

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

August 8, 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 – Mike Owens, Chairman; Anthony de Movellan; Larry Forester; Karen Mundy; Bruce Nicol; Carolyn Plumlee and William Wilson. Headley Bell; Patrick Brewer; Frank Penn and Graham Pohl were absent.

Planning Staff members present – Jim Duncan, Traci Wade, Tom Martin, Hal Baillie, Lauren Hedge, Cheryl Gallt, Denice Bullock and Scott Thompson. Other staff members in attendance were Stephen Parker, Traffic Engineering; Vaughan Adkins, Division of Engineering; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire & Emergency Services; Betty Kerr and Barry Dennis, Historic Preservation and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Plumlee, seconded by Mr. Wilson and carried 7-0 (Bell; Brewer; Pohl and Penn were absent) to approve the minutes of the June 27, 2019, and July 11, 2019, meetings.

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

- a. **PLN-MJSUB-19-00006: TUSCANY, UNIT 15 (8/8/19)*** - 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, May 9, 2019, June 13, 2019 and July 11, 2019, meetings.

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.

Representation – Rory Kahly, EA Partners, requested a one month postponement, per the Subdivision Committee recommendation of postponement.

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

Action - A motion was made by Ms. Mundy, seconded by Ms. Plumlee and carried 7-0 (Bell; Brewer; Pohl and Penn were absent) to postpone **PLN-MJSUB-19-00006: TUSCANY, UNIT 15** to the September 12, 2019, meeting.

- b. **PLN-MJDP-19-00047: SAMS & LARKIN PROPERTY (KY EAGLE BEER) (AMD) (9/29/19)*** - located at 1510 GREENDALE ROAD, LEXINGTON, KY.
Council District 2
Project Contact: Banks Engineering

Note: The purpose of this amendment is to create a Flex Space Project.

The Subdivision Committee Recommends: **Postponement** to discuss the Flex Space Project and compliance with Article 8-21(o)(5)(h) of the Zoning Ordinance.

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

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. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
7. Discuss need for Flex Space Project and compliance with Article 8-21(o)(5)(h) of the Zoning Ordinance.

Staff Comments – Mr. Martin said that the staff had received written communication from the applicant's representative, requesting to withdraw this item from the Planning Commission action.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Forester and carried 7-0 (Bell; Brewer; Pohl and Penn absent) to withdraw **PLN-MJDP-19-00047: SAMS & LARKIN PROPERTY (KY EAGLE BEER) (AMD)**.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Wednesday, August 1, 2019, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Anthony de Movellan and Mike Owens. 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; Hal Baillie; Denice Bullock; Lauren Hedge; Valerie Friedmann; Scott Thompson; Samantha Castro; Captain Greg Lengal, and Firefighter Embry Beatty, Division of Fire & Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

- A. **CONSENT AGENDA** – Following requests for postponement or withdrawal, items requiring no discussion 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. **PLAN 2016-69F: WYNNDALE SUBDIVISION, LOT 2 (AMD) (10/13/19)*** - located at 1580 HIGBEE MILL ROAD, LEXINGTON, KY.
Council District 9
Project Contact: Vision Engineering

Note: The purpose of this amendment is to subdivide one lot into two lots. The Planning Commission originally approved this plan on July 14, 2016 and reapproved it on September 14, 2017, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
10. Denote: This property shall be developed in accordance with the approved final development plan.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

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

12. Correct engineer's/surveyor's certification.
13. Correct Planning Commission's certification.
14. Correct Urban County Engineer's certification.
15. Resolve timing of Higbee Mill Road improvements and possible waiver.

Note: This plan has not been certified and Commission approval has since expired. The applicant is now requesting reapproval of the plan.

The Subdivision Committee Recommends: **Reapproval**, subject to the conditions previously approved and changing the following condition:

3. ~~Building Inspection's~~ Landscape Examiner's approval of landscaping and landscape buffers.

- b. PLN-MJDP-19-00042: LEXINGTONIAN ESTATES (THE SILKS CLUB) (AMD) (9/29/19)* - located at 1500 WINNERS CIRCLE, LEXINGTON, KY.
Council District 12
Project Contact: EA Partners

Note: The purpose of this amendment is to depict townhouse 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 12. United States Postal Service Office's approval of kiosk locations.
 13. Correct conditional zoning note to match Ordinance 46-2019.
 14. Resolve outdoor lighting restrictions.
 15. Resolve pedestrian system for the Clubhouse Area.
 16. Resolve note #11 regarding buffer requirements.
 17. Resolve proposed green infrastructure facilities.
- c. PLN-MJDP-19-00044: TATES CREEK CENTRE, LOT 5 (BELLEAU WOODS SHOPPING CENTER) (AMD) (9/29/19)* - located at 4161 TATES CREEK ROAD, LEXINGTON, KY.
Council District 4
Project Contact: Geisler Domigan Engineers, PLLC

Note: The purpose of this amendment is to revise the building and parking layout for Lot 5.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Addition of bearings and distances from previous plan (PLN-MNDP-18-00014 revisions to Lot 4).
11. Addition of revised information for Lot 4 from previous plan (PLN-MNDP-18-00014).
12. Addition of record plat designation (Cab. F, Sl. 736).
13. Addition of adjacent property information.
14. Clarify area of amendment on vicinity map (zoom in).
15. Revise site statistics layout table for required/provided standards in the B-6P zone (include FAR, lot coverage and uses).
16. Addition of dimensions on the street cross-section for Tates Creek Centre Drive (access easement).

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

17. Denote location of Man o' War Boulevard street cross-sections on plan face.

Ms. Wade said that one of the items identified on the Consent Agenda could be recommended for reapproval, while the remaining items are considered for conditional approval at this time by the Commission, as 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 – Paul Natof requested **PLN-MJDP-19-00042: LEXINGTONIAN ESTATES (THE SILKS CLUB) (AMD)** to be removed from the Consent Agenda to allow further discussion.

Commission member comments or requesting full discussion – There were none.

Action - A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve the items listed on the Consent Agenda, as presented by the staff, removing **PLN-MJDP-19-00042: LEXINGTONIAN ESTATES (THE SILKS CLUB) (AMD)**.

- B. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Forester, seconded by Ms. Mundy, and carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated August 8, 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.

- a. **PLN-FRP-19-00024: GEORGE MANKEL PROPERTY** (9/29/19)* - located at 6377 ATHENS BOONESBORO ROAD, LEXINGTON, KY.
Council District 12
Project Contact: AIM3D

Note: The purpose of this plan is to subdivide one lot 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. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Resolve building minimum and maximum setbacks.
8. Provided the Planning Commission grants the waivers to the sanitary sewer service and street improvements.

Mr. Martin directed the Commission's attention to the final record plat, and briefly explained the proposed request.

Mr. Martin explained that the applicant was requesting a waiver to Articles 6-2(a) and 6-6(a) pertaining to public sanitary sewer service, and septic tank requirements, and 6-8(p) requiring public street improvements, in the Land Subdivision Regulations. He noted that the staff was recommending approval of the requested waiver(s), for the following reasons:

1. Granting the requested waiver(s) will not adversely affect public health, welfare and safety.
2. Granting the waiver is consistent with the intent of Article 1-5(a) of the Land Subdivision Regulations for Exceptional Hardship.

