

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

March 11, 2021

- I. **CALL TO ORDER** - Due to the COVID-19 pandemic, state of emergency and Governor Beshear's Executive Orders regarding social distancing, this meeting was held via teleconference pursuant to Senate Bill 150 (as signed by the Governor on March 30, 2020) and Attorney General Opinion 20-05, and in accordance with KRS 61.826, because it was not feasible to offer a primary physical location for the meeting.
- II. **ATTENDANCE** – Chair Larry Forester called the meeting to order at 1:30 p.m. **via video teleconference** from the Division of Planning, 7th Floor, 101 E. Vine Street, Lexington, KY 40507. Planning Commission Members present **via video teleconference** were: Ivy Barksdale, Headley Bell, Zach Davis, Anthony de Movellan, Larry Forester, Janice Meyer, Bruce Nicol, Frank Penn, Carolyn Plumlee, Graham Pohl, and Bill Wilson. Planning staff members present **via video teleconference** were Jim Duncan, Director; Traci Wade, Tom Martin, Hal Baillie, Cheryl Gallt, Lauren Hedge, Samantha Castro, Stephanie Cunningham, Donna Lewis, and Kenna Johnson. Other staff members present were: Stephen Parker, Division of Traffic Engineering; Vaughan Adkins, Division of Engineering; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire and Emergency Services; Bettie Kerr and Amelia Armstrong, Division of Historic Preservation; and Tracy Jones, Department of Law.
- III. **APPROVAL OF MINUTES** – None at this time.
- IV. **POSTPONEMENTS OR WITHDRAWALS**

- a. **PLN-MJDP-20-00057: GRIFFIN GATE OFFICE PARK (AMD) (2/11/21)*** - located at 1390 OLIVIA LN., LEXINGTON, KY.
Council District 2
Project Contact: Earthcycle Design

Note: The Planning Commission postponed this item at their October 8, 2020, November 12, 2020, December 10, 2020, January 14, 2021, and February 25, 2021, meetings. The purpose of this amendment is to add access to Citation Boulevard and add storage buildings.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding meeting the required parking in the zone and the proposed "storage building" in the professional office zone. The applicant submitted a revised plan on January 21, 2021, that addressed the staff's concerns about the accessory storage building; however, concerns remain about the ability to meet the required parking on the site. The applicant submitted another revision on February 1, 2021, but there are concerns about access to Citation Boulevard.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. United States Postal Service Office's approval of kiosk locations or easement.
10. Addition of landscape buffer.
11. Denote date of review by the Royal Springs Aquifer Water Supply Protection Committee.
12. Discuss access to Citation Blvd.

Applicant Representation: Scott Southall, Earthcycle Design, requested a one-month postponement to allow the applicant time to continue working with the Divisions of Engineering and Traffic Engineering on the access issues.

Action: A motion was made by Mr. Wilson, seconded by Ms. Plumlee, and carried 11-0 to postpone **PLN-MJDP-20-00057: GRIFFIN GATE OFFICE PARK (AMD)** to the April 8, 2021, meeting.

- b. **PLN-MJDP-20-00067: SPRING LAKE (3/11/21)*** - located at 2300 SANDERSVILLE RD., LEXINGTON, KY.
Council District 2
Project Contact: EA Partners, PLC

Note: The Planning Commission postponed this item at their October 8, 2020, November 12, 2020, December 10, 2020, and January 14, 2021, meetings.

Note: The applicant submitted a revised plan on March 1, 2021. The revised final development plan addressed the impact of a private cemetery that was discovered on the property after the initial filing in October, 2020. The revised plan addressed several of the staff's original concerns, but also diminished access and visibility to the planned greenway.

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

The Subdivision Committee Recommended: **Postponement**. There were concerns about access and visibility of the greenway.

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 and 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. Dimension accessory buildings and pools within the multi-family apartment area.
14. Denote timing of construction of street infrastructure.
15. Provided the Planning Commission grants the requested waivers.
16. Denote 6' sidewalks along Greendale Road in cross-section A-A.
17. Denote location of street trees in cross-section F-F.
18. Extend cross-section D-D along primary roadway/single-loaded street adjacent to the cemetery.
19. Denote proposed access easement to cemetery.
20. Discuss driveway access to primary roadway/single-loaded street.
21. Discuss documentation (exhibit) for compliance with Multi-Family Design Standards.
22. Discuss proximity to Sandersville Road entrance intersection for Lots 319 & 320.
23. Discuss a physical delineation between the greenway and the adjacent single-family lots.
24. Discuss pedestrian access to greenway between Lots 304 & 305 and 317 & 318.
25. Discuss width of entrance road in cross-section F-F.
26. Discuss traffic calming along primary roadway/single-loaded street.
27. Discuss significant changes from the preliminary development plan.

