MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

July 10, 2008

I. CALL TO ORDER - The meeting was called to order at 1:36 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Randall Vaughn Chair; Neill Day; Ed Holmes; Carolyn Richardson; Joan Whitman; Lynn Roche-Phillips; Mike Cravens; and Frank Penn.

Planning Staff Present – Chris King, Director; Bill Sallee, Barbara Rackers, Tom Martin, Cheryl Gallt, Chris Taylor, Jimmy Emmons and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Bob Carpenter, Division of Building Inspection; Rochelle Boland, Department of Law; Captain Charles Bowen and Major Doug Ingram, Division of Fire & Emergency Services and Tim Queary, Division of Streets, Roads and Forestry.

II. APPROVAL OF MINUTES – None will be considered at this time.

III. POSTPONEMENTS OR WITHDRAWALS – Requests for postponement and withdrawal will be considered at this time.

a. DP 2008-80: CHEVY CHASE SUBDIVISION, UNIT 19, LOT 7, (WM. T. BURKE PROPERTY) (8/7/08)* - located at 1136 Providence Lane. (Council District 5) **(Foster – Roland)**

Representation – Richard Murphy, attorney, was present representing the applicant, and requested postponement of DP 2008-80 to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 8-0 to postpone DP 2008-80 to the August 14, 2008, Planning Commission meeting.

b. PLAN 2008-9P: HILLENMEYER PROPERTY (AMD.) (7/10/08)* - located on Lucille Drive and Sandersville Road. (Council District 2) **(VanderWier and Associates)**

Representation – Howard Cruse was present on behalf of Ball Homes, and requested to withdraw PLAN 2008-9P. He noted that the previously approved subdivision plan remains in effect, and they will be moving forward based on that plan.

Action - A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 8-0 to accept the withdrawal of PLAN 2008-9P.

c. PLAN 2008-44F: HIGH MOUNT SUBDIVISION, UNIT 1, BLOCK A, LOT 17 (AMD) (7/10/08)* – located at 2932 Candlelight Way. (Council District 5) **(CBC Engineers and Associates)**

Representation – Lori Sharp, CBC Engineers and Associates, was present representing the applicant, and the engineers and requested postponement of PLAN 2008-44F to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 8-0 to postpone PLAN 2008-44F to the August 14, 2008, Planning Commission meeting.

d. DP 2008-77: MICHAEL GENTRY PROPERTY (AMD.) (8/7/08)* - located at 3292 Richmond Road. (Council District 7) **(Vision Engineering)**

Representation – Matt Carter, Vision Engineering, was present representing the applicant, and requested postponement of DP 2008-77 to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Penn, seconded by Mr. Day, and carried 8-0 to postpone DP 2008-77 to the August 14, 2008, Planning Commission meeting.

e. DP 2008-79: CARDINAL HILL HOSPITAL (AMD.) (8/7/08)* - located at 1826, 1832 and 2050 Versailles Road. (Council District 11) **(Carman & Associates)**

Representation – Chris Howard, Carman & Associates, was present representing the applicant, and requested postponement of DP 2008-79 to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Holmes, seconded by Mr. Penn, and carried 8-0 to postpone DP 2008-79 to the August 14, 2008, Planning Commission meeting.

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

f. PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (8/7/08)* - located at 4574 Harrodsburg Road (a portion of). (Council District 10) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-71P to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Day, seconded by Mr. Penn, and carried 8-0 to postpone PLAN 2008-71P to the August 14, 2008, Planning Commission meeting.

Note: The next two items were acted on simultaneously.

g. PLAN 2008-24F: THOMAS COMMUNICATIONS, INC., UNIT 1-C (WALNUT GROVE ESTATES) (7/10/08)* – located at 2236 Walnut Grove (a portion of). (Council District 12) **(EA Partners)**

h. PLAN 2008-25F: THOMAS COMMUNICATIONS, INC., UNIT 1-D (WALNUT GROVE ESTATES) (7/10/08)* – located at 2236 Walnut Grove (a portion of). (Council District 12) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-24F and PLAN 2008-25F to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 8-0 to postpone PLAN 2008-24F and PLAN 2008-25F to the August 14, 2008, Planning Commission meeting.

i. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (9/11/08)* - located at 5846 Old Richmond Road. (Council District 12) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-76F to the August 14, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Richardson, seconded by Ms. Whitman, and carried 8-0 to postpone PLAN 2008-76F to the August 14, 2008, Planning Commission meeting.

j. DP 2008-60: BLACKFORD TOWN CENTER (7/12/08)* - located at 6600 Man O' War Boulevard. (Council District 12) **(Rob Sims)**

Staff Comments – Mr. Martin stated that the staff had been notified by the applicant, requesting postponement of DP 2008-60 to the September 11, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 8-0 to postpone DP 2008-60 to the September 11, 2008, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, July 3, 2008, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Randall Vaughn, Mike Cravens and Carolyn Richardson. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Denice Bullock, Chris Taylor, Cheryl Gallt, Tom Martin, and Frank Boateng; as well as Rochelle Boland, Department of Law; Captain(s) Bill Woodward and Charles Bowen, Division of Fire & Emergency Services; and Bob Carpenter, Division of Building Inspection. 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 - 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 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.

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

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.