Mr. Martin said that this recommendation was made subject to the following additional requirements:

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

- a. The Fayette County Health Department shall certify that the existing septic system is capable of serving any proposed sanitary facilities for the planned use on Lot 1-A prior to certification of the plat.
- b. Denote on the plat an easement for the existing drain field on Lot 1-A.
- c. Denote on the plat language regarding the maintenance and use of the existing system for both lots to the approval of the Divisions of Planning, Engineering and Law.

Representation present – Justin Drury, AIM3D, was present representing the applicant. He indicated that his client was in agreement with the staff's recommendation, including the recommendations listed on the waiver report and requested approval. Mr. Mankel thanked the Planning Commission for listening to his request.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve the waivers to Articles 6-2(a) and 6-6(a) pertaining to public sanitary sewer service, and septic tank requirements, and 6-8(p) requiring public street improvements pertaining to **PLN-FRP-19-00024: GEORGE MANKEL PROPERTY**.

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve **PLN-FRP-19-00024: GEORGE MANKEL PROPERTY**, as staff recommended.

2. **DEVELOPMENT PLANS**

- a. **PLN-MJDP-19-00041: AVONDALE SUBDIVISION, BLK B, LOTS 1, 2, 44 & 45 (NORTH LEXINGTON HOLDINGS)**
(9/29/19)* - located at 912, 914, 916 AND 918 N. LIMESTONE, LEXINGTON, KY.
Council District 1
Project Contact: Gresham Smith

Note: The purpose of this amendment is to modify access and parking layout for 4 residential 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 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. Recordation of consolidation plat shall occur prior to the certification of the final development plan.
11. Discuss compliance with the Central Sector Small Area Plan streetscape requirements.

Staff Presentation - Ms. Hedge 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 listed:

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. Recordation of consolidation plat shall occur prior to the certification of the final development plan.
11. ~~Discuss~~ Resolve compliance with the Central Sector Small Area Plan streetscape requirements.

Representation present – John Henney, Gresham Smith, was present representing the applicant. He indicated that his client 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. Wilson, seconded by Ms. Plumlee, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve **PLN-MJDP-19-00041: AVONDALE SUBDIVISION, BLK B, LOTS 1, 2, 44 & 45 (NORTH LEXINGTON HOLDINGS)**, as staff recommended.

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

- b. PLN-MJDP-19-00042: LEXINGTONIAN ESTATES (THE SILKS CLUB) (AMD) (9/29/19)* - located at 1500 WINNERS CIRCLE, LEXINGTON, KY.
Council District 12
Project Contact: EA Partners

Note: The purpose of this amendment is to depict townhouse 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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations.
13. Correct conditional zoning note to match Ordinance 46-2019.
14. Resolve outdoor lighting restrictions.
15. Resolve pedestrian system for the Clubhouse Area.
16. Resolve note #11 regarding buffer requirements.
17. Resolve proposed green infrastructure facilities.

Staff Presentation - Mr. Martin directed the Commission's attention to the final development plan, and briefly explained the proposed request. He indicated that the staff was recommending approval, subject to the conditions listed on today's agenda.

Commission Questions – Ms. Mundy said that some of the neighbors want a 6" fence, but what was approved at the zone change hearing was an 8' fence. Mr. Martin replied affirmatively.

Representation present – Jacob Walbourn, attorney, along with Rory Kahly, EA Partners, was present representing the applicant. He briefly explained that they do have a revised development plan, but they did not want to jeopardize the development plan becoming ineligible for the Consent Agenda. He continued to say that the conditions listed on the agenda will need to be addressed before the development plan is certified. He indicated that his client was in agreement with the staff's recommendation, and requested approval.

Commission Questions – Mr. Owens asked what do the notes say on the development plan. Mr. Walbourn said that note #14 reads "Units adjacent to Wellesley Heights shall restrict their exterior security lighting to a maximum height of 8 feet" and note #11 reads "the 6' landscape buffer along Wellesley Heights Subdivision shall include a 8' tall fence". He added that note #11 is in accordance with what the Planning Commission approved at the zone change hearing.

Mr. Owens asked for clarification to the pedestrian improvements. Mr. Walbourn said that after the Subdivision Committee meeting they spoke with Mr. Scott Thompson, Bike & Pedestrian Planner about providing a pedestrian connection for the parking spaces near the pool area.

Citizen Comments – Paul Natof, 1600 Tropicana Drive, was present to speak on this request. He thanked the applicant for providing the 8' tall fence along with the buffer landscape area, as well as the staff for providing information on the variance, which was not needed for the fence.

Mr. Natof said that there was concern with the lighting and at the time of the zone change, it was agreed that all exterior lighting would be facing downward with a maximum height of 8 feet. He then said that the note on the development plan is different from what was agreed upon during the zone change process. He added that the note does not reflect this agreement on the development plan. Mr. Natof said that, in exchange for a public hearing, the applicant, Councilmember Plomin and the neighborhood had agreed to language for lighting and limiting the density of the development. He then said that during the zone change he spoke about The Placebuilder process and how it encouraged communication between the applicant and the neighborhood. This was not done before the zone change request was submitted.

Commission Questions - Mr. Owens said that this hearing is about the development plan issues, and listening to the testimony; the concern is language for the lighting restrictions, which Mr. Walbourn can address that concern. He then said that, as for the applicant not reaching out to the neighborhood, the applicant did see the errors that were made

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

early in the process and it sounds as if the applicant did make an attempt to correct anything that was a concern. He does not see any reason to continue with that conversation, but if Mr. Walbourn wants to address that then he can.

Mr. Walbourn said that if the Planning Commission wants to rehash old items then they can, but he agrees with the Chair; the zone change application is not in front of the Commission today. He then said that as far as the lighting the neighborhood has seen the type of lighting that will be used. It is not a flood light that projects outward, it is a security light that projects downward. He said that as far as changing the language on the note, they are agreeable, but the staff would also need to be agreeable.

Commission Comments – Ms. Mundy said that this application is the first request under The Placebuilder process. The developer has done a very good job with providing the criteria that was required for The Placebuilder. She indicated that even though there may have been some mistakes, the applicant has done all they can do to correct those mistakes. The applicant seems to comply well with what the neighborhood has asked for and because of that she is recommending approval.

Action - A motion was made by Ms. Mundy, seconded by Mr. Nicol, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve **PLN-MJDP-19-00042: LEXINGTONIAN ESTATES (THE SILKS CLUB) (AMD)**, as staff recommended.

- c. **PLN-MJDP-19-00043: BURKE, HOCKENSMITH & MAGGARD (AMD)** (9/29/19)* - located at 1803 AND 1875 GEORGETOWN ROAD, LEXINGTON, KY.
Council District 2
Project Contact: GRW Engineers

Note: The purpose of this amendment is to show the revised building and parking layout on Lots 2 & 3.

The Subdivision Committee Recommends: Postponement due to concerns with the lack of pedestrian connection along Georgetown Road and within the development; and the proposed access to Lot 3.

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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Calculate and denote percentage of lot coverage for area of amendment.

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:

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. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. Calculate and denote percentage of lot coverage for area of amendment.
12. Denote sidewalks as shown on the exhibit.

Representation present – Rodrick Saylor, GRW Engineers, was present representing the applicant. He indicated that his client was in agreement with the staff's recommendation, and requested approval.

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to approve **PLN-MJDP-19-00043: BURKE, HOCKENSMITH & MAGGARD (AMD)**, as staff recommended.

