

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

November 14, 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; Patrick Brewer; Anthony de Movellan; Larry Forester; Karen Mundy; Bruce Nicol; Frank Penn; Carolyn Plumlee and William Wilson. Headley Bell and Graham Pohl were absent.

Planning Staff members present – Jim Duncan, Traci Wade, Tom Martin, Stuart Kearns, Cheryl Gallt, Lauren Hedge, and Denise Bullock. 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 and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Mundy, seconded by Mr. Brewer and carried 9-0 (Bell and Pohl absent) to approve the minutes of the October 10, 2019, meeting.

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

- a. PLN-MJDP-19-00062: LANSLOWNE SHOPPING CENTER (AMD) (1/6/20)* - located at 3329 TATES CREEK RD., LEXINGTON, KY.
Council District 4
Project Contact: Barrett Partners

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

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. 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. United States Postal Service Office's approval of kiosk locations or easement.
11. Resolve access and revised parking area conflict(s).

Representation – Tony Barrett, Barrett Partners, said that even though this item was listed on the Consent agenda, they are requesting a one month postponement to allow further discuss on this proposed development.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 9-0 (Bell and Pohl absent) to postpone **PLN-MJDP-19-00062: LANSLOWNE SHOPPING CENTER (AMD)** to the December 12, 2019, meeting.

- b. PLN-MJDP-19-00064: THOMAS COMMUNICATIONS, INC., (WALNUT GROVE) (AMD) (2/6/20)* - located at 3806, 3917 AND 3948 REAL QUIET LN., LEXINGTON, KY.
Council District 12
Project Contact: EA Partners

Note: The purpose of this amendment is to remove pedestrian facility and re-plat current lines. This plan requires the posting of a sign and an affidavit of such.

The Technical Committee and Staff Recommended: **Disapproval**, for the following reason:

1. The plan amendment does not meet the requirements of Article 23-A-2(h) of the Zoning Ordinance.

Representation - Rory Kahly, EA Partners, requested an indefinite postponement.

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

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

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Bell and Pohl absent) to indefinitely postpone **PLN-MJDP-19-00064: THOMAS COMMUNICATIONS, INC., (WALNUT GROVE) (AMD)**.

- c. **PLN-MJDP-19-00066: MASTERSON STATION CENTER (CITATION VILLAGE) (AMD) (1/6/20)*** - located at 248 FERNDAL PASS AND 2679 LEESTOWN RD., LEXINGTON, KY.
Council District 2
Project Contact: EA Partners

Note: The purpose of this amendment is to revise townhouse development, add street cross-section "Z-Z", and update notes.

The Subdivision Committee Recommends: **Postponement**. There are questions regarding the pedestrian access along the road frontage.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. 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 or easement.
13. Correct Citation Boulevard on vicinity map.
14. Addition of open space provided.
15. Depict tree canopy and protection areas on face of plan.
16. Discuss height of proposed front yard privacy fence.
17. Discuss zone-to-zone screening.
18. Discuss access to the shared-use trail from the site.
19. Discuss subdivision of townhomes and/or compliance with Article 9 (Group Residential).

Representation – Rory Kahly, EA Partners, said that, with the Subdivision Committee recommending postponement, they are requesting a one month postponement to have additional time to address the discussion items.

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

Action - A motion was made by Ms. Plumlee, seconded by Mr. Forester and carried 9-0 (Bell and Pohl absent) to postpone **PLN-MJDP-19-00066: MASTERSON STATION CENTER (CITATION VILLAGE) (AMD)** to the December 12, 2019, meeting.

- d. **PLN-MJDP-19-00056: PLEASANT RIDGE SUBDIVISION, LOT 126 (REAPPROVAL OF ZDP 90-79) (12/2/19)*** - located at 2184 LIBERTY RD., LEXINGTON, KY.
Council District 6
Project Contact: MLH Civil Engineers

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

The Subdivision Committee Recommends: **Postponement** due to the concern with the development activity that is occurring on the property.

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.

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

10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Delete reference to R-1B zone.
13. Denote floor area ratio (FAR) per Article 21 of the Zoning Ordinance.
14. Denote height of buildings in feet.
15. Delete original note #5.
16. Discuss pedestrian connection to right-of-way.
17. Discuss sanitary sewer status and original note #8.
18. Discuss stormwater facilities.
19. Discuss area of recent fill activity.

Staff Comments – Mr. Martin said that the staff had received written communication from the applicant's representative, requesting an indefinite postponement. He indicated that the applicant was working with the Division of Engineering regarding the recent fill activity on the property (condition #19).

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

Action - A motion was made by Mr. Penn, seconded by Ms. Plumlee and carried 9-0 (Bell and Pohl absent) to indefinitely postpone **PLN-MJDP-19-00056: PLEASANT RIDGE SUBDIVISION, LOT 126 (REAPPROVAL OF ZDP 90-79).**

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, November 7, 2019, at 8:30 a.m. The meeting was attended by Commission members: Karen Mundy, Carolyn Plumlee, Anthony de Movellan, and Frank Penn. 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; Denise Bullock; Valerie Friedmann; Scott Thompson; 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. **PLN-MJSUB-16-00005: GREEN PROPERTY HOLDINGS, LLC** (1/19/20)* - located at 1441 SUNSHINE LANE, LEXINGTON, KY.
Council District 6
Project Contact: Eagle Engineers

Note: The Planning Commission originally approved this plan on August 11, 2016 and reapproved it on September 13, 2018, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers and finish floor elevations.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of acres in site statistics.