Applicant Representation: Nick Nicholson, attorney, requested a one-month postponement to allow the applicant to continue working on the lots proposed along the single-loaded street.

Action: A motion was made by Ms. Plumlee, seconded by Mr. Wilson, and carried 11-0 to postpone PLN-MJDP-20-00067: SPRING LAKE to the April 8, 2021, meeting.

- V. **LAND SUBDIVISION ITEMS** – The Subdivision Committee met on Thursday, March 4, 2021, at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Headley Bell, Anthony de Movellan, Jan Meyer, Frank Penn, and Carolyn Plumlee. Committee members in attendance were: Vaughan Adkins, Division of Engineering; and Stephen Parker, Division of Traffic Engineering. Staff members in attendance were: Jim Duncan, Traci Wade; Tom Martin; Hal Baillie; Cheryl Gallt; Lauren Hedge; Scott Thompson; Jimmy Emmons; Samantha Castro; Kenna Johnson; and Stephanie Cunningham; Captain Greg Lengal, Kristan Curry, Department of Environmental Quality and Public Works; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following notes automatically apply to all plans listed on this docket (unless a waiver of any section is granted by the Planning Commission).

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

- A. **NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria: (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
(2) the Petitioner agrees with the Subdivision Committee recommendation and 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.

Ms. Wade announced the following agenda items appearing on the consent agenda:

- a. PLN-MJDP-20-00084: ETHINGTON & ETHINGTON PROPERTY, TRACT 1, LOTS 2 - 4 (AMD) (4/4/21)* - located at 4235 HARRODSBURG RD., LEXINGTON, KY.
Council District 10

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

Project Contact: Vision Engineering

Note: The Planning Commission postponed this item at their meeting on February 25, 2021.

Note: The purpose of this amendment is to revise lot layout with revised building square footage and vehicular circulation on Lots 2 – 4.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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 and 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. Addition of lot numbers associated with amendment in the title block.
12. Update adjacent Lot 1 information to reflect certified Final Development Plan (PLN-MJDP-18-00030).

- b. PLN-MJDP-21-00001: MAN O WAR DEVELOPMENT, UNIT 2-A, LOT A-19 (AMD) (5/2/21)* - located at 1920 & 1936 BRYANT RD. & 1925 JUSTICE DR., LEXINGTON, KY.
Council District 6
Project Contact: Barrett Partners, Inc.

Note: The purpose of this amendment is to add 800 building square footage and revise parking.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. United States Postal Service Office's approval of kiosk locations or easement.
7. Addition of name and address of developer.
8. Addition of metes and bounds of property.
9. Dimension access point with Lot A-21.
10. Darken text on street cross-sections.
11. Denote location of street cross-sections on plan face.
12. Correct note #8 referencing "Chapter 16 of the Code of Ordinances."
13. Denote breakdown for seating on Lot A-19 indoor/outdoor.
14. Denote site statistics with new layout.

- c. PLN-MJDP-21-00002: MANCHESTER DEVELOPMENT, LLC (DISTILLERY DISTRICT EAST, UNIT 1) (AMD) (5/2/21)* - located at 941 MANCHESTER ST., LEXINGTON, KY.
Council District 2
Project Contact: Barrett Partners, Inc.

Note: This plan requires the posting of a sign and an affidavit of such.

Note: The purpose of this amendment is to add five rooms to the hotel.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Division of Waste Management's approval of refuse collection locations.
5. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
6. United States Postal Service Office's approval of kiosk locations or easement.
7. Denote that the Board of Adjustment granted a variance to the height requirement for 941 Manchester Street on 3/9/2020 (PLN-BOA-20-00013).

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

- d. PLN-MJDP-20-00064: BEAUMONT FARM, UNIT 1, SECTION 5, LOTS 9 & 10 – located at 960 & 980 MIDNIGHT PASS, LEXINGTON, KY
Council District 1
Project Contact: Vision Engineering

Note: The Planning Commission approved this plan at their November 12, 2020, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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 and 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. Update utility contact information and remove public (LFUCG) services.
14. Resolve location of parking spaces adjacent to northeast entrance to property and width of access.
15. Resolve quantity of compact parking spaces, per Article 16-2 of the Zoning Ordinance.