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

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, August 1, 2019 at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Patrick Brewer, Bruce Nicol, Graham Pohl, and Larry Forester. Staff members in attendance were: Traci Wade; Tom Martin; Hal Baillie; Samantha Castro; Lauren Hedge; and Debbie Woods, Brandi Peachier, Mayor's Office and Traci Jones, Department of Law. The Committee members reviewed applications and made recommendations as noted.

- A. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** - Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff 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) (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)
- Hearing closed and Commission votes on zone change petition and related plan(s)

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

1. **6K AND UNDER AUTO SALES, LLC ZONING MAP AMENDMENT & ELKHORN PARK, BLOCK 8 (A PORTION OF) (W.P. LITTLE PROPERTY) (AMD) ZONING DEVELOPMENT PLAN**

- a. PLN-MAR-19-00011: 6K AND UNDER AUTO SALES, LLC (9/1/19)*- a petition for a zone map amendment to modify the conditional zoning restrictions in the Highway Service Business (B-3) zone, for 0.85 net (1.14 gross) acres, for property located at 1709 North Broadway.

MODIFICATIONS OF CONDITIONAL ZONING RESTRICTIONS

In order to modify or remove conditional zoning restrictions, the applicant must prove that the request meets the requirements of Article 6-7(c) of the Zoning Ordinance. This section of the Ordinance states that the request may be granted only if it is found that there has been a major change in economic, physical, or social nature on the subject property or within the area containing the subject property. Additionally, the applicant must prove that the basic character of the area has been substantially altered since the time the conditional zoning restrictions were imposed that make the restrictions inappropriate. The burden is on the applicant to prove that such changes have occurred.

The petitioner has requested to remove a conditional zoning restriction on the subject property, which prohibits "establishments for the display, rental, sale, service and/or minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes or supplies for such items," in order to permit automobile sales as a principal use on the subject property. Conditional zoning restrictions were put in place in 1988 by the Urban County Planning Commission and later ratified by the Urban County Council.

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

The Staff Recommends: **Postponement**, for the following reasons:

1. The applicant's justification and corollary development plan do not provide an adequate depiction of how the applicant seeks to utilize the subject property so that the proposed land use will not impact the neighboring properties that the conditional zoning restrictions seek to alleviate.
 2. The applicant has not shown how they seek to address the visual elements along North Broadway, which acts as a gateway into Lexington, and was one of the reasons the conditional zoning restrictions were adopted.
 3. The applicant has not described their outreach with the neighboring properties that would be most affected by the removal of the conditional zoning restrictions.
- b. PLN-MJDP-19-00038: ELKHORN PARK, BLOCK 8 (A PORTION OF) (W.P. LITTLE PROPERTY) (AMD) (9/1/19)* - located at 1709 N. BROADWAY, LEXINGTON, KY.
Project Contact: Vision Engineering

Note: The Planning Commission postponed this item at their July 25, 2019, meeting. The purpose of this amendment is to remove auto sales from the conditional zoning restrictions.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the application compliance with Article 21 of the Zoning Ordinance.

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

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

1. Provided the Urban County Council rezones the property B-3 with revised conditional zoning restrictions; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
7. Correct Planning Commission certification.
8. Correct labeling for Purpose of Amendment, and denote area of amendment.
9. Clarify interior landscaping calculations in site statistics and the note labeled interior landscaping.
10. Dimension access points and building on 1701 N. Broadway.
11. Addition of conditional zoning restrictions.
12. Addition of contour lines.
13. Depict parking for 1719 N. Broadway as shown on previous development plan (DP 2001-74).
14. Denote construction access on plan.
15. Addition of street cross-section for Cane Run Road and denote location of cross-section for street on plan face.
16. Denote vehicle display area.
17. Complete site statistics for all 3 lots.
18. Denote: The subject property is located in the Royal Springs Aquifer.
19. Discuss proposed land uses and label on plan.
20. Discuss access between 1701 and 1709 N. Broadway.
21. Discuss parking for employees and customers.
22. Discuss delineation/separation of shared access point between 1709 and 1719 N. Broadway.
23. Discuss need for enhanced landscaping along N. Broadway.

Zoning presentation – Mr. Baillie directed the Commission's attention to the PowerPoint presentation and said that the applicant has requested a zone map amendment to modify the conditional zoning restrictions in the Highway Service Business (B-3) zone, for 0.85 net (1.14 gross) acres, for property located at 1709 N. Broadway.

Mr. Baillie explained that the petitioner is requesting to remove the conditional zoning restrictions that were put in place by the Urban County Planning Commission in 1988, then later ratified by the Urban County Council. The current conditional zoning restriction that the applicant seeks to remove prohibits an establishment for the display and rental, sales, service and/or minor repairs of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes or supplies for such items.

Mr. Baillie indicated that the subject property is located on N. Broadway, which is a major arterial road way. He said that N. Broadway has four travel lanes, as well as a center turn lane. Access to the subject property is along N. Broadway. There is a shared access between 1709 and 1719 N. Broadway and a separate access approximately 120' west of the shared access point on the subject property.

Mr. Baillie said that the subject property is surrounded either by the Single Family Residential (R-1C) zone or the Highway Service Business (B-3) zone. The access to the rear neighborhood is off N. Broadway via Cane Run Road or Dover Road.

Mr. Baillie added that there is an access connection through 1701, 1709 and 1719 N. Broadway. The land use for 1701 is automobile sales, while 1719 N. Broadway is a strip mall with retail uses. He noted that 1701 N. Broadway is associated with 1709 N. Broadway, due to the shared access.

Mr. Baillie said that the subject property was rezoned from a Single Family Residential (R-1C) zone to Highway Service Business (B-3) zone in 1988. At that time, conditional zoning restrictions were applied to the subject property limiting the allowable uses. Those uses that were prohibited included advertisement signs, establishments for the display sale, rental service and/or minor repair of farm equipment, contractor equipment, automobile, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items, as well as kennels, animal hospitals or clinics, including offices of veterinarians. He said that these conditions were deemed appropriate due to the close proximity to the neighborhood and the designation of N. Broadway as being a major entrance or gateway into Lexington.

Mr. Baillie said that the 1988 conditional use restrictions were included with the zone change to ensure the development would be an asset to the image and visual quality of the community, specifically the N. Broadway corridor. The request to modify the conditional zoning restrictions is the second application seeking to allow display or rental vehicles at this location.

Mr. Baillie briefly described that the initial application was the result of a citizen complaint that was submitted to the Division of Planning, Zoning Enforcement section in March of 2018. He then said that the complaint expressed concerns about the employee and customer parking and storage and inventory for the newly established vehicle sales establishment. The complaint raised questions about whether or not that type of use was in compliance with the conditional zoning restrictions. He said that during the course of the investigation, the staff realized the applicant had applied for and was granted a Zoning Compliance Permit for vehicle sales. That permit was mistakenly issued because of the current conditional zoning

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restrictions on the property, which prohibited vehicles sales. The permit was voided, at which time, the applicant was advised that one option was to file an application for a zone change to amend the current conditional zoning restrictions. He said that following the issuance of the Zoning Compliance Permit, a Certificate of Occupancy was not obtained prior to opening the business, nor were permits obtained from Building Inspection for paving, building or remodeling of the site. He then said that had a building or pavement permit applications been submitted, the applicant would have been informed that the proposed use was not permitted. Mr. Baillie said that the original application was withdrawn before the Planning Commission public hearing. Since that time, the applicant has been cited twice for violating the conditional zoning restrictions related to automobile sales.

