A PORTION OF), LEXINGTON, KY.
Council District 6
Project Contact: EA Partners

Note: The Planning Commission postponed this item at their April 11, 2019, meeting.

The Subdivision Committee Recommends: Postponement. There were significant concerns regarding the proposed street system and future connections, and compliance with the preliminary development plan.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
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 preservation plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Denote proposed and existing easements.
11. Delete note #12.
12. Depict connection of Eastmont Road to Haymaker Parkway.
13. Depict connection of Haymaker Parkway to Fortune Drive via Trade Center Drive.
14. Include remainder of adjacent land within Tuscany development on this preliminary subdivision plan.
15. Discuss connecting cul-de-sacs to provide a loop street.
16. Discuss shifting Haymaker Parkway closer to greenway to provide access to open space.
17. Discuss compliance with approved preliminary development plan.

Staff Comments – Mr. Martin said that the staff had received 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 Mr. Penn, seconded by Mr. Forester and carried 11-0 to postpone **PLN-MJSUB-19-00006: TUSCANY, UNIT 15** to the July 11, 2019, meeting.

5. **PLN-MJSUB-19-00007: CROSSROADS CHRISTIAN CHURCH (GARDEN ESTATES) (AMD)** (8/4/19)* - located at 4128 TODDS ROAD, LEXINGTON, KY.
Council District 12
Project Contact: EA Partners

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to create 17 single family lots.

The Subdivision Committee did not make a recommendation on this item.

The Technical Committee and Staff Recommends: Postponement. There are questions regarding the provision of sanitary sewer service.

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.

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4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Provided the Board of Adjustment grants the requested variances for USA/RSA landscape buffering.
11. Denote the Health Department approval of the septic system on Lot 17.
12. Denote existing and proposed easements.
13. Denote 300 Foot setback on Lot 17 per Article 8-1 of the Zoning Ordinance.
14. Correct zoning in the site statistics.
15. Denote no access to Todds Road right-of-way from Lots 1 and 17.
16. Denote no amendment to the Final Development Plan required for the single family lots if developed in accordance with the Zoning Ordinance.
17. Provided the Planning Commission makes a finding the plan complies with the EAMP.
18. Discuss sanitary sewer service.
18. Discuss Todds Road improvements.

Staff Comments – Mr. Martin said that the staff had received 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 Mr. Pohl, seconded by Mr. Brewer and carried 11-0 to postpone **PLN-MJSUB-19-00007: CROSSROADS CHRISTIAN CHURCH (GARDEN ESTATES) (AMD)** the July 11, 2019, meeting.

6. **BOAR 2019-1: ROBERT AND ELLEN SPARKS** - an appeal to the Planning Commission to revoke the Certificate of Appropriateness Conditions approved by the Board of Architectural Review at 210 S. Hanover Avenue.

Staff Comments – Ms. Wade said that the staff had received communication from the applicant requesting to withdraw this appeal.

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 11-0 to withdraw **BOAR 2019-1: ROBERT AND ELLEN SPARKS**.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 6, 2019, at 8:30 a.m. The meeting was attended by Commission members: Carolyn Plumlee, Mike Owens (arrived at 8:48 am), Frank Penn, Will Berkley and Karen Mundy. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Cheryl Gallt, Lauren Hedge, Denice Bullock, Hal Baillie, Chris Taylor, Jimmy Emmons; Captain Greg Lengal, Division of Fire & Emergency Services; & 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:

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

- a. PLN-MJSUB-17-00042: PATCHEN WILKES TOWNHOMES, SEC 2 (AMD) (8/18/19)* - located at 2101 PATCHEN LAKE LANE, LEXINGTON, KY.
Council District 6
Project Contact: Eagle Engineering

Note: The purpose of this amendment is to consolidate Parcels 1 & 2, extend the access easement and subdivide Section 2 into 13 lots. The Planning Commission approved this item at their July 13, 2017, meeting subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Label Lot 31 on plan and delete "Lot 31" from plan title.
9. Delete all "consolidation" and "parcel" information and refer to Amended Lots 32 & 33.
10. Denote Section 2 on plan.
11. Addition of dimension information from PLAN 2016-39CA.
12. Revise purpose of amendment note to state reconfiguring Lots 32 & 33.
13. Denote non-buildable lots & steep slope area (previous plat (PLAN 2016-39CA)).
14. Provided the Planning Commission grants a finding for an access easement for Section 2.