At this time, Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the Planning Commission Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. Page 4, Item e. PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2 (9/11/08)* - located at 2356 Newtown Pike. (Council District 12) **(EA Partners)**
2. Page 5, Item i. PLAN 2008-86F: LAKEVIEW ACRES, UNIT 3, TRACT 10, LOT 12 (AMD) (9/23/08)* - located at 1545 Lakeview Drive. (Council District 5) **(Endris Engineering)**
3. Page 8, Item g. DP 2008-86: MAN O' WAR DEVELOPMENT, UNIT 2-A (A PORTION OF) (9/11/08)* - located at 1710 Pleasant Ridge Drive and 2046 Bryant Road. (Council District 6) **(EA Partners)**
4. Page 9, Item h. DP 2008-87: LARKIN PROPERTY (AMD) (9/11/08)* - located at 2580 Spurr Road. (Council District 12) **(EA Partners)**
5. Page 9, Item j. DP 2008-89: TOWNHOUSES OF LEXINGTON (REGENCY POINT) (AMD) (9/11/08)* - located at 2553 Nicholasville Road. (Council District 10) **(Foster-Roland)**
6. Page 9, Item k. DP 2008-90: ANGLIANA SUBDIVISION & A.G. MCGREGOR SUBDIVISION (ANGLIANA STUDENT HOUSING) (AMD) (9/11/08)* - located at 520, 534, 537 and 544 Angliana Avenue. (Council District 2) **(Brandstetter Carroll)**
7. Page 10, Item l. DP 2008-91: BLUEGRASS BUSINESS PARK (PEMBERTON FARM, LOT 3-A) (AMD) (9/11/08)* - located at 2201 Jaggie Fox Way. (Council District 2) **(Carman & Assoc.)**
8. Page 10, Item m. DP 2008-92: FAYETTE MALL (AMD) (9/11/08)* - located at 3301, 3401 and 3555 Nicholasville Road. (Council District 9) **(EA Partners)**
9. Page 10, Item n. DP 2008-93: INTERSTATE SERVICE CENTER, UNIT 1 (AMD) (9/11/08)* - located at 1950 Stanton Way. (Council District 12) **(LS Design Group)**
10. Page 11, Item o. DP 2002-65: TURFLAND MALL (AMD #23) (9/22/08)* – located at 2033-2097 Harrodsburg Road. (Council District 10) **(Wheat & Ladenburger)**

Mr. Sallee said that the items listed on the Consent Agenda could be considered for approval by the Commission, unless there was a request for an item to be removed.

Planning Commission Comments and Questions – Mr. Penn requested that PLAN 2008-77F be removed from the Consent Agenda in order for the Commission to review the applicant's request.

Ms. Roche-Phillips said that DP 2002-65 was originally approved in 2002, and asked if there had been any regulatory changes made that may affect this request. Mr. Sallee replied that the biggest regulatory change since 2002 was to the minimum required parking within the B-6P zone. He said that those requirements have been relaxed since that time; and even though there may be a change in the requirements, this development should comply with those lesser standards. He noted that prior to this development plan request in 2002, there were more substantial changes made to the B-6P zone, such as building off-set requirements and the Big Box Design Guidelines.

Mr. Vaughn noted that he would need to disqualify himself from DP 2008-87 and DP 2008-91 due to a conflict of interest.

Action - A motion was made by Mr. Day, seconded by Ms. Whitman, and carried unanimously (Vaughn disqualified from DP 2008-87 and DP 2008-91) to approve the following items listed on the consent agenda:

1. PLAN 2008-86F: LAKEVIEW ACRES, UNIT 3, TRACT 10, LOT 12 (AMD) - located at 1545 Lakeview Drive.
2. DP 2008-86: MAN O' WAR DEVELOPMENT, UNIT 2-A (A PORTION OF) - located at 1710 Pleasant Ridge Drive and 2046 Bryant Road.
3. DP 2008-87: LARKIN PROPERTY (AMD) - located at 2580 Spurr Road.

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

4. <u>DP 2008-89: TOWNHOUSES OF LEXINGTON (REGENCY POINT) (AMD)</u> - located at 2553 Nicholasville Road.
5. <u>DP 2008-90: ANGLIANA SUBDIVISION & A.G. MCGREGOR SUBDIVISION (ANGLIANA STUDENT HOUSING) (AMD)</u> - located at 520, 534, 537 and 544 Angliana Avenue.
6. <u>DP 2008-91: BLUEGRASS BUSINESS PARK (PEMBERTON FARM, LOT 3-A) (AMD)</u> - located at 2201 Jaggie Fox Way.
7. <u>DP 2008-92: FAYETTE MALL (AMD)</u> (9/11/08)* - located at 3301, 3401 and 3555 Nicholasville Road**.**
8. <u>DP 2008-93: INTERSTATE SERVICE CENTER, UNIT 1 (AMD)</u> - located at 1950 Stanton Way.
9. <u>DP 2002-65: TURFLAND MALL (AMD #23)</u> – located at 2033-2097 Harrodsburg Road.

Removing the following item:

10. <u>PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2</u> - located at 2356 Newtown Pike.

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

<u>The procedure for consideration of these remaining plans is as follows</u>:
- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. **<u>Final Subdivision Plans</u>**

a. <u>PLAN 2008-77F: EAST BRIDGEFORD LAND & DEV. CO., (KINGSTON HALL), PHASE 1, UNIT 2</u> (9/11/08)* - located at 2356 Newtown Pike. (Council District 12) **(EA Partners)**

<u>The Subdivision Committee Recommended: Approval</u>, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Addition of utility and streetlight easements, as required by the utility companies, the Urban County Engineer and the Urban County Traffic Engineer.
6. Identify existing access easements to remaining tract to the east.
7. Verify exaction information.
8. Denote required buffer along the Urban Service Area Boundary (conditional zoning).
9. Correct Newtown Pike cross-section.
10. Resolve the possible need for a final development plan to be approved by the Planning Commission.
11. Resolve access easement.
12. Board of Health Department's approval of septic tank system prior to certification.

<u>Staff Presentation</u> – Mr. Martin presented the final record plat to the Commission, and said that the subject property is located at 2356 Newtown Pike. He then said that the applicant is proposing to subdivide the 33-acre tract into two parcels, which will consist of one 10-acre parcel and one 23-acre parcel. Referring to the currently approved development plan, Mr. Martin briefly oriented the Commission to the surrounding street systems that included Newtown Pike, I-75, Providence Parkway and Stanton Way.

Referring to the record plat, Mr. Martin pointed out the location of the Scenic Resource Area as noted in the EAMP, and said that applicant wants the ability to sell the 10-acre tract so as to allow developing this lot for a single family home. He said that there is a temporary access easement off of Newtown Pike, and it extends through the subject site across Providence Parkway to the lower lots farther to the south.