Mr. Baillie indicated that the applicant opines that the proliferation of auto sales in the region has resulted in a major change of an economic and physical nature of the subject property and within the area containing the subject property. Furthermore, since the increase in sales of automobiles and recreational vehicles surrounding the subject property, including the neighboring 1701 N. Broadway, which has been done "by right," the preservation of the basic character of the area that was sought during the 1988 rezoning of the property has been substantially altered. He said that the changes in the land use in the area since the time that the conditional zoning restrictions were applied now make this specific use restriction inappropriate. With this evidence, the staff is in agreement with the applicant's position.

Mr. Baillie said that in the period following the Subdivision and the Zoning Committee meetings, the applicant met with the staff to revise their development plan in order to address the concerns described within the original Staff Report and the comments presented during the Committee meetings. The applicant modified their development plan to address the concerns regarding the impact on the neighborhood located to the rear of the subject property, and the visual impacts on a gateway into downtown Lexington. Furthermore, the connection between 1701 N. Broadway has been shown and areas of display and inventory storage have been delineated. With these modifications, the applicant addressed many of the concerns regarding the use of the subject property and the impacts on the surrounding area.

Mr. Baillie said that Article 6-7(c)(1)(a) of the Zoning Ordinance clearly states that "*The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.*" In this situation, the original zone change application did not meet the threshold to show the preponderance of the evidence of a significant change in the area or on the subject property. While the applicant has offered modification to the development plan, it is important to solidify those changes, not only on the corollary development plan, but also within the Zoning Ordinance utilizing conditional zoning restrictions. He said that the applicant has not addressed all of the elements of the conditional zoning restrictions that were imposed in 1988, which include advertising signs (billboards) and kennels, animal hospitals or clinics, including offices of veterinarians. These conditional restrictions shall remain prohibited. Additionally, adult arcades, adult book stores and adult entertainment establishments, as well as outdoor recreational and/or amusement facilities shall be prohibited due to the close proximity of the nearby neighborhood, which could cause potential negative impact to that area. In an effort to reduce the impact of the proposed land use on the neighborhood there shall be no outdoor speaker systems, and all lighting on the subject property shall be no taller than 10 feet in height and shall be shielded and directed downward. Furthermore, the control of the potential overflow of inventory on the subject property shall be limited to 30 or less vehicles, and shall be located in a designated area, as depicted on the corollary development plan. No inventory shall be located along the structure of 1719 N. Broadway and no inventory shall block or inhibit the customer parking along the western edge of 1719 N. Broadway. Finally, with N. Broadway being the gateway to Lexington there shall be a continuous 3-foot tall hedge, as well as a four-plank horse fence located along the frontage of N. Broadway. This will ensure the development is an asset to the visual quality of the Lexington community and the corridor.

Mr. Baillie said that the staff was in agreement with the applicant's justification, and recommends approval, for the following reasons:

1. The applicant has shown that there has been a major change of an economic and physical nature on the subject property or within the area containing the subject property, which has altered the basic character of the immediate area due to the proliferation and growth of automotive and recreational vehicle sales in the area since the conditional zoning restrictions were imposed in 1988.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use and buffering restrictions are recommended via conditional zoning:
 - a. Prohibited Uses:
 - i. Advertising signs (billboards)
 - ii. Kennels, animal hospitals or clinics, including offices of veterinarians
 - iii. Adult arcades, adult bookstores, or adult entertainment establishments
 - iv. Outdoor recreational facilities and amusement facilities
 - b. Outdoor speakers or amplification shall be prohibited on the subject property.
 - c. Lighting shall be a maximum of 10 feet in height and shall be shielded and directed away from the neighborhood located to the rear of the property.
 - d. Vehicular inventory on the subject property shall be limited to 30 or less vehicles, and shall be located in designated areas, as depicted on the corollary development plan. No inventory shall be located along the structure of 1719 North Broadway.
 - e. There shall be a continuous 3-foot hedge and four-plank horse fence located along the frontage of North Broadway.

3. This recommendation is made subject to approval and certification of **PLN-MJDP-19-00038: ELKHORN PARK, BLOCK 8 (A PORTION OF) (W.P. LITTLE PROPERTY) (AMD)**, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

Development plan 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:

1. Provided the Urban County Council rezones the property B-3 with revised conditional zoning restrictions; 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. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~6. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.~~
- ~~7. Correct Planning Commission certification.~~
- ~~8. Correct labeling for Purpose of Amendment, and denote area of amendment.~~
- ~~9. Clarify interior landscaping calculations in site statistics and the note labeled interior landscaping.~~
- ~~10. Dimension access points and building on 1701 N. Broadway.~~
- ~~11. Addition of conditional zoning restrictions.~~
- ~~12. Addition of contour lines for all lots on plan.~~
- ~~13. Depict parking for 1719 N. Broadway as shown on previous development plan (DP 2001-74).~~
- ~~14. Denote Move construction access on plan between 1701 and 1709 N. Broadway.~~
- ~~15. Addition of street cross-section for Cane Run Road and denote location of cross-section for street on plan face.~~
- ~~16. Denote vehicle display area for 1701 and 1709 N. Broadway.~~
- ~~17. Complete site statistics for all 3 lots.~~
- ~~18. Denote: The subject property is located in the Royal Springs Aquifer.~~
- ~~19. Discuss proposed land uses and label on plan.~~
- ~~20. Discuss access between 1701 and 1709 N. Broadway.~~
- ~~21. Discuss parking for employees and customers.~~
- ~~22. Discuss delineation/separation of shared access point between 1709 and 1719 N. Broadway.~~

Ms. Gallt directed the Commission's attention to condition #10 and explained that the applicant's proposal was to have automobile sales on the subject property, but the development plan indicates a detail shop. The staff wants clarification as to the land use, and that it be correctly denoted on the development plan.

Commission questions – Ms. Mundy asked if the applicant has met with the Royal Springs Aquifer Committee (condition #9). Ms. Gallt replied negatively. Mr. Martin responded that the applicant will need to meet condition #9 before the plan is certified.

Mr. Owens clarified that the subject property is the center lot shown on the rendering. Ms. Gallt replied affirmatively.

Mr. Owens then asked, even though the zone change is for the center lot, the rendering shows landscaping extending between 1709 and 1719 N. Broadway. Ms. Gallt indicated that the added landscape area will act as a buffer to help separate the two lots.

Mr. Owens asked if the required hedge and fencing along N. Broadway will be only on the subject property or both properties. Mr. Baillie said that 1701 and 1709 N. Broadway are working together so both properties are being amended, which allows the landscape buffer to be required.

Mr. Owens then asked if there will be a separation between each building. Ms. Gallt explained that there is an access driveway between 1701 and 1709 N. Broadway that will be utilized by both those properties, but as for 1709 and 1719 N. Broadway there will be no access between these lots. There will be an area of landscaping separating the two properties. The only use allowable along the property line for 1709 and 1719 N. Broadway would be employee parking. Mr. Baillie said that, as part of the conditional zoning restrictions, there shall be no storage of inventory on the side of 1709 N. Broadway along its side with 1719 N. Broadway. The inventory will only be allowed in designated areas and be restricted to a maximum of 30 vehicles. He then said that, as for the employee and customer parking, there is a private agreement between the applicant and 1719 N. Broadway. This agreement will allow employees and customers of the strip mall to utilize the parking spaces shown on 1709 N. Broadway along the side of 1719 N. Broadway.

Mr. Baillie presented a letter of opposition to the Commission for their review.