Note: The applicant is now requesting a continued discussion to add building square footage and revise the parking layout.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and 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. United States Postal Service Office's approval of kiosk locations or easement.
12. Resolve location of parking spaces adjacent to northeast entrance to property and width of access.
13. Clarify breakdown of parking spaces in site statistics.
14. Document open space provided with square footage breakdown exhibit.

- e. PLN-MJDP-20-00073: LIBERTY ROAD SERVICE CENTER – located at 1833, 1837 & 1865 LIBERTY RD., LEXINGTON, KY.
Council District 5
Project Contact: Vision Engineering

Note: The Planning Commission approved this plan at their December 10, 2020, meeting, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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 and 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. United States Postal Service Office's approval of kiosk locations or easement.
12. Addition of property boundaries in solid dark lines.

13. Resolve location of pedestrian doors and overhead doors to verify compliance with Article 8-21(o) of the Zoning Ordinance.
14. Resolve stormwater management plan and delete note #7.

Note: The applicant is now requesting a continued discussion to add building square footage and revise parking layout and circulation.

The Subdivision Committee Recommended: Approval, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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 and 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. United States Postal Service Office's approval of kiosk locations or easement.
12. Correct title to "Office/Warehouse Mixed-Use Project."
13. Remove "maximum lot coverage" from site statistics.
14. Resolve stormwater management plan and delete note #7.
15. Resolve parking and dumpster near access at Liberty Road.

Ms. Wade stated that PLN-MJDP-21-00004: ATKINS PROPERTY, LOT 1A & 1B (AMD) was requested by the applicant to have a full presentation by staff and consideration by the Planning Commission.

Ms. Wade indicated that the items listed on the Consent Agenda 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 requests for full discussion – Mr. Bell stated that he would like to have a full discussion on PLN-MJDP-20-00084: ETHINGTON & ETHINGTON PROPERTY, TRACT 1, LOTS 2 – 4 (AMD), because he had concerns about traffic conflicts in the area of the proposed Chick-Fil-A restaurant.

Action: A motion was made by Mr. Pohl, seconded by Mr. Penn, and carried 11-0 to approve the items listed on the agenda, with the exception of PLN-MJDP-20-00084: ETHINGTON & ETHINGTON PROPERTY, TRACT 1, LOTS 2 – 4 (AMD) and PLN-MJDP-21-00004: ATKINS PROPERTY, LOT 1A & 1B (AMD), or as presented by the staff, including the appropriate findings.

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

The procedure for these hearings is as follows:

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

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

1. FINAL RECORD PLAT

- a. PLN-FRP-20-00048: LEXINGTON MALL PROPERTY (PLANET FITNESS LEXINGTON RICHMOND ROAD) (AMD)
– located at 2397 RICHMOND RD., LEXINGTON, KY.
Council District 5

Project Contact: Endris Engineering

Note: This item was approved on September 23, 2020, 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.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Correct Note #2 to include Article 18 of the Zoning Ordinance.
10. Discuss Note #1 regarding reciprocal parking and access in relation to the submitted Final Development Plan.
11. Discuss pedestrian improvements along Life Lane (access easement to E. New Circle Road).

Note: The applicant is now requesting a continued discussion for a waiver for substantial completion to Article 4-8 of the Land Subdivision Regulations.

Staff Presentation: Ms. Gallt directed the Commission's attention to the development plan, and briefly explained the proposed request. She indicated that the applicant was seeking reapproval in order to request a waiver to the completion of the public improvements on the property, so that the plat could be recorded and the improvements constructed as the property is developed. Ms. Gallt noted that the two discussion items had been or were being resolved as part of the final development plan for the property.

Applicant Representation: Kevin Phillips, Endris Engineering, indicated that the requested waiver would allow the applicant to complete the approximately 85 feet of sanitary sewer on the property at the time of the other improvements. He noted that the applicant had submitted a plan that addressed the two discussion items, and asked that those be changed to "resolve."

Citizen Comments: There were no citizens present on the teleconference who wished to speak to this request.