Mr. Martin said that both the Technical Committee and the Subdivision Committee have reviewed the applicant's request and recommended approval, subject to the 12 conditions listed on the agenda. He said that condition number 10 reads: "Resolve the possible need for a final development plan to be approved by the Planning Commission." He noted that Article 23A of the Zoning Ordinance states that a development within the Expansion Area requires a final development plan to be submitted to the approval of the Planning Commission; however, Article 23B-3 of the Zoning Ordinance allows an exception for agricultural uses, and this includes one single family house. This is what the applicant intends to do, and the staff has always been hesitant to place development plan restrictions on a single family dwelling unit. He said that the staff has been working with the Law Department, and are confident that this proposal does fall within this exception of the Zoning Ordinance.

---

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

As for condition number 11, Mr. Martin noted that there is an existing access easement running through the applicant's property, and the key is with the remaining portion of the access easement serving the lower lots. He said that the staff believes this issue can be resolved by submitting a consolidation plat or a plat that shows the construction and dedication of Providence Parkway with an easement to serve the lower lots. He then said that condition number 11 will remain "as is" because the current access easement could also remain to serve the existing development in this area.

Planning Commission Questions – Mr. Penn asked if the proposed single family house is to be at the same place as the originally approved house. Mr. Martin said that it is the staff's understanding that the proposed house location is different than that of the original house, but the applicant could answer that question.

Mr. Penn then asked, beyond the 10-acre tract, if the lower lots would have access to Newtown Pike via the access easement. Mr. Martin said that that would be an issue the staff would need to discuss with the applicant. He said that the access easement does currently exist, and the staff believes the access to those lots can be served through an extension and dedication of Providence Parkway. Mr. Penn said that the access easement is still an issue to him because it is the access to a development. Mr. Martin said that the staff would like to resolve that question permanently.

Mr. Penn asked if the 200-foot setback for the Scenic Resource Area (SRA) is being measured from the new road or the original road. Mr. Sallee noted that the Scenic Resource Area has not changed since the adoption of the 1996 EAMP; so although the right-of-way line has changed, the boundary for the Scenic Resource Easement has not. Mr. Penn then asked if the setback could be more than 200 feet. Mr. Sallee agreed, and said that the setback is closer to 1,000 feet than 200 feet, and on average, the SRA setback is 900 feet. Mr. Martin noted that the setback is close to a ridge line. Mr. Penn asked if the house would be within the Scenic Resource Area. Mr. Martin responded that it would not be allowed in the SRA.

Mr. Cravens asked how much land is between the Scenic Resource Easement and the rear of the proposed lot. Mr. Martin noted that that area is 100' by 452'. He said that this is a small buildable area, but it is adequate for a single family home.

Ms. Roche-Phillips asked if the Board of Health had already approved the septic tank system. Mr. Martin said that they have not, but the applicant would need their approval prior to the plan being certified. Ms. Roche-Phillips then asked if drainage fields are permitted in the Scenic Resource Area. Mr. Martin replied that he believed that to be the case, and said that the Scenic Resource Area addresses structures, noting that the septic tank system would be underground.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and asked that condition number 10 be deleted since there is not a requirement for a development plan to be submitted. He requested approval of PLAN 2008-77F, subject to the remaining conditions.

Ms. Boland said that in working with Planning Services, the Department of Law is reviewing whether there will not be a final development plan required, and it was agreed that condition number 10 should remain listed on the recommendations as a "resolve" issue. Mr. Kahly agreed with that recommendation.

Planning Commission Comments and Questions – Mr. Penn said that he is concerned with the location of the access easement because there is the potential of four signalized lights between the subject property and the interstate ramp. Mr. Kahly said that this single family use will close off that portion of the access easement. He said that the dedication of Providence Parkway will establish the connection to the remaining lots in the area. He noted that a minor plat would be submitted, showing the omission of the access easement.

Mr. Holmes asked if KDOT will need to approve the access for Newtown Pike. Mr. Kahly replied no, because there is already an existing access onto Newtown Pike.

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 9-0 to approve PLAN 2008-77F, subject to the 12 conditions noted on the agenda.

Note: The next three items were acted on simultaneously.

b. PLAN 2008-78F: MAHAN, UNIT 1-A (9/11/08)* - located at 2940 Man O' War Boulevard.
(Council District 4) **(EA Partners)**

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

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding compliance with Article 4-5(b) of the Land Subdivision Regulations.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Urban Forester's approval of tree preservation areas.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Correct Urban County Engineer's certification.
9. Clarify lot lines, and metes and bounds limits of this plan (Lot 1, Madison Point Drive).
10. Denote: There will be a restriction of parking to one side of the local street.
11. Discuss lot 1 differences with preliminary development plan.
12. Discuss tree protection area proposed on lot 1.

c. PLAN 2008-79F: MAHAN, UNIT 1-B (9/11/08)* - located at 2940 Man O' War Boulevard.
(Council District 4) **(EA Partners)**

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding compliance with Article 4-5(b) of the Land Subdivision Regulations.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Urban Forester's approval of tree preservation areas.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Correct Urban County Engineer's certification.
9. Correct plat boundaries (Madison Point Drive).
10. Denote: There will be a restriction of parking to one side of the local street.

d. PLAN 2008-80F: MAHAN, UNIT 1-C (9/11/08)* - located at 2940 Man O' War Boulevard.
(Council District 4) **(EA Partners)**

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding compliance with Article 4-5(b) of the Land Subdivision Regulations.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Urban Forester's approval of tree preservation areas.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Correct Urban County Engineer's certification.
9. Correct plat boundaries (public street on Unit 1-B).
10. Denote: There will be a restriction of parking to one side of the local street.

Staff Presentation – Ms. Gallt presented the final record plats for Units 1-A, 1-B and 1-C to the Commission, and noted that the subject property is located at 2940 Man O' War Boulevard. She said that each of the final record plats will allow the creation of single family lots, as well as the entrance way into the Mahan property. She then said that Unit 1-A will consist of 5 lots, Unit 1-B will consist of 65 lots and Unit 1-C will consist of 58 lots.

Ms. Gallt noted that the Subdivision Committee recommended approval of the plats, subject to the conditions listed on the agenda. She said that the first 10 conditions listed for each unit are the same, and as for Unit 1-A the following two conditions can be changed to the following:

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

11. Resolve ~~Discuss~~ lot 1 differences with preliminary development plan.
12. Resolve ~~Discuss~~ tree protection area proposed on lot 1.