Representation presentation – Jacob Walbourn, attorney, along with Matt Carter, Vision Engineering, were present representing the Hammam Shalash.

In reference to Mr. Owens' previous question, Mr. Walbourn explained that the area between 1709 and 1719 N. Broadway is currently open to traffic, but they are proposing to extend the landscaping into the site and add a curb. He noted that there will be a physical barrier preventing traffic from entering 1719 N. Broadway to access 1709 N. Broadway.

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

Mr. Walbourn presented a PowerPoint presentation, and briefly explained that the nature of this request greatly resembles a Zone Map Amendment Request (MAR); but for this case, only the conditional zoning restrictions are proposed to be modified. This request does not fall under the Comprehensive Plan, or the Placebuilder. This request only relates to Article 6-7(c)(1)(a) of the Zoning Ordinance, which speaks to the requirements of removing a conditional zoning restriction that prohibits automobile sales at 1709 N. Broadway. He then said that the original conditional zoning restriction listed other items such as farm equipment, but his client will only sale automobiles at this location.

Mr. Walbourn said that the analysis for this type of request was similar to a zone change request, but the difference between the two is that findings are required to address what has changed since the restriction was imposed for this type of request. He indicated that their justification for removing the conditional zoning restrictions is as follows:

“Major change of economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper.”

Mr. Walbourn said that they believe there has been a major economic change in this area that makes the prohibition against automobile sales not an appropriate conditional zoning restriction. He then said that the property was rezoned on November 17, 1988, almost 31 years ago. That zone change modified the zoning for 1705, 1715 and 1719 N. Broadway from a Single Family Residential (R-1C) zone to Highway Service Business (B-3) zone, with conditional zoning restrictions attached, which were previously mentioned by the staff. He added that the reasons that were made at the time of the original zoning change were as follows:

“Close proximity of residential uses makes use restriction necessary to ensure residential area is not impaired” and “N. Broadway is a major entrance in to the community assets to the visual quality of the community.

Mr. Walbourn presented several photograph of the general area from 1993 to present, and gave a brief description of each. He indicated that there has been a major change in this area that includes the proliferation of “travel trailer” (RV) uses in the area on both sides of N. Broadway; transition of gas station use to car sales use on property immediately adjacent to the subject property; auto-centric uses (particularly sales) dominate the corridor; and the single-family residential neighborhood has persisted and expanded even during shift to auto-centric uses.

Mr. Walbourn continued to present several photographs of the nearby uses and their visual impacts to the corridor. He said that N. Broadway has seen major changes of a physical and economic nature in this area since the conditional zoning restrictions were imposed. The emergence of auto-centric uses on the corridor make restrictions inappropriate under the current circumstances. The agreement with the staff to provide fencing will actually enhance the viewshed along N. Broadway.

Mr. Walbourn asked if automobile sales has impaired, made worse, diminished, weakened or damaged the adjacent neighborhood. He indicated that the adjacent neighborhood has not been impacted by the automobile-related uses along N. Broadway, and to further prove that the neighborhood has not been impacted, Mr. Walbourn studied 1716 Hawthorne Lane. He indicated that the rate of inflation from 2013 to 2019 was 9.7%, however, the property value increased 26.3% per the PVA assessment. To further evaluate property values, they looked at not only 1716 Hawthorne Lane, but also 1712-1724 Hawthorne Lane (even). No transactions have taken place since 2011. He then said that there is no redevelopment in the neighborhood.

Mr. Walbourn concluded that the operation of auto-centric uses generally, and car lot specifically, has not impaired the value, caused property sales or led to the redevelopment to the neighborhood. He said that they are proposing steps that can be done to address any concern of impairment to the neighborhood, which include no speakers at the rear of the property; all lighting will be directed away and shield and they will preserve existing landscaping at the rear of the site.

Mr. Walbourn indicated that they have tried to meet with the neighborhood, but they were not willing to meet with his client. They do not know how to address the neighborhood concerns if those concerns are not being voiced to them. He said that the staff had pointed out several issues that needed to be addresses in order to reach an approval recommendation of the development plan to be presented to the Commission. He indicated that his client has agreed to everything the staff had requested without hesitation.

Mr. Walbourn ended his presentation by asking does restricting automobile sales on the property located at 1709 N. Broadway still remain appropriate. He said that over the last 31 years, it has become clear that restricting automobile sales is no longer appropriate. This area is proliferated with auto-centric and RV's along N. Broadway. He said that the automobile sales with the enhanced landscaping down N. Broadway will not serve as a detriment to the visual integrity of the corridor. Having automobile sales at this location will not cause an impact on the adjacent neighborhood property values. The major change in the area is the increased RV sales lot on N. Broadway.

Commission questions – Mr. Owens asked what the subject site is being used for. Mr. Walbourn replied office space. Mr. Owens asked if inventory is allowed on the subject property. Mr. Walbourn replied that he was unsure. Mr. Owens said that

he had gone by the subject property and there are at least 12 vehicles on site with for sale signs. He said that Mr. Shalash wants to turn over a new leaf, but it seems that he is still operating a vehicle sales lot, which is currently prohibited.

Supporters - Mr. Shalash, the applicant, indicated that Zoning Enforcement did issue notices of violation to them on two different occasions, but after that time, they informed Jim Marx, Zoning Compliance Manager, with the Division of Planning of their plans to seek a zone change. He then said that Mr. Marx had told them the vehicles can stay on site until after the ruling of the Planning Commission and the Urban County Council. Mr. Shalash said that in his opinion they are not going against the regulations. He added that he had met with Mr. Marx and Mr. Duncan and they are aware of the vehicles on site.

Opposition – Richard Murphy, attorney, was present representing Peter Sun and Susan Lui, property owners of 1719 N. Broadway. He said that that 1709 and 1719 N. Broadway share an entrance leading into each of the lots and had both lots follow the conditional zoning restrictions, there would not be issues with the entrance. He presented a PowerPoint presentation, and gave a brief description of each slide. Mr. Murphy said that there were several permits that the applicant should have obtained ranging from grading permit to do the additional paving; a building permit to transfer the car wash into an office space; and before a structure is occupied a Certificate of Occupancy must be obtained. He then said that anyone of these permits would have to verify the zoning of the property before a Zoning Compliance permit is issued.

Mr. Murphy said that his clients are concerned about the lack of customer parking for the shopping center and the inability for the Larger trucks to enter the rear of the property because of the overflow of automobiles from 1709 N. Broadway. He distributed an exhibit packet to the Commission, and gave a brief summary of each. He noted that the legal standards of granting a change to a conditional zoning restriction can be located in Article 6-7(c)(1)(a) of the Zoning Ordinance. Article 6-7(c)(1)(a) clearly states in order to change the restrictions a *“Major change of economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.”* He said that in 1988 staff report show the staff recommending conditions to be imposed for the following reasons:

1. The close proximity of residential uses (single-family homes adjoin the property along its northern boundary) makes use restriction necessary to ensure the residential area is not impaired.
2. North Broadway is a major entrance into the community. Use restrictions as proposed will ensure that the development is an asset to the image and visual quality of the community.