Action: A motion was made by Mr. Penn, seconded by Mr. de Movellan, and carried 10-0 to approve PLN-FRP-20-00048: LEXINGTON MALL PROPERTY (PLANET FITNESS LEXINGTON RICHMOND ROAD) (AMD), along with the requested waiver, for the reasons provided by staff, subject to the first nine conditions as listed, changing #10 and #11 to "resolve."

2. DEVELOPMENT PLANS

- a. PLN-MJDP-20-00078: GESS PROPERTY, UNIT 8, PHASE 3 (AMD) (3/11/21)* - located at 4105 SPERLING DR., LEXINGTON, KY.
Council District 7
Project Contact: EA Partners, PLC

Note: The Planning Commission postponed this item at their January 14, 2021 meeting.

Note: The purpose of this amendment is to depict development of Phase 3; revise the site statistics; omit Notes #13, #14, and #16, and revise Note #20.

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

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 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 and Pedestrian Planner's approval of treatment of greenways and greenspaces.
8. Greenspace Planner's approval of bike trails and pedestrian facilities.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Provided the Planning Commission makes a finding the plan complies with the Expansion Area Master Plan (EAMP).
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Addition of legend denoting different line types (floodplain, Special Design Area, etc.) to improve legibility.
14. Exactions to the approval of the Division of Planning.
15. Resolve 60% open space requirement in Special Design Area.

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

Staff Presentation: Ms. Hedge directed the Commission's attention to the development plan, and briefly explained the proposed request. She noted, with regard to condition #15, that the applicant had provided an open space exhibit depicting the portion of the proposed development that is located within the Special Design Area. That portion of the development was determined to be in compliance with the open space requirement, since it totaled only 21% of the Special Design Area.

EAMP Compliance Report: Mr. Martin presented the required staff report on compliance with the Expansion Area Master Plan (EAMP), briefly explaining the required elements and how the proposed development meets them. He indicated that the staff did find this request to be in compliance with the EAMP.

Commission Questions: Mr. Penn asked if the portion of the development zoned CC was smaller than the residential area, which Mr. Martin answered affirmatively. Mr. Penn asked if CC was the appropriate zone for this property, given the large amount of residential area. Mr. Martin answered that the proposed development meets the intent of the EAMP, noting that the small size of the CC area might have made it less economically viable.

Mr. Pohl asked where the EAMP architectural standards were listed. Mr. Martin responded that the standards are part of Article 23 of the Zoning Ordinance, and are related mostly to facades, windows, and other similar elements. Mr. Pohl stated that he found one of the standard related to roof pitch to be objectionable, and asked what it would take to change it. Mr. Martin answered that it could be changed via a text amendment.

Applicant Representation: Nick Nicholson, attorney, stated that the applicant was in agreement with the staff's recommendations. He noted, with regard to Mr. Penn's question, that the neighborhood objected to most of the commercial developments proposed at the time of the zone change for this property, so the applicant decided to focus on mostly residential use.

Citizen Comments: There were no citizens present on the teleconference who wished to speak to this request.

Action: A motion was made by Mr. de Movellan, seconded by Mr. Bell, and carried 11-0 to approve PLN-MJDP-20-00078: GESS PROPERTY, UNIT 8, PHASE 3 (AMD), accepting the EAMP compliance report, and subject to the 15 conditions as listed on the agenda.

Commission Comment: Ms. Plumlee indicated her agreement with Mr. Pohl's suggestion for a text amendment to update the EAMP architectural standards.

- b. PLN-MJDP-20-00080: HAYNES BROTHERS PROPERTIES, LLC (3/11/21)* - located at 840 ANGLIANA AVE., LEXINGTON, KY.
Council District 3
Project Contact: Vision Engineering

Note: The Planning Commission postponed this item at their January 14, 2021, meeting.

Note: The purpose of this plan is to depict development of the property.

The Subdivision Committee Recommended: Postponement. There are questions regarding significant changes from the preliminary development plan and compliance with Article 15-7 of the Zoning Ordinance and the Multi-Family Design Guidelines.

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 and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Denote width of proposed easements.
13. Denote compliance with requirements of Article 15-7 regarding infill and redevelopment multi-family construction.
14. Discuss documentation (exhibit) for compliance with Multi-Family Design Standards.
 - Discuss buffering in rear of townhouses, per design criteria A-DS7-2.
 - Discuss removal of underground detention/bio-swales, per design criteria B-SU11-1.
 - Discuss proximity of townhouse end units to dumpsters.
15. Discuss detention and water quality compliance.