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

9. Addition of street frontage in site statistics.
10. Addition of property owners name and address.
11. Addition of developer name and address.
12. Show property boundaries as solid dark lines.
13. Addition of street cross-sections for New Circle Road and Sunshine Lane.
14. Addition of building line setback on both lots.
15. Addition of private utilities and providers on plan.
16. Clarify Urban County Engineers certification.
17. Denote: Tree protection areas and possible tree canopy information on rear of lots.
18. Addition of improvements and maintenance note for frontage to Lot 2 and accepting the finding for the access easement.

As part of the Planning Commission's approval on August 11, 2016 and reapproval on September 13, 2018, the Commission also made a finding on the use of the proposed access easement as sole access to these lots. The approved finding for appropriateness of access easements as sole access to certain lots:

1. Sunshine Lane has been an access easement to industrial businesses and the addition of one lot should not overburden the well-maintained easement.

The Planning Commission's approval has expired and the applicant now requests a reapproval of this plan.

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

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

- b. PLN-MJSUB-19-00006: TUSCANY, UNIT 15 (11/14/19)* - 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, July 11, 2019, August 8, 2019, September 12, 2019 and October 10, 2019, meetings.

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 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. Resolve traffic calming details.
- c. PLN-MJDP-19-00052: KID'S HOUSE CHILD CARE CENTER (AHLULBAYT CENTER) (AMD) (11/3/19)* - located at 1449 AND 1451 BRYAN AVE., LEXINGTON, KY.
Council District 1
Project Contact: TWC

Note: The Planning Commission postponed this item at their September 12, 2019 and October 10, 2019, meetings. The purpose of this amendment is to change the proposed use and to revise the parking layout.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Complete note #13 referencing date of variance approval.
10. Complete Tree Preservation Plan (TPP) information required by Article 26-4(b) and (c) of the Zoning Ordinance.
11. Documentation of account with Lynn Imaging to meet Article 21-7(b)(3) of the Zoning Ordinance.
12. Recordation of consolidation plat prior to plan certification.

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

13. Denote zone-to-zone screening per note #16 on previous plan (ZDP 2014-18).
14. Denote proposed and existing easements on plan.
15. Denote tree protection area from the previous plan (ZDP 2014-18).
16. Correct floor area ratio and lot coverage in site statistics.
17. Resolve note #15 from the previous plan (ZDP 2014-18) regarding tree planting.
18. Resolve note #15 on this plan for additional screening for change of use.

- d. PLN-MJDP-19-00058: ROLLIE BISHOP CARROLL, SR., PROPERTY (12/2/19)* - located at 375 PASADENA DR., LEXINGTON, KY.
Council District 10
Project Contact: Vision Engineering

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

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. United States Postal Service Office's approval of kiosk locations or easement.
10. Combine site and lot statistics in one chart and remove miscellaneous information.
11. Correct rear yard dimensions.
12. Addition of access easement maintenance note.
13. Correct Commission certification date.
14. Submit exhibit to document open space for each lot.
15. Denote "Resolve gas line easement conflict" prior to issuance of Zoning Compliance Permit.
16. Resolve note #10 related to removal of construction access.
17. Remove miscellaneous information in site statistics.

- e. PLN-MJDP-19-00060: WIGGINS & COMPANY, INC., (AMD) (1/6/20)* - located at 2514 AND 2520 NICHOLASVILLE RD., LEXINGTON, KY.
Council District 4
Project Contact: Interplan

Note: The purpose of this amendment is to increase the building area and parking on Lot A-2.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. 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. Revise plan and adjust scale of the overall development plan and insert.

- f. PLN-MJDP-19-00063: STANFORD COMPANY PROPERTY (MIST LAKE SHOPPING CENTER) (AMD) (1/6/20)* - located at 3100, 3110, 3120 AND 3180 RICHMOND RD., LEXINGTON, KY.
Council District 7
Project Contact: The Roberts Group

Note: The purpose of this amendment is to depict proposed new 8,800 sq. ft. building and revise parking.

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.

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

6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. Denote floor area ratio and lot coverage for the entire area per Article 21 of the Zoning Ordinance.
- g. PLN-MJDP-19-00065: HIGHWOOD CENTER, LOT 4 (AMD) (1/6/20)* - located at 506 W. NEW CIRCLE RD., LEXINGTON, KY.
Council District 1
Project Contact: Calichi Design Group

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

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Landscape Examiner's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
 8. Division of Waste Management's approval of refuse collection locations.
 9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 10. United States Postal Service Office's approval of kiosk locations or easement.
 11. Improve legibility of text versus other detail information.
 12. Identify property boundaries of property as a solid dark line.
 13. Addition of contour lines.
 14. Dimension all access points.
- h. ZDP 2009-86: BRYAN PROPERTY (1/9/20)* - located at 1810 BRYANT ROAD, LEXINGTON, KY.
Council District 6
Project Contact: Vision Engineers

Note: The Planning Commission approved this plan at their December 17, 2009, meeting, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-3; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Urban Forester's approval of tree inventory map.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of building dimensions.
8. Label construction entrance(s).
9. Addition of existing and proposed utility easement(s).
10. Delete note number 7 and correct note number 11.
11. Label building canopies.
12. Addition of bearings and distances for lot line on lots 1 & 2.
13. Denote: Mitigation for the loss of significant trees (per Article 26 of the Zoning Ordinance) will be identified at the time of final development plan.
14. Denote: Screening requirements and lighting adjacent to residential property will be resolved at the time of final development plan.
15. Identify internal pedestrian connection from proposed hotel to trail.
16. Addition of conditional zoning restrictions.