Mr. Murphy said that, other than more houses being developed, there has been no change to this area and N. Broadway is still a major gateway to the community. The zoning pattern in the surrounding area has not changed since the restrictions were added. He then said that the staff report from 2018, had stated that “Even though numerous other parcels in the area now contain vehicle sales establishments that were not in existence at the time of the subject property’s rezoning, the applicant has not justified the request to remove the conditional zoning restriction.” These statements only confirm that other establishments developed as allowed on unrestricted sites. The reason the restrictions were put in place was to protect the residential area adjoining the subject property. If the residential properties had been rezoned to a non-residential zone, then the applicant would have a “clear preponderance of the evidence” supporting the removal of the zoning restriction. Because the adjacent Elkhorn Park neighborhood remains residential, there is no evidence to support the removal of the conditional zoning restriction.

Mr. Murphy said that the only difference between the 2018 request and the 2019 request was the landscape buffer between 1709 and 1719 N. Broadway. He asked what happens if that landscape buffer is not built. Not receiving a Certificate of Occupancy is not a deterrent because they have already been operating the sales lot for two years. They find it hard to believe that the applicant will put in the work because they have never received a permit to operate the vehicle sales lot.

Mr. Murphy said that this property has been out of compliance for two years and the cars have remained on the lot, even through this zone change hearing. He then said that it is not right to bring a use into compliance by conceding to what they are already doing improperly. He added that the Planning Commission should not reward the applicant for what has been going on the subject property for the last two years.

Mr. Murphy concluded by saying that he has drafted proposed findings for disapproval, and requesting the Planning Commission to disapprove this request.

Note: A recess was declared by the Chair at 3:30 p.m. and the meeting re-convened at 3:40 p.m.

Citizen opposition - Missy Rogers, 538 Dover Road, spoke in opposition to this request, and requested the Planning Commission to deny the applicant’s request. She presented photographs showing the number of automobile parked on the subject property and along N. Broadway, which impact the corridor.

David Danforth, 525 Dover Road, spoke in opposition to this request, and requested the Planning Commission to deny the applicant’s request. He does not believe the applicant will install the improvements because the number of cars on the lots allows no room to move the cars around or even plant the required landscaping.

Brenda Cochran, 1720 Woodlark Ave, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. She presented photographs showing an automobile trying to exit the intersection of Cane Road and N. Broadway. She explained that the person in the car could not see the oncoming semi-tracker trailer truck due to business parking their vehicles so close to the intersection. This is a safety hazard because of the potential traffic accidents.

Vincent Bonomini, manager of the Penn Station located at 1719 N. Broadway, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. He explained that the businesses in the strip mall are seeing a decrease in sales. This decrease is due to a several factors such as a tow truck or vehicle delivery truck blocking part of the access forcing traffic down to using one lane for entering and exiting the subject property. The vehicle sales employees making illegal traffic movements, which caused one of his employee to be involved in a traffic accident.

Dawn Forry, 151 Muir Station Rd, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. She explained that she was the previous owner of 1719 N. Broadway, and indicated that no matter what the applicant says they will do they will not follow the regulations. She added that the property values may not be decreasing, but the businesses in the strip mall are suffering. The actions of the adjacent lot is stopping the strip mall's customers by closing off the access, or they are imposing themselves on the businesses and they threaten people. This type of behavior is unacceptable. She indicated that she was assured by the Division of Planning that the subject property would fall into compliance. She thought she sold the property to Mr. Sun in good conscience and she was relying on the City to follow through for her. She believes that the businesses located at 1719 N. Broadway or the nearby neighborhood will be negatively impacted.

Carter Crump, 1720 Woodlark Ave, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. He said that the employees of these two lots create a safety hazard on N. Broadway by driving in the turn lane in the wrong direction. The employees will park the vehicles near the intersection of Cane Run Road and N. Broadway creating a safety issue for cars trying to exit Cane Run Road. He said that people cannot get into 1719 N. Broadway because of the number of parked cars blocking the access into the lot. Mr. Crump said that once the landscaping and fence are installed, plus the parked cars, the intersection at Cane Run Road and N. Broadway will be further impacted.

Dan Forry, 151 Muir Station Rd, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. He indicated that the development is not the problem, but rather whether or not the applicant will do what is required.

Peter Sun, 1030 Monarch Street, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. Mr. Sun is the new property owner of 1719 N. Broadway and he was assured that the issues with the adjacent property were resolved, but as of today there are still cars on the lot. He indicated that some of the tenants in the strip mall will not be renewing their lease because of the vehicle sales lot impacting the mall parking lot and the side parking area.

Charles Hite, spoke in opposition to this request, and requested the Planning Commission to deny the applicant's request. He indicated that good planning practice and common sense would say the Commission should turn down this application. The applicant's contention that the changes along N. Broadway have been unanticipated is ridiculous. There have been five Comprehensive Plan reviews since 1988 and the staff would anticipate these changes along N. Broadway. The Planning Commission should not reward this type of bad behavior.

Applicants rebuttal – Mr. Walbourn said that the Planning Commission's charge in this case is to evaluate whether the findings under Article 6-7(c)(1)(a) of the Zoning Ordinance have been met. The applicant has presented evidence that they have met the findings of Article 6-7(c)(1)(a) and the staff concurs with their findings. The previous testimony is not germane to this request.

Mr. Walbourn said that the parking spaces along the side of 1719 N. Broadway are not part of his lot. Those parking spaces are part of an easement that belongs to 1709 N. Broadway. They have offered those parking spaces to Mr. Sun, but since he could not obtain those spaces immediately then he decided to oppose this request. However, the applicant is still willing to discussion those parking spaces with Mr. Sun.

Mr. Walbourn said that the development plan resolves the issue of the access between 1709 and 1719 N. Broadway. If the Planning Commission denies this request then the landscape buffer will not be installed and the circulation between the lots will continue as is for this property owner or the next property owner.

Mr. Walbourn then said that as for the permits, those have been obtained. As for the enforcement, the staff can speak to their procedures and the Planning Commission is not part of enforcing fines or passing judgment. The Infrastructure Hearing Board is the one who can reduce or eliminate the amount of the fines.

Mr. Walbourn asked has there been a major change in this area, then replied that in his opinion the answer is yes. He then asked has the neighborhood been impaired, no. Will the proposed landscaping improvements have a negatively impact on the viewshed along N. Broadway; no. He said that he is not trying to diminish the concerns from the audience, but it is not germane to what is being requested of the Planning Commission.

Mr. Walbourn asked the Planning Commission to trust the professional staff to enforce any future violations of a development plan. He then asked the Planning Commission to focus their attentions to what is relevant to this case. The staff is in agreement with the proposed change to the conditional zoning restrictions, and asked for the Planning Commission to approve the change.

Mr. Shalash said that when they purchased the property they were not aware of the conditional zoning restrictions. They first applied for the zone change, but when they realized there was an issue and they withdrew it. They were not denied. He then said that before they resubmitted their request to the Planning Commission, they upgraded several things on the property and received those permits from the different divisions. They were cited twice, but those citations were dropped because the vehicles in question were actually parking their cars on the subject site, then walked over to the shopping center.

Citizen rebuttal - Mr. Murphy explained that there is less landscaping along N. Broadway verses the landscaping from five years ago. He said that the subject property is having a negative impact on the shopping center. When these properties were rezoned in 1988 it was designed to serve the neighborhood and a vehicle sales lot would not be appropriate for this area. The people who are impacted by the business have voiced their concerns, as well as listed the impairment that the vehicle sales lot is having on the shopping center. Nothing else has changed since 1988 and N. Broadway is still a major gateway to Lexington. He asked the Planning Commission to deny this request.