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

16. Discuss internal pedestrian circulation.
17. Discuss significant changes from the preliminary development plan.

Staff Presentation: Ms. Hedge directed the Commission's attention to the development plan, and briefly explained the proposed request. She stated that, following a plan revision and discussions with staff, the applicant had addressed the discussion items. Ms. Hedge stated that the staff could now recommend 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 and Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Denote width of proposed water and stormsewer easements.
13. Denote compliance with requirements of Article 15-7 regarding infill and redevelopment multi-family construction.
14. Provide documentation (exhibit) for compliance with Multi-Family Design Standards.
 - Resolve buffering in rear of townhouses, per design criteria A-DS7-2.
 - Discuss removal of underground detention/bio-swales, per design criteria B-SU11-1.
 - Resolve proximity of townhouse end units to dumpsters.
15. Discuss detention and water quality compliance.
16. Resolve internal pedestrian circulation.
17. Resolve significant changes from the preliminary development plan.

Applicant Representation: Jihad Hallany, Vision Engineering, stated that the applicant was in agreement with the staff's recommendations. With regard to condition #14, he explained that, in redevelopment situations, the Stormwater Manuals allow for a reduction in detention area if the amount of proposed impervious surface is less than the existing condition on the site.

Citizen Comments – There were no citizens present on the teleconference who wished to speak to this request.

Commission Comments: Mr. Penn stated that he would like to compliment the applicant on their redesign of the proposed development, since there were significant concerns about this plan at the Subdivision Committee meeting.

Ms. Plumlee asked if staff from the Division of Engineering could comment on the proposed changes to the stormwater detention. Vaughan Adkins, Division of Engineering, stated that she was in agreement with the applicant's proposal, but they would need to provide documentation to support their statements, and comply with the Stormwater Manual.

Action: A motion was made by Mr. Bell, seconded by Mr. Pohl, and carried 11-0 to approve PLN-MJDP-20-00080: HAYNES BROTHERS PROPERTIES, LLC, subject to the 17 conditions as listed in the revised staff report.

- c. PLN-MJDP-20-00084: ETHINGTON & ETHINGTON PROPERTY, TRACT 1, LOTS 2 - 4 (AMD) (4/4/21)* - located at 4235 HARRODSBURG RD., LEXINGTON, KY.
Council District 10
Project Contact: Vision Engineering

Note: The Planning Commission postponed this item at their meeting on February 25, 2021.

Note: The purpose of this amendment is to revise lot layout with revised building square footage and vehicular circulation on Lots 2 – 4.

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

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

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

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. Addition of lot numbers associated with amendment in the title block.
12. Update adjacent Lot 1 information to reflect certified Final Development Plan (PLN-MJDP-18-00030).

Staff Presentation: Ms. Gallt directed the Commission's attention to the development plan, and briefly explained the proposed request. She noted that the applicant did not have a proposed tenant for the property at the time of the zone change, so no conditional zoning restrictions were imposed.

Commission Questions: Mr. Bell stated that he was concerned about the amount of traffic accessing a relatively short section of Madrone Way, since it also receives cars from the nearby day school. Ms. Gallt explained that Madrone Way is a collector street, so it was designed to handle traffic from the proposed development as well as the church.

Mr. Bell asked if the staff believed that Madrone Way could handle the traffic from Chick-Fil-A and South Elkhorn Christian Church. Mr. Martin answered that the staff is satisfied that the public street infrastructure is adequate, particularly since there are other access points in the area that can be used by drivers from the church. He noted that staff will have the option, as the property develops further, to limit the number of additional drive-through restaurants in order to manage traffic.

Applicant Representation: Matt Carter, Vision Engineering, explained that peak traffic at Chick-Fil-A is typically the lunch hour, while peak hours on Harrodsburg Road are during the morning and afternoon rush hours. With regard to Mr. Bell's concerns about conflicts with the church childcare, Mr. Carter noted that the childcare is limited to 29 students, so it should not generate a great deal of traffic. He added that, during the zone change process, the applicant's Traffic Impact Study included two potential fast-food restaurants on the property.

Citizen Comments: There were no citizens present on the teleconference who wished to speak to this request.

Action: A motion was made by Mr. Pohl, seconded by Mr. Wilson, and carried 11-0 to approve PLN-MJDP-20-00084: ETHINGTON & ETHINGTON PROPERTY, TRACT 1, LOTS 2 - 4 (AMD), subject to the 12 conditions as recommended by staff.