The Planning Commission reapproved this item at their July 9, 2015, meeting, subject to the original conditions and adding the following two conditions:

17. Approval of addresses per e-911 staff.
18. Addition of a second Commission's certification to this plan.

The Planning Commission's approval has expired and the applicant now requests a reapproval of this plan.

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

The Subdivision Committee Recommends: **Reapproval**, subject to the conditions previously approved on July 9, 2015, and revising condition #4 to the following new condition:

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

Ms. Wade indicated that **PLN-MJDP-19-00062: LANSLOWNE SHOPPING CENTER (AMD)** was postponed for one month to the December 12th meeting. She said that two of the items identified on the Consent Agenda could be recommended for reapproval, while the remaining items could be 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 – There were none.

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

Action - A motion was made by Mr. Brewer, seconded by Mr. Wilson, and carried 9-0 (Bell and Pohl absent) to approve the items listed on the Consent Agenda, as presented by the staff, removing **PLN-MJDP-19-00062: LANSLOWNE SHOPPING CENTER (AMD)**.

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

The procedure for these hearings is as follows:

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

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

1. **FINAL SUBDIVISION PLAN**

- a. **PLN-FRP-19-00048: STANFORD COMPANY PROPERTY, LOT 1 (MIST LAKE SHOPPING CENTER) (AMD) (1/6/20)*** - located at 3120 AND 3180 RICHMOND RD., LEXINGTON, KY.
Council District 7
Project Contact: Endris Engineering

Note: The purpose of this amendment is to subdivide Lot 1-A into two lots.

The Subdivision Committee Recommends: **Approval**, 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. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. United States Postal Service Office's approval of kiosk locations or easement.
10. Clarify text for maintenance note.
11. Denote reciprocal access.
12. Provided the Planning Commission makes a finding on the access easement, otherwise the lot shall be adjusted to meet the lot frontage requirements of the B-3 zone.
13. Provided the Planning Commission grants a waiver to Article 6-4(c) of the Land Subdivision Regulations.

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

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

Mr. Martin said that the applicant has requested a waiver to Article 6-4(c) of the Land Subdivision Regulations, pertaining to the required street frontage in a Highway Service Business (B-3) zone. The staff was recommending approval of the requested waiver of lot frontage for the proposed lot, for the following reasons:

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

Mr. Martin then explained that the applicant is proposing to utilize an access easement to provide vehicular access and frontage to the proposed lot located in the interior of the Mist Lake Shopping Center. He indicated that PLN-FRP-19-00048 does require the Planning Commission to make a finding to allow the approved lots to have their sole access via an access easement, rather than via a public or private street. The staff believes that the findings for appropriateness to use the access easements as sole access for certain lots are as follows:

1. Allowing for the proposed lot to be accessed only via the access easement is appropriate for the proposed development and consistent with Article 1-5(a) the Land Subdivision Regulations
2. The property is governed by an approved final development plan subject to the Planning Commission review and approval.

Representation – Bruce Simpson, attorney, along with Kevin Phillips, Endris Engineering, indicated that the applicant was in agreement with the staff's recommendation, and requested approval.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Forester, carried 9-0 (Bell and Pohl absent) to approve the waiver to Article 6-4(c) of the Land Subdivision Regulations for the required street frontage in a Highway Service Business (B-3) zone pertaining to **PLN-FRP-19-00048: STANFORD COMPANY PROPERTY, LOT 1 (MIST LAKE SHOPPING CENTER) (AMD)**.

Action - A motion was made by Ms. Mundy, seconded by Mr. Forester, carried 9-0 (Bell and Pohl absent) to approve **PLN-FRP-19-00048: STANFORD COMPANY PROPERTY, LOT 1 (MIST LAKE SHOPPING CENTER) (AMD)**, as recommended by the staff.

2. **DEVELOPMENT PLANS**

- a. PLN-MJDP-19-00053: LEXINGTON SUPERDOME (CENTRAL EQUIPMENT) (AMD) (12/2/19)* - located at 791 RED MILE RD., LEXINGTON, KY.
Council District 11
Project Contact: DLZ Kentucky, Inc.

Note: The Planning Commission postponed this item at their October 10, 2019, meeting. The purpose of this amendment is to depict area for underground detention and area for additional parking.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Department of Environmental Quality's approval of environmentally sensitive areas.
10. Dimensions all walkways and ~~the dimensions~~ sidewalks.
11. Clarify width of right-of-way for Red Mile Road cross-section.
12. Delete duplicate note #5 from previous plan notes (DP 97-64).
13. Clarify location and width of easements.
14. Denote access off Red Mile Road as a right-in/right-out, including the taper from previous plan.
15. Dimension access points off Red Mile Road on plan.
16. Provided the Planning Commission grants a waiver to Article 26-5 of the Zoning Ordinance.