The Planning Commission also approved the findings for an access easement for Section 2, for the following reason:

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

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

The Subdivision Committee Recommends: **Reapproval**, subject to the conditions previously approved, modifying conditions #3 and adding condition #15:

3. Building Inspection's Landscape Examiner's approval of landscaping and landscape buffers.
 15. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- b. PLN-MJDP-19-00017: MARATHON OIL COMPANY (SPEEDWAY #9394) (AMD) (8/4/19)* - located at 1001 GEORGETOWN ROAD AND 1404 MERCER ROAD, LEXINGTON, KY.
Council District 2
Project Contact: McBride Dale Clarion
- Note: The purpose of this amendment is to add square footage to Lot 2.
- The Subdivision Committee Recommends: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Landscape Examiner's approval of landscaping and landscape buffers.
 4. Urban Forester's approval of tree preservation plan.
 5. Division of Waste Management's approval of refuse collection locations.
 6. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 7. Addition of construction access for Lot 2.
 8. Addition of Tree Preservation Plan (TPP) information for Lot 2.
 9. Addition of interior landscape plan for Lot 2.
 10. Delineate the Royal Springs Aquifer boundary on plan.
- c. PLN-MJDP-19-00024: BLUEGRASS BUSINESS PARK (PEMBERTON FARM), LOT 2 (KITO USA CORP., BAY 3 EXPANSION) (AMD) (8/4/19)* - located at 2259 JAGGIE FOX WAY, LEXINGTON, KY.
Council District 2
Project Contact: Denham-Blythe Company

Note: The purpose of this amendment is to add a 9,994 sq. ft. addition, 4 parking stalls and a driveway entrance.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.

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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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. Denote the plan shall be reviewed by the Royal Springs Aquifer Committee prior to certification.
 11. Correct date in Planning Commission certification.
 12. Resolve additional access to Innovation Drive.
- d. PLN-MJDP-19-00025: LEXINGTON PLAZA INC (AMD) (8/4/19)* - located at 126 W. NEW CIRCLE ROAD, LEXINGTON, KY.
Council District 1
Project Contact: Endris Engineering

Note: The purpose of this amendment is to add a 6,400 sq. ft. building and modify the parking circulation.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. 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. Denote the plan shall be reviewed by the Royal Springs Aquifer Committee prior to certification.
 11. Resolve compliance with VUA requirements.
 12. Resolve cross access with 1549 N. Limestone.
- e. PLN-MJDP-19-00026: CADENTOWN SUBDIVISION (GENTRY FAMILY, LOT 1) (8/4/19)* - located at 2833 LIBERTY ROAD, LEXINGTON, KY.
Council District 6
Project Contact: Midwest Engineering

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. 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. Resolve fire access.
 12. Resolve floor area ratio and lot coverage per Article 21 of the Zoning Ordinance.
 13. Denote variance approved with MAR 2015-8.
 14. Remove parking in landscape buffer.
- f. PLN-MJDP-19-00029: LEXINGTON INDUSTRIAL FOUNDATION, UNIT 2 (BUILDING 1) (AMD) (8/4/19)* - located at 2029 BUCK LANE, LEXINGTON, KY.
Council District 2
Project Contact: Integrated Engineering

Note: The purpose of this amendment is to amend Building 1 (1,750 sq. ft. and 17,000 sq. ft. additions on the first floor and 15,000 sq. ft. addition on the second floor), site statistics, parking and access.

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

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

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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. Resolve proposed access from Buck Lane.
- g. PLN-MJDP-19-00030: LAREDO VILLAGE (COLONY AT THE OAKS) (AMD) (8/4/19)* - located at 385 REDDING ROAD, LEXINGTON, KY.
Council District 4
Project Contact: Thoroughbred Engineering

Note: The purpose of this amendment is to add square footage to the clubhouse and to depict a new patio area.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Landscape Examiner's approval of landscaping and landscape buffers.
 4. Urban Forester's approval of tree preservation plan.
 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 9. Addition of record plat information for property.
 10. Dimension existing clubhouse.
- h. PLN-MJDP-19-00032: FOX PROPERTY, LOT 4 (8/4/19)* - located at 2400 VERSAILLES ROAD, LEXINGTON, KY.
Council District 11
Project Contact: Vision Engineering

The Subdivision Committee Recommends: **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. 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 CLOMR file number per FEMA.
12. Delete note #11 this is a "Final Development Plan".
13. Denote location of stormwater detention.
14. Resolve fenestration of building to Versailles Road right-of-way.
15. Resolve improvements to Versailles Road.
16. Resolve locations of dumpster and landscape areas.