Ms. Gallt said that the Committee members had referred this item to the full Commission, due to questions with whether or not the applicant was in compliance with Article 4-5(b) of the Land Subdivision Regulations. She said that Article 4-5(b) Improvement Plan Progress Report states that when approximately thirty percent (30%) of the infrastructure design for the development has been completed, the project engineer shall submit a preliminary report to the Planning Commission informing them of their progress. She noted that the applicant has submitted this report to the staff, and she directed the Commission's attention to the letter submitted by Richard Nunnery, project engineer.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2008-78F, PLAN 2008-79F and PLAN 2008-80F. He noted that Howard Cruse was present, and they would try to answer any questions from the Commission concerning the 30 percent requirement.

Planning Commission Questions – Referring to the letter from Mr. Nunnery, Ms. Roche-Phillips thanked the applicant for providing the 30 percent report, especially in light of the Consent Decree. She said that the report only states that the sanitary sewer will flow towards the West Hickman treatment plant, and not what the amount of flow will be, or whether or not the existing pump station will be adequate or if it will require a new pump station. She then said that she understands that the Department of Environmental Quality (Cheryl Taylor) and the Division of Water Quality (Charles Martin) have been working towards a computer simulation that will give an estimate of what the anticipated flow would be. She said that these reports should be more detailed oriented, rather than showing which treatment plants will be associated with that development. She said that not all the questions will be answered, but a more complete report could address those concerns.

Mr. Vaughn noted that one of the issues during the Subdivision Committee meeting was whether or not the 401 or 404 permits were applicable, and that type of information would be beneficial to have. He said that Mr. Gross was more detailed during the Subdivision Committee meeting than what is written in this letter. Mr. Kahly said that prior to the 30% mark those permits would not be accessible; but by the time the on-site construction came about, those permits were to be submitted to the Division of Engineering. Ms. Roche-Phillips said that it would be nice to know what the 30% time frame would be, especially if a water quality certification is required or to see if there is an existing 404 permit already on file.

Mr. Penn commented that if a problem should come about, then the applicant needs to inform the Planning Commission of that problem. Mr. Cruse said that this is a new process; but if an issue should come about, then they will address that issue before proceeding with the project. He said that they know there is sewer treatment capacity, and they will know whether or not the pump station needs to become larger or any improvements need to be made. He then said that they also know what permits will be required. These issues are easily addressed even at the preliminary stage. Mr. Cruse said that knowing as much information as they can will help prevent them from being exposed to legal issues. He then said that they will be happy to provide the Planning Commission that information. Mr. Penn said that it would help the Commission if that information is provided at the preliminary stage. He then said that if a problem should come up, then the Commission needs to be informed at that time, as well as how that problem will be fixed. Mr. Cruse agreed, and said that from his perspective, those issues are engineering issues that will be dealt through the Division of Engineering; but they will report back to the Commission if there is a problem.

Action - A motion was made by Mr. Day, seconded by Ms. Whitman, and carried 9-0 to approve PLAN 2008-78F, subject to the 10 conditions listed by the staff, adding the following two conditions:
11. Discuss lot 1 differences with preliminary development plan.
12. Discuss tree protection area proposed on lot 1.

She added to her motion approval of PLAN 2008-79F, subject to the 10 conditions listed by the staff; and PLAN 2008-80F, subject to the 10 conditions listed by the staff.

Ms. Boland clarified that previously condition numbers 11 and 12 (PLAN 2008-78F) were changed from "Discuss" to "Resolve," and asked if that change was reflected in the motion. Mr. Vaughn concurred, and said that condition numbers 11 and 12 should be changed to "Resolve." Mr. Day and Ms. Whitman agreed.

e. PLAN 2008-28F: LAKEVIEW ISLAND, UNIT 3 (THE LANDINGS) (9/28/08)* – located at 2414 Lake Park Road. (Council District 5) **(Foster – Roland)**

Note: The Planning Commission originally approved this plan on May 5, 2008; subject to the following conditions. The applicant now requests a waiver to Article 4-7(d)(9) of the Land Subdivision Regulations regarding the Performance/Warranty Surety.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Addition of engineer's name.
9. Addition of reciprocal parking note.
10. Addition of existing sanitary sewer easements.
11. Correct access easement to scale and eliminate any conflict with approved development plan.
12. Provided the Planning Commission grants a waiver to Article 6-8 of the Land Subdivision Regulations regarding street continuity.
13. Correct building line to scale.

The Staff will report at the meeting.

Staff Presentation – Mr. Martin stated that this item is a continued discussion concerning the request for a waiver to Article 4-7(d)(9) of the Land Subdivision Regulations regarding the Performance/Warranty Surety. He said that the area in question is located at the end of Lake Park Road, which is behind the James Motor Company and it's adjacent to New Circle Road. He then said that there is an extended stay motel in this area that was previously approved by the Planning Commission.

Mr. Martin then stated that at the May 5, 2008, meeting, the Commission had approved the applicant's request to subdivide this lot into two, as well as approving a waiver to Article 6-8(b) of the Land Subdivision Regulations. He said that by approving the waiver request, it released the applicant from having to construct a cul-de-sac. He then said that Lake Park Road ends at the large apartment complex, and the staff determined that public safety was adequately protected through the current circumstances.

Mr. Martin said that the applicant was now requesting a waiver to Articles 6-6(b) and 4-7(d)(1) of the Land Subdivision Regulations. He explained that Article 6-6(b) states that every subdivision shall be provided with a public sanitary sewage disposal system; and Article 4-7(d)(1) is a certification that the engineer must provide to show that the public improvements have been installed, and can be utilized for the purposes for which they were intended. Mr. Martin said that the applicant had submitted a letter outlining their reasons as to why these waivers [Articles 6-6(b) and 4-7(d)(1)] should be granted. However, the Land Subdivision Regulations clearly state that these waivers must be granted due to an exceptional unique topographic or other natural or man-made physical condition [Article 1-5(a)] or due to an innovative design feature [Article 1-5(b)]. He said that the staff determined that the request for the waivers did not meet the requirements of either Article 1-5(a) or Article 1-5(b) of the Land Subdivision Regulations. He said that the staff also determined that, although the applicant is requesting these waivers due to an undue hardship, and they have offered to bond the construction, if for some reason it becomes necessary for the government to call that bond, it could pose a negative impact on public safety, especially if it crosses onto private property.