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.

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

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. Department of Environmental Quality's approval of environmentally sensitive areas.
- ~~10. Dimensions all walkways and the dimensions sidewalks.~~
10. 14. Clarify width of right-of-way for Red Mile Road cross-section.
- ~~12. Delete duplicate note #5 from previous plan notes (DP 97-64).~~
- ~~13. Clarify location and width of easements.~~
- ~~14. Denote access off Red Mile Road as a right in/right out, including the taper from previous plan.~~
- ~~15. Dimension access points off Red Mile Road on plan.~~
11. 16. Provided the Planning Commission grants a waiver to Article 26-5 of the Zoning Ordinance.

Ms. Gallt said that the applicant was requesting a waiver to Article 26-5 of the Zoning Ordinance based on hardship. The staff is recommending approval of a waiver to a minimum of a 12% tree canopy, for the following reason:

1. Requiring the full twenty percent (20%) canopy requirement would constitute an undue hardship to the property owner, because the site is completely developed and the improvements to the property create other constraints that cannot be avoided.

Representation – Jacob Walbourn, attorney along with Katie Pentecost-Lindeman, DLZ Kentucky, Inc., indicated that the applicant was in agreement with the staff's recommendation, and requested approval.

Commission Questions – Mr. Penn asked where the sidewalk would be located. Ms. Pentecost-Lindeman indicated that the safest location would be to place the sidewalk on the subject property connecting with the existing sidewalk on Harry Sykes Way. Mr. Penn then asked if the sidewalk would connect to the other side of the subject property. Ms. Pentecost-Lindeman indicated that they could create a connection leading to the other side of the subject property, but it would be a sidewalk leading to nowhere until the adjacent property redevelops.

Mr. Penn said that there is a concern with the sidewalk not aligning properly after the curb and gutters are installed on Red Mile Road. He then said "what good is a sidewalk if it does not line up properly" and he wanted some type of assurance the sidewalks will be done correctly. Mr. Walbourn said that they cannot predict the location of the future sidewalk since there are no other redevelopments approved on Red Mile Road. He then said that they are agreeing to install a portion of the sidewalk up to the elevation change.

Mr. Penn said that his intentions were to have this conversation reflected on the record. Mr. Walbourn replied absolutely.

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

Action - A motion was made by Mr. Wilson, seconded by Mr. Brewer, carried 9-0 (Bell and Pohl absent) to approve the waiver to Article 26-5 of the Zoning Ordinance requiring a minimum of a 12% tree canopy pertaining to **PLN-MJDP-19-00053: LEXINGTON SUPERDOME (CENTRAL EQUIPMENT) (AMD)**.

Action - A motion was made by Mr. Wilson, seconded by Mr. Brewer, carried 9-0 (Bell and Pohl absent) to approve **PLN-MJDP-19-00053: LEXINGTON SUPERDOME (CENTRAL EQUIPMENT) (AMD)**, as recommended by the staff.

- b. **PLN-MJDP-19-00061: STONEWALL SHOPPING CENTER (AMD) (1/6/20)*** - located at 3197 CLAYS MILL RD., LEXINGTON, KY.
Council District 9
Project Contact: Banks Engineering

Note: The purpose of this amendment is to update the existing tree canopy that removed approved TPA.

The Subdivision Committee Recommends: Postponement. There are questions regarding the location of trees and possible connection to the adjacent property.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.

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

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. Depict boundaries with a solid dark line and adjacent property with a dashed lines.
10. Addition of 2 foot contour elevations.
11. Correct Planning Commission's approval date.
12. Remove hatching off plan face.
13. Clarify dimension of access point to Wellington Way.
14. Clarify easement locations.
15. Remove tanks from plan face.
16. Clarify location of street cross-section on plan face for Wellington Way.
17. Discuss connectivity with adjacent property to the north.
18. Discuss need for waiver of tree canopy requirements.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
- ~~9. Depict boundaries with a solid dark line and adjacent property with a dashed lines.~~
9. 10. Addition of 2 foot contour elevations.
- ~~11. Correct Planning Commission's approval date.~~
- ~~12. Remove hatching off plan face.~~
- ~~13. Clarify dimension of access point to Wellington Way.~~
- ~~14. Clarify easement locations.~~
- ~~15. Remove tanks from plan face.~~
- ~~16. Clarify location of street cross section on plan face for Wellington Way.~~
- ~~17. Discuss connectivity with adjacent property to the north.~~
- ~~18. Discuss need for waiver of tree canopy requirements.~~

Representation – Greg Smorstad, Banks Engineering, indicated that the applicant was in agreement with the staff's recommendation, and requested approval.

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

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson, carried 9-0 (Bell and Pohl absent) to approve **PLN-MJDP-19-00061: STONEWALL SHOPPING CENTER (AMD)**, as recommended by the staff.