Ms. Wade indicated that on July 13, 2017, the Planning Commission previously approved findings for an access easement for **PLN-MJSUB-17-00042: PATCHEN WILKES TOWNHOMES, SEC 2 (AMD)**, and can be found on today's agenda.

Ms. Wade said 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.

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

Commission member comments or requesting full discussion – Mr. Forester indicated that he would be recusing himself from **PLN-MJDP-19-00026: CADENTOWN SUBDIVISION (GENTRY FAMILY, LOT 1)**.

Action - A motion was made by Mr. Pohl, seconded by Mr. Brewer, and carried 11-0 (Forester recused) 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 11-0 to approve the release and call of bonds as detailed in the memorandum dated June 13, 2019, from Barry Brock, Division of Engineering.

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

The procedure for these hearings is as follows:

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

Note: Requests for additional time, stating the basis for the request, must be submitted to The 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-18-00041: HAMBURG EAST, LOT 3-C (AMD) (9/3/19)* - located at 2800 POLO CLUB BOULEVARD, LEXINGTON, KY.
Council District 12
Project Contact: Vision Engineering

Note: The purpose of this amendment is to subdivide one lot into two lots. The Technical Committee and Staff Recommended: Approval on November 28, 2018, 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. Urban Forester's approval of tree protection area(s).
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: This property shall be developed in accordance with the approved final development plan.
9. Addition of all bearings and distances (see Cabinet R, Slide 33).
10. Addition of street cross-section for Man o' War Boulevard and access easement.
11. Remove platted lots not subject to this amendment.
12. Enlarge area of amendment on vicinity map.
13. Remove street cross-section for Conservation Way.
14. Denote location of street cross-section on plan face.
15. Addition of notes from previous plat (Cabinet R, Slide 33).
16. Correct owner's certification.
17. Denote exactions due on property.
18. Denote Cabinet R, Slide 386 for adjacent property.
19. Denote location of stormwater detention.
20. Denote adjacent property boundaries as dash lines.
21. Correct lot labeling to match development DP 2016-35.
22. Denote access easement to Lot 3B.
23. Resolve changing plan to 22"x36" to meet a scale of 1"=100'.
24. Resolve land surveyor and Planning Commission's certification for improvements on new lot.

The applicant is now requesting a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations regarding substantial completion for the sanitary sewer system.

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

Staff Presentation - Mr. Martin directed the Commission's attention to the final subdivision plan, and briefly explained the proposed development of the property. He indicated that the applicant was requesting a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations regarding substantial completion for the sanitary sewer system. The staff was recommending approval, of the requested waiver for Substantial Completion of the public sanitary sewer line, for the following reasons:

1. Granting the requested waiver will not adversely affect public health, welfare and safety as the sanitary sewer line will be constructed in coordination with the other necessary site improvements.
2. Granting the waiver is consistent with the intent of Article 1-5(a) of the Land Subdivision Regulations for Exceptional Hardship.

Mr. Martin indicated that this recommendation was made subject to the following additional requirement:

- a. The sanitary sewer easement shall be bonded in accordance with the Engineering Manuals and the Land Subdivision Regulations, as appropriate.

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

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

Action - A motion was made by Mr. Pohl, seconded by Mr. Bell, and carried 11-0 to approve **PLN-MJSUB-18-00041: HAMBURG EAST, LOT 3-C (AMD)**, as recommended by the staff.

2. **DEVELOPMENT PLANS**

Mr. Forester indicated that he would be recusing himself from **PLN-MJDP-19-00007: HAMBURG PLACE MALL, UNIT 1, PARCEL 2A, LOT 7 (AMD)**.