Petitioner's Presentation – Mr. Richard Murphy, attorney, was present representing Gary Roland and Bill Massey. He stated that this property has been in existence for several years, and now the applicants are placing additional townhouses on the site. He said that during this process, they had encountered a problem with the Zoning Ordinance. They have spoken with the staff from the different divisions of the government, and they (the staff) did not have a problem with the concept of this project, but rather if they (the applicant) are eligible for the waivers to the Land Subdivision Regulations. He then said that they believe they are eligible for the waivers; but at the same time, they believe they have found a way to do this without the waivers.

Referring to the proposed development, Mr. Murphy stated that the Commission had previously approved the applicants' request for the addition of 7 townhomes; however, a problem with obtaining the construction financing for this project had arisen. He then said that the persons loaning the monies for the construction loan wanted the mortgage to be placed on the land since it was vacant and there is no existing structure present. Mr. Murphy stated that the applicant needs to have this plat recorded before the loan is issued, and the loan must be issued prior to the construction of the sanitary sewer. The issue with this lot is that the government has interpreted that a private lateral cannot cross the other lot, which is needed in order to connect to the public sewer. He noted that the other buildings in the area are on a private lateral system, but again the applicant must obtain the funds to build the sewer system; and under the current regulations, the sewer must be built before the plat is recorded.

At this time, Mr. Murphy referred to Article 6-6(b) of the Land Subdivision Regulations, and said that the staff has indicated that the applicant needs a waiver for the sanitary sewer system, but Article 6-6(b) states the following:

> *"Except where septic tanks are permitted, every subdivision shall be provided with a public sanitary sewage disposal system. However, the Commission may approve subdivisions utilizing a privately owned system if the treatment plant is in existence at the time of adoption of these Subdivision Regulations."*

Mr. Murphy stated that if a subdivision were to be built, it would have to connect with the public sewer system, and not to a private sanitary sewer treatment plant. He said that Article 6-6(b) does not state that a private lateral cannot cross onto another property if there is an easement, which is provided in Article 6-6(c). Therefore, they are questioning the need for the waiver. He said that they understand that Article 6-6(a) is interpreted to say there must be a public sewer system, but it does not say it cannot cross onto another property.

Mr. Murphy directed the Commission's attention to the revised layout of the property, and said that if the lot lines were to be reconfigured, then the sanitary sewer system can be connected without the use of the waiver. He said that the staff did not receive this revision until just before the meeting, and they were reluctant in approving the revision without the Commission reviewing the plan first. He noted that once the townhomes are built, the construction loan will disappear; then the permanent funding will be on the individual condominium units and turned back over to the homeowners' association. He then noted that the once the townhomes are built, they will submit a consolidation plat to the staff, which will then allow the homeowners' association to take over the townhouses.

In conclusion, Mr. Murphy said that the easiest way to solve this issue is to withdraw the waiver request, and have the plat recorded. He said that he understands that staff is reluctant due to the timing of the revision and the shape of the lot, but they believe this will solve the issue. It will do nothing to change the physical condition on the ground, and it will allow the project to move forward; then with the consolidation of the area the lot lines will disappear. He noted that there are topographic reasons as to why this waiver should be granted, but at this time he does not feel it is necessary to present that information to the Commission.

Gary Roland, Foster – Roland, said that they want to run a private sewer lateral; and they have spoken with both the Divisions of Engineering and Waste Management, and they cannot find a technical reason as to why this cannot be done. He then said that this is one of the situations where the staff wants to make sure the regulations are followed; and they are not trying to deceive anyone, but rather they are trying to move this project forward.

<u>Staff Rebuttal</u> – Mr. Martin clarified that if there is not a waiver request to Article 6-6(b), that is one thing; but due to their financial situation, they do need a waiver to Article 4-7(d)(1), which refers to the required Certification of Substantial Completion. He said that without this waiver, Engineering will not sign the plat until the line is built; but the line cannot be built until the funds are available. This will prevent the plat from being signed, delaying the recordation of the plat, and funding for the project. He said that even if the Commission agrees with the applicants' interpretation of Article 6-6(b), the staff believes that that they still need a waiver to Article 4-7(d)(1). In conclusion, the staff recommends disapproval of the requested waiver, for the following reasons:

1. The applicant has not met the requirements of Article 1-5(a) or Article 1-5(b) of the Land Subdivision Regulations as required for the granting of a waiver.
2. Granting the waiver could establish a precedent for all similar projects, whether large or small, to request waivers solely for financial reasons. This could result in situations where public sewers are not constructed in a timely fashion, if at all. This would be detrimental to public health and safety, especially if the LFUCG had difficulty traversing private property (rather than rights-of-way) to install required public infrastructure.

<u>Petitioner Rebuttal</u> – Mr. Murphy stated that Article 4-7(d)(1) states: "Upon approval or conditional approval of the final record plan by the Planning Commission and determination of substantial completion of the 'public improvements' by the project engineer, the final record plan may be submitted to the Urban County Engineer for certification." He said that before a final plat is recorded the public sewer has to be built or certified by the Urban County Engineer. He then said that if they do the private lateral line on the property, then that section does not apply; but rather when the building permit is obtained, then a sewer tap line needs to be included. Nonetheless, prior to the waiver request, they felt they could post a bond for the full amount of the public sewer. This would allow the recordation of the plat, as well as the construction of the units. Later, the area could be consolidated, which will cause the bond to disappear. This would act as a protection in the event that the applicant did not construct the private lateral. Mr. Murphy then stated that as far as the physical reasons for the waiver request, the private lateral would allow the sewer to be connected at a higher elevation than what a public sewer would allow. He said that the location of the private lateral is 100 feet from the reservoir; and by using a private lateral, it would result in a safer overall situation. Again, he believes that they do not need to go in this direction if the property layout is changed, which would then allow them to connect directly to the sewer line.

Staff Comments – Mr. Martin commented that the staff is concerned with the proposed shape of the lot. He said that that Land Subdivision Regulations strongly discourage irregular, odd shaped lots. He then said that the staff does agree that the shape of the lot will hopefully change in the future, (which is preferable), versus dealing with waivers. Even though the shape of the lot is not recommended, it is a reasonable solution to the problem rather than issue of the waivers.