- d. PLN-MJDP-21-00003: NDC PROPERTY, UNIT 1-A, LOT 21 (JIFFY LUBE OIL CHANGE) (AMD) (5/2/21)* - located at 351 MEIJER WAY., LEXINGTON, KY.
Council District 9
Project Contact: Prism Engineering and Design Group, LLC

Note: The purpose of this amendment is to depict proposed building and parking on Lot 21G.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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 and 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 services 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. Correction of plan title in title block.
12. Clearly denote both owner and developer in title block.
13. Addition of topographical elevations, per Article 21 of the Zoning Ordinance.
14. Addition of entrance width dimensions.
15. Labeling of walkways for proposed building.
16. Addition of street cross-sections for Meijer Way and Ruccio Way.
17. Clarify use of southwest corner of property.
18. Addition of language regarding Chapter 16 of the Code of Ordinances to General Site Note 6.
19. Correction of language in Owner's Certification.
20. Addition of existing plan for overall B-6P development.
21. Addition of Purpose of Amendment note.
22. Discuss multi-modal requirements per Article 12-8(h) of the Zoning Ordinance.

Staff Presentation: Ms. Hedge directed the Commission's attention to the development plan, and briefly explained the proposed request. She explained that the applicant submitted a revised plan on March 9th that addressed most of the

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

staff's concerns. Based on that revision, Ms. Hedge stated that staff was now recommending approval of this plan, 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 and 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 services 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. Correction of language in Owner's Certification.

Applicant Representation: Phillip Grambrell, Prism Engineering and Design Group, LLC, stated that the applicant had worked with the staff to address their concerns, and he requested approval.

Citizen Comments: There were no citizens present on the teleconference who wished to speak to this request.

Action: A motion was made by Mr. Penn, seconded by Mr. de Movellan, and carried 11-0 to approve PLN-MJDP-21-00003: NDC PROPERTY, UNIT 1-A, LOT 21 (JIFFY LUBE OIL CHANGE) (AMD), subject to the 11 revised conditions as recommended by staff.

- d. PLN-MJDP-21-00004: ATKINS PROPERTY, LOT 1A & 1B (AMD) (5/2/21)* - located at 3621 WALDEN DR., LEXINGTON, KY.
Council District 4
Project Contact: CMW

Note: The purpose of this amendment is to show the proposed lotting and layouts for buildings on Lot 1, proposed easements, and relocation of tree protection area.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. 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 and 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 services features.
10. Division of Waste Management's approval of refuse collection locations.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Correct Commission certification.
13. Denote location of tree planting mitigation.
14. Document compliance with Multi-Family Design Standards.
15. Denote Planning Commission approval of height variance for Lot 1B only. Correct building heights in conformance with variance approval.
16. Resolve traffic calming features.
17. Provide documentation of tree planting mitigation prior to certification.

Staff Presentation: Mr. Martin directed the Commission's attention to the development plan, and briefly explained the proposed request. He noted that this plan was recommended for approval and had been included on the consent agenda, but the applicant was proposing a change to the site. The plan originally included eight units per building, but the applicant is now proposing to construct nine units in each building, with the necessary adjustments to the required parking. Mr. Martin added that the applicant had provided adequate documentation of tree planting mitigation.

Commission Questions: Mr. Pohl asked if staff had evaluated the applicant's proposed parking, and found it to be adequate. Mr. Martin answered affirmatively, noting that the applicant would discuss the parking in more detail.

Applicant Representation: Adam Bender, engineer with CMW, stated that this plan originally called for three units on the first and second floors of each building, with two larger units on the third floor. The applicant has determined that the project would be more financially feasible, however, with three units on each floor.

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

Mr. Bender noted, with regard to Mr. Pohl's question, and the increase in number of units resulted in required parking of 17 spaces for each building, and all of those spaces are being provided.

Brian Hill, CMW, reiterated Mr. Bender's comments, noting that the provided parking should be sufficient for the proposed development.

Citizen Comments: There were no citizens present on the teleconference who wished to speak to this request.

Action: A motion was made by Mr. de Movellan, seconded by Mr. Wilson, and carried 11-0 to approve PLN-MJDP-21-00004: ATKINS PROPERTY, LOT 1A & 1B (AMD), subject to the 17 conditions as recommended by staff.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Penn, seconded by Mr. de Movellan, and carried 11-0 to approve the release and call of bonds as detailed in the memorandum dated March 11, 2021, from Barry Brock, Division of Engineering.