4. **MINOR DEVELOPMENT PLAN**

- a. **PLN-MNDP-19-00020: FAYETTE COMMONS (MOE'S & BURGERFI) (AMD) (11/14/19)*** - located at 135 ROJAY DR., LEXINGTON, KY.
Council District 9
Project Contact: Ingenium Enterprises, Inc.

Note: The staff is referring this minor development plan to the Planning Commission for the approval of the drive-through in a B-6P (Planned Shopping Center) zone.

The Subdivision Committee Recommends: **Postponement**. There are questions regarding the drive-through depicted on the minor 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 and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.

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

7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

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 conditions on today's agenda.

Commission Questions – Mr. Owens said that the agenda indicates the staff is recommending postponement. Ms. Gallt said that the applicant was not present at the Subdivision Committee meeting, which led to the postponement recommendation by the Committee.

Mr. Owens said that this item was postponed, not for any discussion items, but rather because the applicant was not present at the Subdivision Committee meeting. Ms. Gallt confirmed his statement.

Representation – Jeremy Pettit, Ingenium Enterprises, Inc., apologized for no one being at the Subdivision Committee meeting. He indicated that the applicant was in agreement with the staff's recommendation, and requested approval.

Commission Questions – Ms. Mundy indicated that she does not remember seeing the drive-through and asked if there is appropriate stacking around the building. Mr. Pettit replied affirmatively and said that they are providing stacking for 8 to 9 vehicles.

Mr. Penn asked if Traffic Engineering had reviewed the application and was agreeable to the applicant's request. Mr. Stephen Parker indicated his agreement from the back of the Council Chambers. Ms. Wade said, for the record Mr. Parker indicated that the proposed change was approvable since the applicant is providing 8 to 9 spaces for stacking. She indicated that the Zoning Ordinance requires 5 spaces behind the order point and the applicant has exceeded that requirement.

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

Commission Discussion – Ms. Plumlee indicated that she was opposed to the drive-through because this area is already congested with different types of uses. She does not believe a drive-through would be appropriate for this area.

Mr. Penn said that this type of discussion does not normally take place at the Planning Commission meeting, but rather it should take place at the Subdivision Committee meeting.

Action - A motion was made by Ms. Plumlee to continue **PLN-MNDP-19-00020: FAYETTE COMMONS (MOE'S & BURGERFI) (AMD)** to the December 12, 2019, meeting.

The motion failed due to the lack of a second.

Ms. Wade indicated that, if the Commission should continue this item, the staff would need more information on what the Commission wants to know so the staff can prepare for the next meeting. However, with the lack of a second the motion fails.

Mr. Penn said that this discussion should not be extended longer than necessary, and had the Subdivision Committee had all of the information this may have turned out differently. He recommended this item be postponed in order for it to be presented to the Subdivision Committee at their December 5th meeting.

Action - A motion was made by Mr. Penn, seconded by Mr. Wilson, to postpone **PLN-MNDP-19-00020: FAYETTE COMMONS (MOE'S & BURGERFI) (AMD)** to the December 12, 2019, meeting.

Law Department – Ms. Jones said that the deadline for the Planning Commission to hear this item was today so the applicant would need to agree to the postponement request. Mr. Owens said that the applicant was not present at the Subdivision Committee, and asked if the drive-through was discussed at the Committee meeting. He said that, since this item was not vetted at the Subdivision Committee meeting, he asked if the applicant would be agreeable to the postponement recommendation. Mr. Pettit replied affirmatively.

Staff Comment – Mr. Martin explained that the applicant and staff had a pre-application meeting to discuss the proposed changes, at which time, the plan was deemed to be acceptable as a minor development plan. Subsequently, when the development plan was filed, the fees were paid and the plan was accepted by the staff, all indications were it was a minor development plan. However, when the mylar was submitted for certification, a new drive-through facility was depicted on the property. The staff informed the applicant that they had no discussions on the drive-through and under the B-6P zone provisions of the Zoning Ordinance, the Planning Commission must approve the drive-through. He then said that the staff presented the minor development plan, as a staff item, to the Subdivision Committee and Traffic Engineering had verified that the stacking would work.

Mr. Martin said that there is a process, but with the applicant being from out of town this sort of thing does happen. In the past, the Planning Commission has seen this type of request, but the staff does not anticipate any other changes on the development plan that would merit a second review by the Subdivision Committee.

Mr. Owens said that he understood, but there is a concern regarding the drive-through not being reviewed by the Subdivision Committee.

Mr. Penn said that the Subdivision Committee was in error because they did not discuss this request due to lack of representation. He asked if the drive-through made the filing a major or minor development plan. Mr. Martin explained that the application was filed as a minor development plan, but the drive-through changed the type of filing to a major development plan.

Mr. Owens said that with a normal filing the Planning Commission has 90 days to take action. He asked what is the difference with this application. Mr. Martin explained that since the application was filed as a minor development plan the deadline to take action depends on when the minor was filed.

Mr. Owens then asked since this is now considered a major development plan what is the timeframe for the Commission to take action. Mr. Martin said that had the development plan been filed as a major development it would follow the same timeline as the other major development plans.

Mr. Pettit said that he was available to answer any questions regarding stacking and the drive-through.