Planning Commission Comments and Questions – Mr. Penn asked if the staff is comfortable with the applicants request or would it be better to postpone this case for 2 weeks. Mr. Martin responded that the staff would like additional time to review the applicants' latest request. Mr. Penn commented that the applicant's financial situation is no concern of the Planning Commission; and as far as the waiver request, if additional time is needed to resolve this situation, then he would rather postpone this issue for 2 weeks. Mr. Martin said that the staff agrees that a 2 week postponement would be appropriate due to the concern with the waiver request.

Mr. Holmes said that he is uncomfortable with the issue of the waiver request, and he agrees that this item should be postponed for 2 weeks. He said that this would give the applicant and the staff time to resolve these issues.

Mr. Vaughn said that the applicant had suggested earlier that the waiver be withdrawn, and asked if a motion is needed. Mr. Murphy replied that if this case is to be postponed for 2 weeks, then they prefer that the waiver remain as is.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 9-0 to postpone PLAN 2008-28F to the July 31, 2008, Planning Commission meeting.

k. PLAN 2007-103F: BLUEGRASS ASPENDALE, SINGLE-FAMILY AREA, PHASE 3, SECTION 4 (9/12/08)* - located at East Sixth Street and Breckenridge Street. (Council District 1) **(Sherman/Carter/Barnhart)**

Note: The Planning Commission originally approved this plan on June 14, 2007, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Correct plan title.

Note: The plat approval has since expired, and the Housing Authority now wishes to record this plat, but in four sections. Because the Commission's approval from 6/14/07 has expired, a reapproval of this plat is now required prior to its recording.

The Staff Recommended: Reapproval, subject to the previous conditions.

Staff Presentation – Mr. Emmons stated that this is a final record plat for property located at East Sixth Street and Breckenridge Street. Referring to the overall exhibit, he pointed out the location of the surrounding street systems. He said that the area in question is located between 4th and 5th Streets, just east of Race Street, and immediately south of the new school site. He noted that this is a final record plat, and it is part of the single family area of the Bluegrass Aspendale Redevelopment project.

Mr. Emmons then stated that the Planning Commission had originally approved this plan on June 14, 2007, subject to the conditions listed on the agenda, however, the plat has since expired, and now the applicants are requesting reapproval. He then said that there are 4 record plats in the Division of Planning and they will be recorded at the same time. As for the other record plats, they were in front of the Commission in October 2007, and those are still valid at this time.

In conclusion, Mr. Emmons commented that this project has been difficult, and the staff and the applicant have been working together. He said that if the Commission should reapprove this request, then all of the plats could be recorded as early as July 11, 2008. He noted that the applicant is requesting reapproval, subject to the conditions listed on the agenda. He noted that this portion of the property is zoned R-3, and there are 55 single family lots ranging in size from 40-foot to 60-foot lots.

Planning Commission Questions – Mr. Penn confirmed that there are 55 single family lots. Mr. Emmons replied that the original plat was approved for 55 single family lots.

Representation – Katie Beard, Sherman/Carter/Barnhart, was present representing the applicant. She stated that the applicant is in agreement with the staff's recommendations, and requested reapproval of PLAN 2007-103F.

Planning Commission Comments and Questions – Mr. Cravens asked how many contractors are associated with the development of these lots. Ms. Beard replied that she was unsure. Mr. Emmons stated that it's the staff's understanding there are multiple builders working on this project; and as for the breakdown of who they are, the staff is unsure.

Action - A motion was made by Ms. Whitman, seconded by Mr. Penn, and carried 9-0 to reapprove PLAN 2007-103F, subject to the previous conditions as listed by the staff.

2. Development Plans

a. DP 2008-51: PALUMBO PROPERTY (GARDEN SPRINGS, UNIT 1-S) (AMD. #8) (7/10/08)* - located at 820 Lane Allen Road. (Council District 10) **(Foster - Roland)**

Note: The Planning Commission postponed this plan at its April 14, 2008; May 8, 2008; and June 12, 2008, meetings. The purpose of this amendment is to add a car wash.

The Subdivision Committee Recommended: Postponement. There was a question regarding whether or not this plan meets the minimum parking requirements of the Zoning Ordinance.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant location.
6. Division of Waste Management's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.
8. Correct plan title.
9. Complete adjacent property information.
10. Addition of street cross-sections.
11. Addition of all easements.
12. Addition of building lines.
13. Addition of dimensions for parking spaces, aisles and entrances from the prior development plan.
14. Addition of landscaping information from the previous plan.
15. Provided the Board of Adjustment grants a conditional use request for the car wash.
16. Resolve the proposed car wash impact on sanitary sewer system.
17. Discuss parking requirements versus what is shown on the plan.

Staff Presentation – Mr. Taylor stated that this is an amended final development plan for property located at 820 Lane Allen Road. Directing the Commission's attention to the development plan, he explained the location of the surrounding street systems, as well as the existing businesses in the area. He said that the purpose of this amendment is to add a car wash that will consist of a 780 square foot building with several bays.

Mr. Taylor then stated that the Subdivision Committee had recommended postponement of this request, due to questions regarding whether or not this plan meets the minimum parking requirements of the Zoning Ordinance. He noted that the applicant had submitted a revised plan, and with that plan condition number 17 was addressed. He then noted that the applicant had gone before the Board of Adjustment, and they were granted the conditional use permit for the car wash.

In conclusion, Mr. Taylor said that the staff is now recommending approval, subject to the following revised conditions:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant location.
6. Division of Waste Management's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.
8. Correct plan title.
9. Complete adjacent property information.
10. Addition of street cross-sections.

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

11. Addition of all easements.
12. Addition of building lines.
13. Addition of dimensions for parking spaces, aisles and entrances from the prior development plan.
14. Addition of landscaping information from the previous plan.
15. ~~Provided the~~ Denote Board of Adjustment ~~grants~~ approval of a conditional use request for the car wash.
16. Resolve the proposed car wash impact on sanitary sewer system.
17. ~~Discuss~~ Resolve parking requirements versus what is shown on the plan.