VI. **COMMISSION ITEMS**

- A. **BOAR 2021-1: RACHEL SAWYER AND BRENDA SAWYER** – an appeal to the Planning Commission of a decision made by the Board of Architectural Review (BOAR) regarding the replacement of wood windows with vinyl clad windows, for property at 612 Central Avenue.

Mr. Baillie entered the following items into the record:

- Case review provided by the Division of Historic Preservation
- Article 13 of the Zoning Ordinance (Historic Preservation section)
- Design Guidelines adopted by the Planning Commission

Staff Presentation: Mr. Baillie presented a PowerPoint presentation, and provided a 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.

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

Commission Questions: Mr. Penn asked what the remedy would be for the appellant, should the Planning Commission vote to uphold the BOAR decision. Ms. Kerr answered that the appellant could then appeal to the court.

Appellant Presentation: John Sawyer, attorney, displayed several photographs of the subject property, noting that the house was constructed in 1985. He said that, when the appellant purchased the house, all of the wood windows on the front of the building were rotting and in need of replacement, along with the shutters.

Mr. Sawyer explained that the appellant was not aware that the property was located in an historic district when she purchased the house; noting that she accepts full responsibility for that lack of awareness. However, the appellant contends that being asked to replace new windows with materials that are of no better quality would constitute a significant hardship.

Mr. Sawyer stated that the new windows are not vinyl; rather, the appellant contends that they are wood windows "with a vinyl treatment," and therefore should be approvable by the BOAR staff. The windows used are recyclable, unlike traditional all-vinyl windows. Mr. Sawyer said that the Design Guidelines focus on compatibility of appearance, and the appellant believes that the new windows are compatible with other homes in the development. The appellant also believes that the Design Guidelines are "out of step with technology."

Mr. Sawyer stated that the appellant contends that the windows meet and exceed the intent of the Design Guidelines; the Guidelines themselves are too ambiguous; and that requiring replacement of new windows would constitute a financial hardship. He asked the Planning Commission to either reverse the decision of the BOAR, or send this case back to that body to consider changes to the Design Guidelines.

Commission Questions: Mr. Davis stated that he had reviewed the appellant's paperwork, but he did not see a copy of the Seller's Disclosure, which asks whether the property in question is located in an historic district. Mr. Sawyer replied that the seller answered, "I don't know" to that question on the disclosure form. The appellant did ask the seller's attorney, as well as two real estate agents and several builders, but none of them were aware that the property was located in an historic district.

Staff Rebuttal: Mr. Baillie stated that the Design Guidelines make a distinction in this case, noting that windows are either appropriate, or they are not. He noted that the Planning Commission does not have the authority to send an appeal back to the BOAR for further consideration, since the Design Guidelines are set by the Historic Preservation Commission. The Planning Commission should decide to either uphold the decision of the BOAR, or reverse that decision.

Ms. Kerr explained that, when the Historic Preservation Commission considers updating the Design Guidelines, the changes are very extensive and are reviewed by people in the industry, such as architects and contractors. Each time the Guidelines are updated, windows are discussed; at the most recent updates, in 2010 and 2016, it was determined that the Guidelines for windows were serving the community very well, and they did not need to be revised.

Ms. Kerr stated that the Historic Preservation staff contends that allowing the windows to remain as installed could be precedent-setting. The BOAR has never varied in a decision about vinyl windows, and the Guidelines state very clearly that vinyl is not allowed.

With regard to Mr. Sawyer's comments that the appellant was unaware that the property was located in an historic district, Ms. Kerr stated that zoning information is readily available via the Property Valuation Administrator (PVA) website, as well as the LFUCG website, and district signs are in place along area streets. Ms. Kerr stated that it was incumbent on the buyer to be aware of any limitations and/or regulatory processes that would apply.

Amelia Armstrong, Division of Historic Preservation, noted that many of the windows in the subject development have been replaced, and all have been in-kind replacements done with a COA.

Commission Questions: Mr. Bell asked if the adjoining townhomes have original windows, or if they had been replaced. Ms. Armstrong answered that many of the windows appeared to be newer, but not all of the replacements appeared to be with in-kind materials. Mr. Bell asked how those replacements were permitted, to which Mr. Baillie responded that the H-1 overlay zone was not implemented until 1998, and those replacements could have been made prior to that time. Mr. Bell asked if any vinyl replacement windows had been used since 1998. Mr. Baillie answered that, if a structure had vinyl windows prior to 1998, those could be replaced with vinyl, as it was in place prior to implementation of the H-1 overlay.