Mr. Owens said that the Commission can postpone this item for one-month so it can be reviewed by the Subdivision Committee. Mr. Pettit indicated that he was agreeable to postponing this item.

Mr. Owens said that the motion to continue this item failed due to the lack of a second. Now there is a motion on the floor to postpone this item for one-month. Ms. Jones said that if the Commission postpones this item for one month then the discussions start over, but if it is continued then the discussions start where it left off.

Mr. Owens suggested that the motion on the floor remains.

Mr. Wilson comment was inaudible due to not using the microphone.

Mr. Owens said that this item would be postponed to the December 12th meeting, and he would expect to see the applicant at the Subdivision Committee meeting.

The motion to postpone **PLN-MNDP-19-00020: FAYETTE COMMONS (MOE'S & BURGERFI) (AMD)** carried 6-3 (Nicol, de Movellan and Forester opposed; Bell and Pohl absent).

Mr. Wilson said that the reason **PLN-MJDP-19-00020** was postponed was for the purposes of the process. He said that he does not know what additional information the Subdivision Committee will receive that was not given at this time. He asked what the Subdivision Committee will do other than review what was presented to the Commission. Mr. Penn said that this will give time for the Committee to sit down with Traffic Engineering to discuss how the stacking around the building will work within this congested area. The Subdivision Committee did not talk about how this area was congested and how the drive-through could impact the area. Mr. Wilson said that Traffic Engineering has already indicated that the stacking was fine around the building, and questioned what else would be resolved.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Ms. Mundy, seconded by Mr. Penn, and carried 9-0 (Bell and Pohl absent) to approve the release and call of bonds as detailed in the memorandum dated November 14, 2019, from Barry Brock, Division of Engineering. (A copy of the Performance Bonds and Letters of Credit is attached as an appendix to these minutes).

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

- a. **PLN-CELL-19-00001: AT&T JACOBSON PARK (WIRELESS COMMUNICATIONS FACILITY)** - an application for a 195-foot cellular tower with a 4-foot lightning arrestor located at 4601 Athens Boonesboro Road.

Staff Presentation - Mr. Martin directed the Commission's attention to the cellular tower application, and briefly explained the proposed request. He said that in considering the relationship of the application to Article 25: Telecommunication Towers, the staff finds the following:

1. There is no FEMA floodplain on the property.
2. The property has no specific areas that are obviously geologic hazard areas and that must be avoided. The topography of the property where the tower is proposed is generally level to gently sloping. The tower will be located on the highest point of the property, where it will provide the best service to users in the area.

3. The site is not within 1,200 feet of an historic district or landmark.
4. The adjoining streets are not State-designated Scenic Byways. Athens Boonesboro Road is considered a scenic corridor, but that designation begins well beyond the subject property, several miles to the east.
5. The requirement that the accessory structures meet the required 25-foot distance from any adjoining residential zone or properties used for residential purposes is being met. The nearest property being used for residential purposes is to the northwest of the proposed lease area, and the residence is over 500 feet from the proposed leased area.
6. There is adequate space for the required fence and landscaping between the perimeter of the equipment compound and the property boundary. The applicant has indicated the willingness to screen the proposed tower to meet Article 25 requirements, which is a 5-foot landscape easement around the tower and equipment area with the appropriate plant material, as well as a privacy fence if a hedge is not used. These are in addition to the security fence.
7. The proposed tower will be a steel monopole, which has a relatively low profile, and is permitted in all zones. The tower will be constructed and situated on the property in the most logical, serviceable and service-providing location possible. This location was found to be the least obtrusive to the most properties.
8. The proposal to construct a new tower is for the purpose of providing and/or augmenting service in the area. Its ability to be expanded in the future, if necessary, is to allow co-location, thereby eliminating the need for additional towers in the area, which is encouraged by the Zoning Ordinance.

Mr. Martin said that the staff recommends approval. The proposed tower exceeds the required yard setbacks. Additionally, it meets the remaining locational requirements of Article 25. Due to the topography of the property, the proposed location for the tower is the most logical and least obtrusive to the surrounding uses. An effort has been made by the applicant to provide a tower in the least disruptive way possible on the property and in the general area, while providing a level of service that meets the needs of both the applicant(s) and the public. This complies with the 2018 Comprehensive Plan (Theme C, Goal #2.b and Theme D Support Policy 3) as it relates to maintaining a balance between urban and rural uses and support necessary expansion of wireless communications networks to create and maintain reliable service.

Mr. Martin then said that the following are conditions for approval:

1. The cellular tower shall be located as shown on the site layout and constructed as noted in the elevation drawings.
2. The proposed cellular tower shall meet all requirements of Article 25.
3. Any applicable permits (e.g., grading, building and/or occupancy) shall be obtained prior to construction from the appropriate divisions of the Lexington-Fayette Urban County Government.

Commission Questions – Mr. Owens asked if the schools were given notification of this proposal. Mr. Martin replied affirmatively and said that he had a phone message from one of the facility management employees for one of the schools.