- a. PLN-MJDP-19-00007: HAMBURG PLACE MALL, UNIT 1, PARCEL 2A, LOT 7 (AMD) (8/4/19)* - located at 1808 ALYSHEBA WAY, LEXINGTON, KY.
Council District 6
Project Contact: Woolpert Engineers

Note: The purpose of this amendment is to reconfigure the building and parking layout for Lot 7.

The Subdivision Committee Recommends: Postponement. There are questions regarding the proposed development plan complying with the requirements of Articles 12 and 21 of the Zoning Ordinance, and the need to consolidate all of the information on one page.

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 Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Addition of insert on plan so all information is on one sheet.
10. Remove previous engineer's information and add current engineer's information on plan.
11. Addition of name and address of developer on plan.
12. Correct plan title to match staff report.
13. Addition of property boundary with bearings and distances.
14. Correct area of amendment on vicinity map.
15. Addition of topography information of lot.
16. Dimension building.
17. Denote height of building in feet on plan.
18. Correct site statistics table for area of amendment.
19. Addition of all proposed and exiting easements on property.
20. Addition of private street (or access easement) note.
21. Correct property owner's and Planning Commission's certification.
22. Remove old plan number (PLN-MNDP-17-00041) and add new plan number (PLN-MJDP-19-00007).
23. Discuss compliance with Commercial Center (B-6P) zone requirements.

Staff Presentation - Ms. Gallt directed the Commission's attention to the final development plan, and briefly explained the proposed request. She indicated that the staff was recommending approval, subject to the following revised conditions:

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

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 Waste Management's approval of refuse collection locations.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~9. Addition of insert on plan so all information is on one sheet.~~
- ~~10. Remove previous engineer's information and add current engineer's information on plan.~~
- ~~11. Addition of name and address of developer on plan.~~
- ~~12. Correct plan title to match staff report.~~
- ~~13. Addition of property boundary with bearings and distances.~~
9. 14. Correct area of amendment on vicinity map.
- ~~15. Addition of topography information of lot.~~
- ~~16. Dimension building.~~
10. 17. Denote height of building in feet on plan.
- ~~18. Correct site statistics table for area of amendment.~~
- ~~19. Addition of all proposed and exiting easements on property.~~
- ~~20. Addition of private street (or access easement) note.~~
- ~~21. Correct property owner's and Planning Commission's certification.~~
- ~~22. Remove old plan number (PLN-MNDP-17-00041) and add new plan number (PLN-MJDP-19-00007).~~
- ~~23. Discuss compliance with Commercial Center (B-6P) zone requirements.~~
11. Complete information for Outlot 6 from signed development plan (PLN-MJDP-19-00006).

Representation present – Brian Small, Woolpert Engineers, indicated that the applicant was in agreement with the staff's revised recommendation, and requested approval.

Commission Questions – There were none.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Pohl, and carried 11-0 (Forester recused) to approve **PLN-MJDP-19-00007: HAMBURG PLACE MALL, UNIT 1, PARCEL 2A, LOT 7 (AMD)**, as recommended by the staff.

- b. PLN-MJDP-19-00033: MEADOW OAKS (ASHFORD OAKS), UNIT 2 (AMD) (8/4/19)* - located at 6800 MAN O' WAR BLVD, LEXINGTON, KY.
Council District 12
Project Contact: Barrett Partners

Note: This plan requires the posting of a sign and an affidavit of such. The purpose of this amendment is to revise a portion of the development.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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. Provided the Planning Commission makes a finding that the development plan complies with the Expansion Area Master Plan.
12. Resolve internal circulation and ability to turn around within townhome area.

Staff Presentation - Mr. Martin directed the Commission's attention to the Preliminary Subdivision Plan/Final Development Plan, and briefly explained the proposed development of the property. He indicated that the staff was recommending approval, subject to the conditions listed on today's agenda.

Mr. Martin said that the applicant requests a waiver to Article 6-8(a) of the Land Subdivision Regulations, pertaining to the required street geometrics. He said that the staff was recommending approval of the requested waiver for the internal street system for residential townhouses, for the following reasons:

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

1. Granting the requested waiver will not adversely affect public health, welfare and safety as the proposed cul-de-sac will provide adequate access to proposed single family lots.
2. Granting the waiver is consistent with the intent of Article 1-5(a) of the Land Subdivision Regulations for Exceptional Hardship.