Commission Discussion: Mr. Bell asked if the Historic Preservation staff reviewed the quality of replacement windows regularly, which Ms. Kerr answered affirmatively.

Mr. Nicol asked if it was required by the Design Guidelines to have simulated divided light windows. Ms. Kerr responded that, if windows have divided lights, they must be replaced with windows with divided light. She noted that snap-in muntins were not allowed. Mr. Nicol asked if the appellant's windows included snap-in muntins. Ms. Armstrong answered affirmatively, explaining that the original windows in the structure were 6-over-6, and they were replaced with 2-over-2 windows with grills between the glass, which are not allowable.

Appellant Rebuttal: Mr. Sawyer stated that the windows in two adjoining units had been replaced since 1998, according to the owners, with no knowledge of the need to obtain approval from Historic Preservation. He added that those structures have a variety of different window configurations and many have snap-in muntins.

Mr. Sawyer said that the appellant maintains that the replacement windows have met the intent of the Design Guidelines, and maintained the character of the area. He noted that the appellant's primary area of frustration was with the Historic Preservation's staff refusal to discuss the merits of the new windows.

Mr. Bell asked if the staff had any additional rebuttal comments. Mr. Baillie responded that the staff stood by their statements and their recommendation of disapproval.

Mr. Wilson asked if a realtor is required to disclose in writing if a property is located in a historic district. Mr. Davis stated that, in a previous BOAR appeal, the buyer was an attorney who was represented by realtors, but he indicated that he was not aware that the property was in a historic district. Mr. Davis said that it was emphasized at that hearing that it is incumbent on a realtor to disclose as much information as possible, but, ultimately, the responsibility lies with the buyer. He added that an answer of "I don't know" to the question of whether the property was in an historic district should have been pursued further. Mr. de Movellan reiterated that the Seller's Disclosure Form, which is required by the state, includes a question about whether a property is located in a historic district. Ms. Barksdale suggested that any involved agent could have checked the PVA website.

Mr. Nicol stated that this hearing had centered on whether the replacement windows were or were not vinyl, without much mention of the fact that they have snap-in muntins, which are not allowed by the Design Guidelines. He noted that, in order to meet the Guidelines, the windows would also need to have divided light.

Mr. Bell thanked the staff for the thoroughness of their explanations, since he was not an expert on windows.

Mr. Penn explained that he had been on the Planning Commission long enough to hear BOAR appeals about aluminum windows, noting that, as products have changed over time, the Design Guidelines have been updated to keep pace with technology.

Mr. Pohl agreed with Mr. Nicol, that, regardless of the quality of the windows, the lack of exterior muntins was a major problem.

Action: A motion was made by Mr. Davis, seconded by Mr. Pohl, and carried 11-0 to uphold the decision of the Board of Architectural Review.

- VII. **STAFF ITEMS** – Mr. Duncan asked that the Planning Commission consider cancelling the March 25, 2021 zoning hearing, as there were no applications to be heard at that time.

Action: A motion was made by Mr. Plumlee, seconded by Mr. Nicol, and carried 11-0 to cancel the March 25, 2021, Planning Commission meeting.

- VIII. **AUDIENCE ITEMS** – No such items were presented.

IX. **NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., Video Teleconference.....	March 18, 2021
Technical Committee, Wednesday, 8:30 a.m., Video Teleconference	March 24, 2021
Zoning Items Public Hearing and Work Session, Thursday, 1:30 p.m., Video Teleconference	March 25, 2021
Subdivision Committee, Thursday, 8:30 a.m., Video Teleconference	April 1, 2021
Zoning Committee, Thursday, 1:30 p.m., Video Teleconference	April 1, 2021
Subdivision Items Public Meeting, Thursday, 1:30 p.m., Video Teleconference	April 8, 2021

- X. **ADJOURNMENT** – There being no further business, Chairman Forester declared the meeting adjourned at 3:49 p.m.

4/7/2021

G:\Planning Services\Subdivision & Dev Plan Items\Agendas_Subdivision\Subdivision PC\2021\Original agenda\March 11, 2021_agenda.doc

LH/CG/TM/TW