Representation – Gary Roland, Foster – Roland, was present representing the applicant, and stated that the applicant is in agreement with the staff's revised recommendations, and requested approval of DP 2008-51.

Action - A motion was made by Mr. Day, seconded by Ms. Whitman, and carried 9-0 to approve DP 2008-51, subject to the revised conditions as listed by the staff.

f. DP 2008-85: SOUTH HILL GARDENS (9/11/08)* - located at South Mill Street and Lawrence Street.
(Council District 3) **(Wheat and Ladenburger)**

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffer.
4. Urban Forester's approval of tree preservation plan.
5. Division of Waste Management's approval of refuse collection.
6. Approval of street names and/or addresses per the street addressing office.
7. Provided the Board of Adjustment grants the requested variance.
8. Document Board of Architectural Review approval of the site design prior to certification.

Staff Presentation – Mr. Emmons stated that this is a final development plan for property located within the 400 block of both South Mill Street and Lawrence Street. At this time, he directed the Commission's attention to several photographs, and gave a brief description of each. He displayed an overall view of the subject properties, and he said that the development takes up most of the block between South Mill Street and Lawrence Street. He said that this is the first final development plan, and it is very similar to the preliminary development plan that was associated with the prior zone change request. He noted that the subject properties are just south of West Maxwell Street, and in between South Upper Street and Broadway. He said that Dudley Square and its associated parking lot are adjacent to the subject site. He then noted that the subject properties are also within the historic South Hill Neighborhood.

Mr. Emmons then directed the Commission's attention to the second photograph, which provided a closer view of the subject site, and said that there are 2 duplexes and 2 single family homes in close proximity to each other. He then said that the development plan does depict the homes along South Mill Street, and the applicant is requesting approval of 6 new townhomes along Lawrence Street.

Mr. Emmons stated that the Subdivision Committee did review the applicant's request, and recommended approval, subject to the 8 conditions listed on the agenda. He said that this request could have been placed on the Consent Agenda; however, when reviewing the conditions, it was determined that condition number 7 should be changed to read: "Provided the Board of Adjustment grants the requested variance, if necessary." The variance could be a possible landscaping variance between the B-1 zone of the existing parking lot of Dudley Square and the adjacent properties. He said that the reason for "if necessary" to be on condition number 7 is due to the following options: 1) does the existing landscape meet or exceed the requirements, 2) will the applicant provide the landscaping or 3) does a variance need to be requested from the Board of Adjustment. He noted that if the applicant can provide either option 1 or 2, then approval from the Board of Adjustment is not needed. He then noted that it has not been determined whether or not the landscaping will be sufficient to meet the landscaping requirements.

In conclusion, Mr. Emmons said that the staff is recommending approval of this request, subject to the 8 conditions listed on the agenda, changing condition number 7 to read; "Provided the Board of Adjustment grants the requested variance, if necessary." He then said that the subject property was rezoned to R-1T a few years back, and it is also within a historic district. He noted that the request for the new townhouses has been in front of the Board of Architectural Review for a conceptual review, but the staff was unsure if that request had been approved.

Representation – Roger Ladenburger, Wheat and Ladenburger, was present representing the applicant, and stated that the applicant was in agreement with the staff's revised recommendations, and requested approval of DP 2008-85.

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

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 9-0 to approve DP 2008-85, subject to the revised conditions as listed by the staff.

i. DP 2008-88: BEAUMONT FARM, UNIT 1, SECTION 1 (A PORTION OF) (9/11/08)* - located at 3100 Beaumont Centre Circle. (Council District 10) **(EA Partners)**

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding the proposed access to Beaumont Centre Circle.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of 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. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Approval of street names and/or addresses per the street addressing office.
9. Denote uses in site statistics.
10. Discuss proposed access to Beaumont Centre Circle.
11. Discuss phasing of future development.

Staff Presentation – Mr. Martin stated that this is a final development plan for property located at 3100 Beaumont Centre Circle. He briefly oriented the Commission to the layout of Beaumont Centre Circle, as well as to the street system outside and inside the circle. He said that recently there was a zone change where the P-1 and B-3 zones had been switched for the construction of two hotels and a restaurant.

Mr. Martin then stated the applicants are proposing to construct a 19,000 square foot-single story building with access points leading into the property off of Beaumont Centre Circle, Monarch Street and Midnight Pass. He said that there will be 95 associated parking spaces for this project, noting the location of each phase of the parking area.

Mr. Martin said that the Subdivision Committee had recommended referral to the full Commission due to the proposed access to Beaumont Centre Circle, and the phasing of the future development (condition numbers 10 and 11). Referring to the overall view of Beaumont Centre Circle, he noted that the access points off of Monarch Street and Beaumont Centre Circle do line up and connect with the streets directly across from the subject site; and the access point on Midnight Pass currently does not connect to anything at this time. He said that Beaumont Centre Parkway is a collector street and it does carry a lot of fast moving traffic; and so far, the applicant has done a good job with the design of the Beaumont Centre Circle. They have broken up the traffic flow by not allowing any cut-through traffic within the development. He said that the staff is concerned with the proposed access off of Beaumont Centre Circle because of the potential impacts it will have on both pedestrian and vehicular traffic. When reviewing the overall street systems, the interior streets connected with the exterior street system, and this allowed for a safer way to travel throughout this area.

Using an aerial photograph, Mr. Martin illustrated to the Commission how the street system connects to Beaumont Centre Circle and on through the development. He noted that Beaumont Centre Circle intersects with several interior streets. He then noted that the YMCA does have direct access to Beaumont Centre Circle; but even though the YMCA has a direct access on to Beaumont Centre Circle, its entrance is lined up with Beaumont Park. He then said that the YMCA is a semi-public use and it's bounded by restricted uses at the rear by the topography, which prevents any future connection to a secondary system.

Mr. Martin stated that there are good connections throughout the Beaumont development, but the staff believes the access off of Beaumont Centre Circle is not necessary and it will pose a potential conflict in this area. He said that the staff would be more comfortable if the phasing for the future development was noted on the plan. He then said that the issue with the access on Beaumont Centre Circle is not a technical issue, but rather the staff believes there are other alternatives to provide the additional access point into the development. Mr. Martin stated that in speaking with the different divisions within the LFUCG, it was agreed that the Beaumont Centre Circle access is not the best nor the worst design; it is just not necessary, particularly when looking at the overall concerns for safety.