Mr. Martin then said that this site is within the Expansion Area Master Plan, and the Zoning Ordinance requires the staff to complete an EAMP Compliance Report. The staff finds that the Final Development Plan for **MEADOW OAKS (ASHFORD OAKS), UNIT 2 (AMD)** was in compliance with the Future Land Use, Community Design and Infrastructure elements of the Expansion Area Master Plan, for the following reasons:

1. The use, density and proposed development meet the definition of the EAR-1&2 land use category of the EAMP that have been planned for this area.
2. The regional sanitary sewer pump station has been constructed and is functioning as designed, as is the regional stormwater detention areas along with Blackford Parkway.
3. The site has incorporated several features that substantially comply with the intent of the EAMP to create distinct and well defined neighborhoods particularly when viewed as part of the larger proposed development.

Mr. Martin added that the staff would recommend the following changes to the final development plan in order to ensure even greater compliance with the Community Design Element of the EAMP:

- a. Denote on the Final Development Plat that the lots will comply with Article 23A-2(q) of the Zoning Ordinance, thereby ensuring conformance with the EAMP recommendations for well-defined neighborhoods.

Commission Questions – Ms. Mundy asked if there were 10 or 12 lots. Ms. Wade replied with the realignment of the roadway, the number decreased by 2 lots.

Mr. Penn asked if condition #12 has been resolved. Mr. Martin said that if the Planning Commission approves this plan, the applicant will need to resolve internal circulation and the ability to turn around within the townhome area. This condition has nothing to do with the waiver request. The cul-de-sac is part of the waiver request.

Ms. Wade indicated that the applicant did post the required signage on the subject site, submitted an affidavit to the staff, and everything appears to be in order.

Representation present – Tony Barrett, Barrett Engineering, indicated that the applicant was in agreement with the staff's recommendation, and requested approval.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Penn, and carried 11-0 to approve **PLN-MJSUB-18-00041: HAMBURG EAST, LOT 3-C (AMD)**, as recommended by the staff, to include the EAMP Compliance Report and the waiver to Article 6-8(a) of the Land Subdivision Regulations, pertaining to the required street geometrics.

- c. **DP 2012-62: VICTORY APOSTOLIC CHURCH, INC. (8/18/19)*** - located at 1420 GREENDALE ROAD, LEXINGTON, KY
Council District 2
Project Contact: Renaissance Design Build, Inc.

Note: The Planning Commission originally approved this plan on August 9, 2012 and reapproved it on April 9, 2015, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection 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's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
10. Denote developer.
11. Addition of contour information.
12. Clarify sidewalks around building and in right-of-way.
13. Denote construction access point location.
14. Delete note #10.
15. Denote timing of the dedication of Greendale Road right-of-way prior to issuance of a Zoning Compliance Permit.
16. Relocate the dumpster to the southeast corner of the parking lot.
17. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

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

On April 12, 2018, the Planning Commission reapproved this item, subject to the conditions previously reapproved by the Planning Commission and replacing condition #3 and adding the following conditions:

3. Landscape Examiner's approval of landscaping and landscape buffers.
18. Remove reapproval application from title block.
19. Addition of "Final Development Plan" in title block.
20. Denote location of street cross-section on plan face.
21. Addition of owner's certification.
22. Addition of Commission's certification.
23. Clarify property on vicinity map.
24. Remove proposed contour lines.
25. Denote tree protection area around Bur Oak.
26. Denote conditional zoning restrictions under its own heading.
27. Remove note listed under "Notice."
28. Denote: Street improvements along the property frontage on Greendale Road shall be provided.

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

The Subdivision Committee Recommends: **Reapproval**, subject to the conditions previously approved on April 12, 2018.

Staff Presentation - Ms. Gallt directed the Commission's attention to the final development plan, and briefly explained the proposed request. She indicated that the staff was recommending reapproval, subject to the conditions listed on today's agenda. She noted that when this plan was previously reapproved there was a Bur Oak tree at the front of the property, but since that time, that tree has been removed. Ms. Gallt said that the engineer indicated that when the applicant purchased the property and submitted the plan for reapproval on April 12, 2018, the tree had already been removed. She added that condition #25 calls for a protection area around the Bur Oak tree, but with the tree no longer on the site, the staff believes condition #25 can be deleted.