Appellant's Presentation – David Pike and Stephen Lentz, attorneys, Sy Hanks, property owner, Mike Lewis, AT&T Frequency Design Engineer, Marshall Slagle, Planner, Glen Katz, Real Estate Appraisal and Consulting, William Grigsby, Professional Engineer were all present representing AT&T Mobility. Mr. Pike submitted a reference binder into the record and presented a PowerPoint presentation and gave a brief description of each section of the applicant's exhibit binder. (A copy of the Reference Binder and PowerPoint presentation is attached as an appendix to these minutes).

Mr. Pike indicated that Lexington deserves the best possible wireless service. AT&T Mobility can drastically improve service if the proposed tower is approved. The proposed facility is in compliance with all federal, state and local requirements.

Commission Questions – Mr. Wilson asked if there will be a day when cellular towers become obsolete and satellite phones would be utilized. Mr. Pike explains that he does not foresee the cellular ground base facilities being replaced with satellite facilities during his life time. It would take too many satellite systems to meet the current and future demand. In order for a satellite system to work, it would have to focus on an area that is no bigger than a couple of miles across on a continuous bases, which cannot be done. He indicated that his experience with satellite based systems includes no service, no texting, no data and it only works if that is the only system you have.

Mr. Penn asked if the demand for cellular service will outlive the life of the tower. Mr. Pike said that the need for new cellular towers will outlive him. Mr. Penn then asked how long was a lease agreement. Mr. Pike responded the lease agreements are structured for a minimum of 30 years with renewals every 5 years. He said that he has not yet seen a cellular tower be removed because the need is so critical and customers will not tolerate service interruptions.

Mr. Penn asked if any government-owned property was reviewed. Mr. Pike said that under state law the two public schools were not options for the cellular tower. Mr. Penn then asked if Jacobson Park was an option. Mr. Pike indicated that the park was not within the search area.

Mr. Penn asked why the Planning Commission was reviewing this application if they cannot do anything. Mr. Pike referred the question the Law Department, but said that the Planning Commission must evaluate if this proposal is in compliance with all federal, state and local requirements.

Citizen comments – There were none.

Commission Questions – Ms. Plumlee asked if the health concerns for the children could be discussed. Mr. Pike responded no, they cannot discuss that topic because it is a violation of federal and state law. However, he can say that this application

meets all FCC requirements. The failure to meet the FCC requirements will result in the revocation of their license, which AT&T purchased for billions of dollars.

Ms. Mundy said that her family has a cellular tower on their West Virginia property. She explained that they get a monthly payment, but their lease is for 99 years, which has never been renegotiated, but the monthly payment has increased over time. She asked who will maintain the road to the proposed cellular tower. Mr. Pike replied that the applicant was obligated to maintain the road. Ms. Mundy confirmed that the applicants would maintain the road. Mr. Pike replied affirmatively. Ms. Mundy commented that her family has not been so lucky. Mr. Pike said that the lease agreements have changed over the years.

Mr. Wilson asked how many cellular towers are within the Urban Service Area boundary. Mr. Martin indicated that the staff does not have an exact number.

Mr. Wilson said that it was indicted that the Planning Commission cannot say anything about the design of the cellular tower, but there are stealth towers in the community. Mr. Martin replied that there are stealth towers, as well as antennas on top of existing structures and buildings. Mr. Wilson asked if the existing stealth towers were done by the applicant's choice, not at the request of the Planning Commission. Mr. Pike responded that the difficulty with stealth towers, is that the tower has to be short enough to be viable.

Mr. Wilson indicated that some of the designs, such as pineapple trees with nothing on it does not make sense, whereas the bell tower at the church on Tates Creek Road makes perfect sense.

Mr. de Movellan asked if the proposed cellular tower is shorter than a normal cellular tower and what is the minimum height for a tower. Mr. Pike said that their proposed cellular tower is as short as they can go to meet the coverage requirement. Mr. de Movellan asked how far from the ground can the cellular antenna be. Mr. Lewis, applicant's engineer, gave a briefly explanation. Mr. de Movellan asked if there were any restrictions as to how low the antenna can be placed above the ground. Mr. Pike said that there are no limitations, but the closer the antenna are to the ground, the less power that they are allowed to generate.

Mr. Owens asked if the Law Department was in agreement with Mr. Pike's testimony as to what the Planning Commission can or cannot do. Ms. Jones replied affirmatively.

Mr. Wilson indicated that the general public does not understand the Planning Commission's role when it comes to a cellular tower. He asked if there was a way to inform the people who are submitting their opposition that cellular tower applications are ministerial. Ms. Jones replied that cellular towers are similar to a Public Facilities Review, and the Planning Commission is charged with reviewing the application to ensure the application complies with the Comprehensive Plan. However, the Planning Commission does not have any say so on the final decision because cellular towers are controlled by the Federal Communication Commission (FCC). She explained that it would be difficult to explain to the public, but the easiest way to explain cellular towers is that towers are not strictly governed by Kentucky Revised Statutes (KRS) like the other zoning decisions, cellular towers also have to meet the aspect of the Federal Communications Act, which trumps everything.

Mr. Wilson said that the Planning Commission is in the business of public relations, and when a cellular tower application is approved, the people look at the Commission as if they have done something wrong. He asked if some type of response can be given to the people or schools who send letters to the Commission. Mr. Duncan replied that this is only cellular tower application this year, but every month there are zone change request submitted. The public has a hard time understanding the process and there is an ongoing challenge to make sure the process that the Planning Commission is overseeing are communicated to the public. The staff will continue to look for ways to inform the public so there is an understanding.