Staff rebuttal - Mr. Martin said that the development plan is conditionally approved by the Planning Commission and occasionally during the signoff process issues may arise on the exact scope of the signoff, relative to the approval of the Planning Commission. He then said that during the testimony of this case, the staff noticed the access along Cane Run Road near N. Broadway, and recommends that it is removed from the development plan. He then said that Traffic Engineering is in agreement with removing the access point closest to N. Broadway along the Cane Run Road frontage.

Mr. Baillie clarified that there was testimony where it was mentioned that the staff and/or Mr. Marx had stated that the prohibited use on the property was allowed to continue. He said that the staff had informed the applicant that no fines would be levied during the zone change process, but the applicant should operate under the current Certificate of Occupancy, which was approved for an office use, not for a vehicle lot.

With regards to the previous testimony, should the zone change be approved, Mr. Murphy stated that the only recourse would be to hold the Certificate of Occupancy. Mr. Baillie replied yes that would be the case for the development plan. Additionally, if the conditional zoning restrictions recommended by the staff were approved, they would go into effect immediately upon Council adoption. Should the applicant not abide by those conditional zoning restrictions, they would be fined and cited specifically for the number of vehicles allowed on the lot, as well as the location of those vehicles. He said that there is a recourse against the applicant violating the conditional zoning restrictions that are being recommended by the staff.

Applicants comment – Mr. Walbourn indicated that they have no objection to the new condition on the development plan, as suggested by the staff.

Commission questions – Mr. Wilson asked if this is a zone change issue. Ms. Jones indicated that this is not a typical zone change where a piece of property is being changed from a one to another zone. In order for the conditional zoning restrictions attached to a piece of property be removed, the request must go through the same process as a typical zone change. The Planning Commission is not acting on changing the zone of a piece of property, but rather the Planning Commission is reviewing whether or not the conditional zoning restrictions can be removed. She emphasized the finding established under Article 6-7(c)(1)(a) of the Zoning Ordinance, which says: *“Major change of economic, physical or social nature on the subject property or within the area in which the subject property is located, which was not anticipated at the time the binding restriction or condition was imposed, and which has substantially altered the basic character of such area making the restriction or condition inappropriate or improper. The burden shall be on the applicant to establish said finding by a clear preponderance of the evidence.”* She said that the Planning Commission must decide whether or not they want to remove the conditional zoning restriction prohibiting the sale of automobiles for this piece of property and if the evidence supports such a decision.

Mr. Wilson said that it was mentioned that the Planning Commission cannot review the compliance issues on the subject property. He said that there were compliance issues that were not followed. He then said that the applicant continued to operate even though those compliance issues were not resolved. He asked if the Planning Commission can consider those facts when taking action on this application. Ms. Jones said that the Planning Commission is not considering the compliance portion of the Zoning Compliance Permit process. It is handled by the Division of Planning through a Notice of Violation. However, if the conditions of the property have a major change of economic, physical or social nature to a degree those will weight into the decision. The Planning Commission will not make a ruling on whether or not something is in compliance or not in compliance.

Mr. Wilson said that several times it was mentioned that nothing has changed in terms of the economics in this area. Now the staff is saying the area has changed, yet the only thing he has observed was the change in the hedges along N. Broadway. Mr. Baillie said that according to Article 6-7(c)(1)(a) of the Zoning Ordinance a clear preponderance of the

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

evidence must be provided by the applicant. He then said that during the previous zone change hearing, the applicant did not provide that evidence to persuade or prove that there has been a significant change to the economic, physical or social nature of the area.

Mr. Wilson asked if the applicant had proved the change in the beginning would the staff recommendation be the same as today. Mr. Baillie replied affirmatively.

Mr. Nicol asked if the economic, physical or social nature all have been met or is it one of the three. He then asked what convinced the staff to change their recommendation. Mr. Baillie referred to the staff report, and said that the staff was recommending approval, subject to the following findings:

1. The applicant has shown that there has been a major change of an economic and physical nature on the subject property or within the area containing the subject property, which has altered the basic character of the immediate area due to the proliferation and growth of automotive and recreational vehicle sales in the area since the conditional zoning restrictions were imposed in 1988 notes the economic and physical change in the area.

Mr. Nicol then asked if the Highway Service Business (B-3) zone without the conditional zoning restrictions allows for car dealerships, general office and retail. Mr. Baillie replied that none of the other lots surrounding the subject property were seeking a zone change during the past 31 years. This property was one of the earlier properties that had the conditional zoning restrictions attached to the property, but no other area had a zone change so the development in this area has been "by right" development.

Mr. Nicol asked what is an appropriate zone for car dealerships. Ms. Wade said that car dealerships are allowed in Highway Service Business (B-3) zone, Wholesale & Warehouse Business (B-4) zone, Light Industrial (I-1) zone and Heavy Industrial (I-2) zone. The most common is a Highway Service Business (B-3) zone.

Mr. Owens asked if this request would need the Urban County Council's approval. Ms. Jones replied affirmatively. Ms. Wade said that the adopted Ordinance specifically states that if the conditional zoning restriction were to be amended it would need Council approval.

Mr. Owens asked where would the employee parking be located. Mr. Baillie replied that car dealerships area able to double up in certain areas and the development plan shows 25 delineate parking spaces for their inventory and the additional parking spaces located in the front and side of the building are delineated for customer and employee parking.

Mr. Owens said if that is the case then why wasn't the staff recommending 25 or less cars since you have to allow room for employee and customers. Mr. Baillie said that car dealerships tend to double up the parking in some areas that because in those spots those cars do not maneuver in and out at a regular pace. This is allowed so the dealership can increase their inventory and still have the circulation that is needed.

Mr. Owens said that as tight as this space is, it seemed to him that it will be problematic.

Mr. Nicol asked what are the enforcement options if the applicant does not comply with the maximum number of vehicles in inventory. Mr. Baillie explained that the Zoning Enforcement staff would need the inventory count and locational requirement to ensure compliance. If there are any cars over the allowable number, then notices of violation and fines would be issued.

Mr. Nicol asked if 1701 N. Broadway has had any conditional zoning restrictions issues for too many cars on that lot. Mr. Baillie said that 1701 N. Broadway does not have conditional zoning restrictions attached to that lot. The lot is a by-right development that is operating under a Highway Service Business zone without any restrictions. He said that the lot has been warned about moving vehicles into the N. Broadway right-of-way or on the grass, which is why the landscape recommendation is being requested. The landscape buffer will help beautify the area while keeping the applicant off the right-of-way or the grass.

Mr. Wilson asked if the applicant keeps repeating the offense, do the fines increase in the amount of money. Ms. Wade said that the goal is to have every zoning violation cleared up, but for every violation that the Zoning Enforcement staff investigate, a notice letter is sent to the owner, then they are given a timeline to rectify that violation. She then explained that for the 1st offense the fine is 75 dollars, then for each one after that, the fine increases by 75 dollars.

Mr. Wilson then asked how much time does the applicant have to address the violation. Mr. Duncan explained that the applicant has 30-days to appeal their case to the Infrastructure Hearing Board. During this time, there would be no action taken until the appeals process is completed.

Mr. Wilson said that there is the letter of the laws versus the spirit of the law. He then said that a person can play this game for a little bit by paying the fine and still have the cars on-site. He has heard testimony on what the Planning Commission can and cannot do, but there is something about this request that he does not like.

Mr. de Movellan asked if there are any physical requirements for the fence. Mr. Baillie replied that the physical requirements would be a 4 plank horse fence that will be 4 feet in height.