Commission Questions – Mr. Wilson asked if the staff is requesting that the applicant have additional planting on the subject site. Ms. Gallt replied that the Planning Commission can require additional landscaping. Mr. Wilson said that the Commission can replace condition #25 with language to denote additional landscaping. Mr. Penn replied that the tree cannot be replaced. Mr. Wilson agreed, but the Commission can add a condition for additional plantings.

Mr. Nicol asked if there was a fine that can be placed on the applicant when significant trees are removed. Ms. Gallt replied that the Zoning Ordinance does not cover the removal of significant trees.

Mr. Berkley asked how does the removal of the Bur Oak impact the tree canopy requirement. Ms. Gallt said that the applicant will still need to meet the tree canopy requirements. Mr. Martin said that there are a lot of trees at the rear of the property so the tree canopy requirement could still be in compliance. He then said that part of the problem is that a Bur Oak tree is recognized as a significant tree. Ms. Gallt said that it would be up to the Planning Commission to impose additional canopy requirements on the property.

Representation present – Mark Eubank, Renaissance Design Build, Inc., He said that prior to his firm taking over the project, the tree was already removed. He indicated that the applicant was in agreement with the staff's recommendation, and requested approval.

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

Commission Questions – Mr. Penn said that it seems funny that the scrub trees were left on the property, but the Bur Oak was removed. The Bur Oak was probably the best tree on the lot, then all of the sudden the tree came down. He said that it does not matter who took the tree down, but it does matter that the scrub trees were left. He asked if they were begging for forgiveness or asking permission. Mr. Eubank replied both. He said that the development plan does illustrate the tree protection areas and they understand at some point there was a tree on the property so they denoted it on the plan.

Ms. Plumlee said that the Commission should increase the tree canopy requirements for the subject site. This could be done by planting another Bur Oak in the same location where the tree was removed.

Mr. Berkley asked if the Commission was going to impose more conditions when no one knows if the tree was cut down or if it was damaged. Ms. Plumlee replied that no one knows, but there is an opportunity to increase the tree canopy on this site. Mr. Eubank asked for clarification regarding the tree canopy. Ms. Plumlee indicated that the type of zone indicates what percentage is required for the tree canopy.

Mr. Nicol asked if there was any benefit to the property now that the Bur Oak tree has been removed. Ms. Gallt said that on the original development plan, the sidewalk curved around the Bur Oak tree. Mr. Nicol said that he is trying to figure out if the removal of the tree was done by accident or if it was a malicious act to improve the property. Mr. Eubank said that he does not believe the removal of the tree was a malicious act to increase the property value. Ms.

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Wade replied regardless of whether or not the Bur Oak is on the property the tree canopy requirement on a residential lot is thirty percent (30%). The applicant would be required to plant enough trees, usually larger trees, to comply with the 30% requirement. The rear of the property does have the ability to meet that requirement along with the ability to buffer the property from the railroad tracks directly behind the property.

Mr. Berkley asked what is the maximum tree canopy requirement. Ms. Wade replied 30% is the minimum. Mr. Berkley said that the applicant is already meeting the minimum on this site. Ms. Wade replied affirmatively. Mr. Martin said that a large tree counts for 750 sq. ft. of the canopy requirement.

Mr. Nicol asked what percentage of the tree canopy is being met on this site. Mr. Martin said that the development plan shows there is 1.7 acres of existing tree canopy and the required is 0.47 acres. According to the numbers on the development plan the tree canopy exceeds what is required and will be verified by the Urban Forester. Ms. Wade said that a Bur Oak tree is listed as a significant tree in the Zoning Ordinance, which is why the staff wanted to protect it. Bur Oak trees have been designated the city tree and they are unique to the Bluegrass.

Mr. Owens said that the Planning Commission often discusses trees, especially Bur Oak trees, and there have been some preserved and some not preserved. He added that he is taking Mr. Eubank and the applicant's word that they were not involved in the removal of the tree, but somehow there needs to be an end result other than just talking about the issue otherwise the trees will continue to disappear.