Mr. Penn said that the Planning Commission was the conduit for the public to know about these types of applications and the hearings give them the opportunity to come down to speak about their concerns.

Mr. Owens said that he will not say these type of applications are ministerial, and the Planning Commission does have the authority to decline an application. However, should the Commission choose to decline an application they must have very good reasons in doing so.

Action - A motion was made by Mr. Wilson, seconded by Mr. de Movellan, carried 9-0 (Bell and Pohl absent) to approve **PLN-CELL-19-00001: AT&T JACOBSON PARK (WIRELESS COMMUNICATIONS FACILITY)**, as recommended by the staff.

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

- a. **ARTICLE 4-5(B) IMPROVEMENT PLAN PROGRESS REPORT** - There were none.
- b. **SRA 2019-2: AMENDMENT TO ARTICLES 1 & 6: STUB STREETS** – to update Article 1 and Article 6 of the LFUGG Subdivision Regulations regarding the definition of a "stub street sign" and the location and responsibility for such signs.

The Subdivision Committee recommended approval.

The Staff Recommends: Approval of the Staff Alternative Text, for the following reasons:

1. The proposed amendment to Article 1 of the Land Subdivision Regulations will provide a specific definition of a stub street sign.
2. The proposed amendment to Article 6 will clearly define the requirements for signage design and installation, and specify the timing for the transfer of maintenance responsibility from the developer to the Urban County Government.
3. The proposed text amendment will work to maximize the efficiency of the street network by ensuring proper access for services (Theme A, Design Policy #2) and by supporting planned street connections (Theme A, Design Policy #13). These goals and policies can be shared with the general public by the placement of appropriate signage within the community.

Staff Presentation - Mr. Stuart Kearns directed the Commission's attention to a PowerPoint presentation and briefly explained the proposed text amendment to Articles 1 and 6 of the Land Subdivision Regulations. (A copy of the staff report is attached as an appendix to these minutes).

Mr. Kearns indicated that with the adoption of the 2018 Comprehensive Plan, the LFUCG Planning Commission initiated an amendment to Articles 1 and 6 of the Land Subdivision Regulations regarding the definition of a "stub street sign" and the location and responsibility for such signs. The intent of the text amendment was to inform the general public that stub streets are planned for future connections. This would be communicated through a sign that the developer would be required to install at the end of each stub street and should the general public have any questions, they would be able to contact LexCall 311 to get in touch with the planning staff.

Mr. Kerns said that the staff was then contacted by the Division of Traffic Engineering requesting a revision to the same text in Article 6. He then said that Traffic Engineering requested the developer be responsible for the installation and maintenance of street name, traffic control signage and all of the other signs that would be needed for that development.

Mr. Kearns explained that the text amendment would include the following new definition in Article 1:

1-14 DEFINITION OF WORDS

STUB STREET SIGN - a sign at the terminus of each stub street, which shall identify the street as a planned future connection. The size and format for the sign shall be as specified by the Division of Traffic Engineering

Mr. Kearns then explained that the text amendment would update the current text for street name signs and revised it to the following:

STREET NAME /STUB STREET SIGNAGE - Street name signs, stub street signs, and all other required traffic control signage shall be provided, installed and maintained by the developer as required the Division of Traffic Engineering prior to plat recordings. Signage shall be in compliance with all requirements of the Manual On Uniform Traffic Control Devices (MUTCD) and LFUCG Traffic Engineering guidelines. All signage shall be maintained in a proper fashion by the developer until the final asphalt surface has been applied and written notification of pavement installation is given to the Urban County Traffic Engineer.

Mr. Kearns said that the staff was recommending Approval of the Staff Alternative Text, for the following reasons:

1. The proposed amendment to Article 1 of the Land Subdivision Regulations will provide a specific definition of a stub street sign.
2. The proposed amendment to Article 6 will clearly define the requirements for signage design and installation, and specify the timing for the transfer of maintenance responsibility from the developer to the Urban County Government.
3. The proposed text amendment will work to maximize the efficiency of the street network by ensuring proper access for services (Theme A, Design Policy #2) and by supporting planned street connections (Theme A, Design Policy #13). These goals and policies can be shared with the general public by the placement of appropriate signage within the community.

Action - A motion was made by Ms. Plumlee, seconded by Mr. Forester, carried 9-0 (Bell and Pohl absent) to approve SRA 2019-2: AMENDMENT TO ARTICLES 1 & 6: STUB STREETS, as recommended by the staff.

- c. THANKSGIVING HOLIDAY – Mr. Duncan reminded the Commission members that due to the Thanksgiving Holiday the next scheduled meeting would be for the Planning Commission's Zoning Items and it would be held in the Council Chambers.

VII. AUDIENCE ITEMS – There was none.

VIII. NEXT MEETING DATES

Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	November 21, 2019
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 27, 2019
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 5, 2019
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	December 5, 2019
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 12, 2019

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

- X. **ADJOURNMENT** - There being no further business, the Chair adjourned the meeting at 3:34 PM.

Mike Owens, Chair

Karen Mundy, Secretary

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