Commission Comments – Mr. Nicol said that the Planning Commission must take a motion on the zone change request to allow the removal of a conditional zoning restriction and then the development plan. Mr. Owens indicated yes.

Mr. Owens said that the Planning Commission is charged with looking forward and deciding what will be best for Lexington. Personally, he said that he has not seen enough evidence to support the applicant's request. He believes that there have been some changes to N. Broadway, but there has been no unanticipated changes that would suggest the conditional zoning restrictions should be amended from what was approved in 1988.

Ms. Plumlee said that a neighborhood is not measured by dollars, but it is measured by social, livability and movability of the area.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Wilson, carried 5-2 (Forester and Nicol opposed; Bell; Brewer; Pohl and Penn absent) to disapprove **PLN-MAR-19-00011: 6K AND UNDER AUTO SALES, LLC**, for the following reasons:

1. In accordance with Article 6-7(c)(1)(a) of the Zoning Ordinance, there has been no unanticipated changes of any economic, physical or social nature in the immediate area since the time the conditional zoning restrictions were imposed in 1988 that has substantially changed the character of the area or the subject property. In particular, the Elkhorn Park neighborhood adjoining the back of the site remains residential and the N. Broadway corridor remains a prominent entry to the community that needs protection from further impacts to its visual quality.
2. The petitioner has not provided evidence to support the requested removal of the conditional zoning restrictions, and further, the nature of the immediate area still presents many of the same issues that required the original inclusion of the conditional zoning restrictions.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Wilson, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to indefinitely postpone **PLN-MJDP-19-00038: ELKHORN PARK, BLOCK 8 (A PORTION OF) (W.P. LITTLE PROPERTY) (AMD)**.

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

1. **BOAR 2019-2: VIRGINIA BROWN** - an appeal to the Planning Commission to the Certificate of Appropriateness disapproved by the Board of Architectural Review at 342-344 Desha Road.

Staff Presentation – Mr. Baillie presented the staff report on the Board of Architectural Review Appeal for Virginia Brown (BOAR 2019-2), for property located at 342-344 Desha Road. (A copy of the staff report is attached as an appendix to these minutes). He submitted into the record the Certificate of Appropriateness application, Article 13 of the Zoning Ordinance (Historic Preservation section) and the adopted Design Guidelines.

Mr. Baillie presented a PowerPoint presentation, and gave a brief description of the applicant's appeal. He indicated that the staff was recommending **disapproval and that the decision of the BOAR be upheld**, for the following reasons:

1. The denial of a Certificate of Appropriateness by the Board of Architectural Review is consistent with their charge in determining appropriateness of requested exterior alterations, based on the Design Guidelines established by the local Historic Preservation Commission. It is also consistent with past actions of the Board in determining acceptability of the type of replacement window proposed.
2. Chimneys have been determined to be historically and architecturally significant elements, especially for residential structures with the Ashland Park Historic Overlay district. For this reason, they should be maintained, and/or replaced.

Historic Preservation Presentation – Ms. Kerr requested that the Planning Commission uphold the BOAR decision by disapproving this request.

Appellant's Presentation – Andrew Williams, attorney, was present representing Virginia Brown. He presented a PowerPoint presentation and gave a brief description of each. He indicated that the applicant was requesting the Planning Commission not to uphold the BOAR decision.

Commission Comments and Questions – Ms. Mundy asked if the applicant knew she was within a Historic District. Mr. Williams replied that Ms. Brown was aware the property was rezoned. Ms. Mundy then asked if Ms. Brown was involved in the public meetings. Mr. Williams replied that he does not know.

Ms. Mundy said that Ms. Brown owned the house for 25 years and she has tried to remediate the mold, but that she had to take the chimney down quickly. Mr. Williams said that the mold has been going on for a while, plus there are tenants who live in the house. He then said that when his client contacted the contractor they came out and removed the chimney.

Ms. Mundy asked if the mold was remediated through the appropriate process with a contractor. Mr. Williams replied that he does not know.

Mr. Nicol asked if the applicant's argument was the chimney was unrepairable. Mr. William replied affirmatively and said that at the time his client believed after several attempts the leakage was unrepairable.

Staff rebuttal – Ms. Kerr said that Ms. Brown was aware that she was within an H-1 District because she had obtained other Certificate of Appropriateness from the BOAR. She then said that a permit can be obtained for repairs to the house as long as it keeps and retains the historic character of the house.

Ms. Kerr then said that, in terms of being repairable, the staff did not have the opportunity to examine the roof so they cannot say if it was or was not repairable.

Mr. Wilson said that the chimney does not have to function it just has to be on the house. Ms. Kerr replied affirmatively.

Mr. Wilson asked if the chimney can be capped. Ms. Kerr replied affirmatively, and said that caps are issued by the staff.

Petitioner's rebuttal – Mr. Williams said that his client was unaware of any COA obtained after the area became a Historic District (H-1). Ms. Kerr said that the staff can email Mr. William the COA.

Staff rebuttal – Mr. Baillie replied the staff had no comments.

Commission Questions – Ms. Mundy said that the contractor could have obtained the COA without the applicant knowing. Ms. Kerr replied affirmatively, but the process required the home owner's signature before action can be taken.

Mr. Owens said that the exterior of the chimney has been removed without permission, but if the Commission upholds the staff recommendation then the applicant will have to rebuild the chimney. Ms. Kerr replied affirmatively.

Mr. Owens understood why the applicant wanted to take care of the problem, but said that there are reasons for historic overlays and there are requirements that must be followed.

Action - A motion was made by Ms. Mundy, seconded by Mr. Nicol, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to uphold the BOAR decision for disapproval, for the reasons provided by the staff.

2. **WORK SESSION** – Mr. Duncan explained that there are two work session scheduled for the month of August. He asked the Commission members to amend the Meeting and Filing Schedule by canceling the August 15th work session.

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson, carried 7-0 (Bell; Brewer; Pohl and Penn absent) to amend the Meeting and Filing Schedule, for the reasons provided by the staff.

3. **ACCESSORY DWELLING UNITS (ADU'S)** – Mr. Duncan informed the Commission that the proposed ADUs can be accessed from Imagine Lexington's website (<https://www.lexingtonky.gov/imaginelexington>).

Commission questions – Ms. Plumlee asked what the timeline is for the ADUs. Mr. Duncan explained the following meetings will be held for public comment:

August 20th, Tuesday, 6:00 p.m., Senior Center

August 29th, Thursday, 1:30 p.m., 3rd Floor Phoenix Building

September 5th, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)

September 26th, Thursday, 1:30 p.m., 2nd Floor Council Chambers

Mr. Duncan noted that after the Planning Commission makes their recommendation, then the text amendment will be forwarded to the Urban County Council. That date is unknown at this time. However, on September 12th the staff will be presenting a preview of the text amendment to the Council at a workshop.

VII. STAFF ITEMS – The Chair will announce that any item a Staff member would like to present will be heard at this time.

- 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-18-00001: MILLPOND SUBDIVISION, UNIT 1B, SECTION 2A, LOTS 16-29 - located 3900 AND 3904 BOSTON ROAD, LEXINGTON, KY.
Council District 9
Project Contact: Abbie Jones

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 was none.IX. **NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	August 15, 2019
Zoning Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	August 22, 2019
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	August 28, 2019
Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	August 29, 2019
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 5, 2019
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	September 5, 2019
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 12, 2019

X. **ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 5:05 PM.

 Mike Owens, Chair

 Karen Mundy, Secretary

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