Mr. Pohl said that the development plan shows a 20" Bur Oak tree with the sidewalk bending around it as if that would protect the tree. In reality, this would not protect the tree because the sidewalk would need to stay outside of the drip line. This means that the protection area would have definitely impacted the proposed parking lot. Losing the tree was a great incentive to the property. Mr. Pohl asked who makes sure the trees are protected and would the applicant be allowed to have the driveway right up under the tree. Mr. Martin said that the Urban Forester oversees the review of the development plan and recommends best management practices, but more than likely the sidewalk would be allowed under the tree, because not all of the root zone would be impacted. He said that the Planning Commission can require the zone to match the drip line of the tree, which has been done in several cases around significant trees. Ms. Wade said that the intent of condition #25 when it was amended was to provide a better protection around the tree. She said that by acknowledging the development plan did not meet the standard protection of the tree, the staff recommended the applicant to denote the tree protection area around Bur Oak as opposed to what was shown on the development plan. At this point, the tree is gone and condition #25 is not valid anymore. It would be up to the Planning Commission to add an alternative condition, if desired.

Mr. Pohl asked if the Planning Commission has the ability to enforce a condition requiring the applicant to plant a tree. Ms. Wade replied affirmatively.

Ms. Mundy said that the development plan shows various trees on the property, including a 30" tree in the center of the parking lot. She asked if the applicant will be removing that tree as well. Mr. Eubank said that condition #25 was only to reflect the Bur Oak tree, but the development plan does also reflect other tree protection areas. Ms. Mundy said that there are different types and size trees noted on the development plan, but once those trees are removed will the tree canopy requirement still be met. Mr. Eubank replied that he is not sure.

Mr. Nicol said that if this was not a malicious act and the tree removal was done by the previous owner, he is fine with the development plan being reapproved because the tree canopy requirements exceeds the 30% requirement.

Mr. Penn said that the development plan does meet the tree canopy requirement, but the thing that bothers him the most is it is not rare for a Bur Oak tree to be cut down. Until the Planning Commission decides that a Bur Oak tree is valuable and a rare commodity that needs to be kept if at all possible, this will likely continue to occur. The Planning Commission needs to send a message that if a Bur Oak tree can be saved, then the applicant better save it.

Mr. Brewer said that there is no penalty for a Bur Oak tree being cut down so it is a moot point. Mr. Wilson said that a recommendation can be made, but it would not save this particular tree. He then said that removal of a tree can be intentional or unintentional, but how does the Commission respond to those acts. One thought would be to impose language to prevent any tree from being removed until the final development plan is approved. This would not help this case, but it would help any future developments from accidentally removing a tree until the final development plan is approved.

Mr. Brewer said that this is a real issue that needs to be addressed either through the Planning Commission or the Urban Council. Mr. Wilson agreed.

Ms. Plumlee asked how many trees are covered through Articles 18 and 26 of the Zoning Ordinance. Ms. Wade said that the Zoning Ordinance does not say you can't remove the tree, but the trees are deemed significant and should be protected to the greatest extent possible. In some cases, development would not be possible if every significant tree was protected. In the Comprehensive Plan there is a policy recommendation to work with the Division of Environmental Services as it relates to their tree canopy study and the Urban Tree Management Plan to update the tree protection standards. The Tree Board is also working on a Heritage Tree Ordinance that would apply to some of

the champion trees in town and possibly to the Bur Oak. The Tree Board could establish fines and/or mitigation plans when trees are removed.

Mr. Owens said that he is concerned that the development plan shows eight Oak trees, potentially larger than the Bur Oak, being removed. He understands that there is an Urban Forester reviewing the development plan, but asked if anyone knows if these trees are significant and they are healthy trees.

Action - A motion was made by Mr. Pohl, seconded by Mr. Bell to approve **PLN-MJSUB-18-00041: HAMBURG EAST, LOT 3-C (AMD)**, as recommended by the staff, replacing condition #25 to require the applicant to plant a 4 inch caliper Bur Oak in a location to be agreed upon with the Urban Forester, who will be overseeing the tree protection, as required by the development plan.

Discuss of motion - Mr. Brewer asked if anyone knew how much a 4 inch caliper Bur Oak would cost. He indicated his agreement with the motion, but asked if adding that condition would be feasible. Mr. Brewer asked if the applicant could obtain a 4 inch caliper Bur Oak. Mr. Forester said before adding any condition he wanted to make sure the applicant was agreeable, due to the cost of a 4 inch caliper tree. Mr. Eubank replied that they will do what they need to do.

Mr. Pohl amended his motion to reflect the caliper of the tree to be determined in corporation with the Urban Forester and the caliper of tree be large enough to suggest the likely health of the tree going forward. Mr. Eubank replied that sounds to be fair.

Mr. Wilson asked if the applicant was agreeable to the cost of the tree. Mr. Eubank replied they were fine with the cost. Mr. Wilson asked if there should be a cap to the cost. Mr. Brewer replied it should be the caliper of the tree. Mr. Wilson said that the caliper of the tree would take care of the financial situation. He then said that the motion has been amended to remove condition #25 and add that the caliper of the tree be determined by the Urban Forester.

Ms. Plumlee asked if the sidewalk would still be located around the tree. Mr. Pohl suggested for the applicant to place the tree in the most expeditious location for the tree's health.

Mr. Nicol said that it is important to protect the trees that are on the development plan, but he believes the Planning Commission is getting out of bounds making these types of requirements. He indicated his opposition to the new condition.

The motion carried 8-3 (Berkley, Forester and Nicol were opposed)

Mr. Penn asked for the staff to have the Urban Forester present when there is a tree problem. Ms. Wade replied that the staff did ask the Urban Forester to attend today.

Mr. Owens said that the Planning Commission can require or subpoena people to be present, if necessary. He then said that if the members of the Commission are present, then the staff should also be present.

Mr. Duncan said that those are good comments and will certainly help the staff to make the case to the Urban Forester to attend the Planning Commission meeting.

VI. COMMISSION ITEMS

- a. **NOMINATING COMMITTEE FOR COMMISSION OFFICERS** – the Commission's By-Laws state that at the first regular and official meeting in June, the Commission will elect three members to a nominating committee. This committee will present a slate of officers for consideration by the Planning Commission. The slate will be forwarded to the full membership of the Commission and presented at the Commission work session in June. Election of Officers will be held at the July 11th Planning Commission meeting.

Mr. Wilson indicated that the By-Laws require the Commission to elect three members to a nominating committee to discuss and present a slate of officers to the full Commission at the July 11, 2019, meeting. Mr. Bell, Mr. Nicol and Ms. Plumlee indicated their agreement to serve on the nominating committee. Mr. Wilson said that the nominating committee would need to present the slate to the full Commission at the June 20th work session, then the Election of Officers would be held at the July 11th Planning Commission meeting.

Action – No action taken

- a. **WORK SESSION** – Mr. Duncan reminded the Commission members that their next work session will be held Thursday, June 20, 2019.

VII. STAFF ITEMS

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

- a. **Article 4-5(b) IMPROVEMENT PLAN PROGRESS REPORT** - When the project engineer has completed approximately fifty percent (50%) of the infrastructure design for the development, the project engineer shall submit a preliminary report to the Planning Commission informing the Commission of how stormwater, sanitary sewer and environmental conditions imposed by the Commission at the time of the approval of the preliminary subdivision plan will be addressed in the improvement plan. The report shall be distributed to the Commission at the next convenient meeting. The report is for information only, and no action by the Commission shall be taken; however, there shall be no issuance of the Notice To Proceed, as outlined in section 4-5(d), until the Planning Commission meeting is complete.

1. PLN-FRP-19-00013: HILLENMEYER PROPERTY WEST - UNIT 3, SECTION D, PHASE 1 (8/4/19)* - located at 2701 SANDERSVILLE ROAD, LEXINGTON, KY.
Council District 2
Project Contact: Hall-Harmon Engineers, Inc.

Staff Presentation - Ms. Wade directed the Commission's attention to the Improvement Plan Progress Report, and briefly explained what the report entails and it is only for the Commission's information.

VIII. AUDIENCE ITEMS – There were none.

IX. NEXT MEETING DATES

Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building.....	June 20, 2019
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	June 26, 2019
Zoning Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	June 27, 2019
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	*July 3, 2019
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	*July 3, 2019
Subdivision and Zoning Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	July 11, 2019

* Not on regular day due to holiday

- X. ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 2:55 PM.

William Wilson, Chair

Carolyn Plumlee, Secretary

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