Planning Commission Questions – Mr. Vaughn asked for clarification of the townhouse development and its access points. Mr. Martin explained that the main entrances leading into the new townhouse development include Sweet Grass Lane, Beaumont Park and Monarch Street. The design of the development allows the internal street system to connect through to each of these streets. Mr. Vaughn then asked if the spacing along

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

the townhouse development is equal to the spacing on the development plan. Mr. Martin replied that it is similar, noting that the spacing along the townhouse development is around 300 feet. Mr. Vaughn clarified that the spacing along Beaumont Centre Circle is consistent with what is already done on the townhouse development; Mr. Martin said that was true.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that their clients are new to the area and they want to place their regional headquarters for Auto Owners Insurance at this location. Referring to the development plan, he said that this area was originally proposed to be 6 lots, but once his clients had become interested in the land it was recorded as a single lot. He then said that this office will only have administrative employees, who will be working on writing claims, and there is no reason for the public to enter the building. The employees of Auto Owners Insurance and the independent contractors will be the only people who enter the building; therefore, there will not be a larger traffic flow that will create any conflicts.

Mr. Kahly stated that his clients want the access on to Beaumont Centre Circle, and they had initially tried to give his clients a right-in and a right-out along the street frontage; but it created more of a conflict due to the spacing regulations. He noted that there is nothing in the regulations that prohibits the entrance being opposite Wall Street, and his clients have stated that they want their main entrance to be on Beaumont Centre Circle. As for the rear parking area and the Phase 2 areas, the rear parking area was set up for the day-to-day employees; and the Phase 2 portion of the land would be used as the company grows over the next few years. He then said that they want to give his clients the two access points, as well as the entrance on Beaumont Centre Circle, noting that this would be beneficial in providing good circulation through the parking area for both Waste Management and the Fire Department.

In conclusion, Mr. Kahly stated that they are requesting approval of DP 2008-88, noting that they would like the opportunity to meet with Traffic Engineering to ensure that the sight distances are in compliance; and if they are not, then that issue can be worked out.

Planning Commission Questions – Mr. Penn said that in reviewing the development plan, it seems that most of the parking will be accessed from Monarch Street. Mr. Kahly said that the rear parking will be utilized by every day employees, while the front entrance will be for the outside employees from the surrounding counties. Mr. Penn asked how many parking spaces will be provided for the front portion of the building. Mr. Kahly said that there are 95 parking spaces, and less than a third will be for the front portion of the building.

Mr. Cravens said that the staff had stated that the townhouses have their own internal circulation, which is the reason behind the access points being on Beaumont Centre Circle; but there are fewer units and less traffic within the applicant's development than there will be with the townhouse development. He said that it seems the applicant's request would not serve any more than the townhouses. Mr. Kahly said that there are 100 units on the townhouse development and there are three points of access into the 20 acres of land. Mr. Cravens said that if it is alright to allow the access for the townhouse development, then it seems that it would be alright to allow the access for this development. Mr. Kahly agreed.

Ms. Whitman said that from a business standpoint, she understands why the applicant wants the building oriented toward Beaumont Centre Circle. She said that she believes it would be an asset with the entrance off of Beaumont Centre Circle; therefore, she agrees with the applicant's proposal.

Ms. Roche-Phillips asked if there is a median at the intersection of Wall Street and Beaumont Centre Circle. Mr. Kahly replied yes, but said that the median is cut for Wall Street. Ms. Roche-Phillips then asked if the Wall Street traffic could make a left turn onto Beaumont Centre Circle. Mr. Kahly replied yes, and said that the traffic will come off of Wall Street, make a left turn onto Beaumont Centre Circle and proceed onto Beaumont Centre Parkway toward the entrance. Ms. Roche-Phillips clarified that there are no traffic lights along Beaumont Centre Circle. Mr. Kahly said that that was correct. Ms. Roche-Phillips asked if there has been a comparison with the volume of traffic between the YMCA traffic and the other uses in the area. Mr. Kahly replied no, and said that the YMCA traffic turns over very quickly. He said that there are a lot of cars in and out of the YMCA, noting that there is a large parking area. Ms. Roche-Phillips asked how many access points the YMCA has. Mr. Kahly said that there is a main entrance off of Beaumont Centre Circle, as well as a shared access point with the adjacent daycare facility. He noted that the daycare has only a right-in and right-out access; therefore, traffic cuts through the Y's main entrance to access the daycare facility.

Mr. Day said that he disagreed with the applicant's proposal, and stated that the question is what is wanted in this area and what is being looked at in developments. He said that the layout Beaumont Centre Circle works, and part of that is due to there being no access points directly off of Beaumont Centre Circle. He then said that there is still a lot of land that has not been developed and he believes this will cause more access points off of Beaumont Centre Circle.

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

Mr. Vaughn noted his agreement with Mr. Day, and said that there are other ways to achieve the visibility and access to the business. He said that the system before the Commission works, and to add an access off of Beaumont Centre Circle defeats the purpose of the plan. He then said that he understands that there are compromises, but to add the proposed access point defeats what the Commission is trying to achieve.

Mr. Kahly asked if the motion will be for the approval of the plan in totality or just for the specific locations. He said that they do not want the entire plan to be disapproved, if it is just a question of working with the Traffic Engineer. Mr. Vaughn asked if the staff's position is against the access point off of Beaumont Centre Circle, which Mr. Martin agreed was the case. He said that the applicant's request could be approved, subject to the removal of the access point proposed on Beaumont Centre Circle.

Mr. Penn asked if the phasing is an issue. Mr. Kahly said that the second phase can be omitted if that is the staff's concern. He said that the applicant only wanted to show what was planned for the entire development. He asked for clarification as to why the staff is concerned. Mr. Martin said that the discussion of the phasing stems from the general outline noted on the plan for the possibility of a building, as well as its relationship to the access onto Beaumont Centre Circle and the connections to the other street systems in the area. Mr. Penn asked if the staff is suggesting leaving condition number 11 on the recommendations. Mr. Martin said that the access issue would satisfy the phasing concern. Mr. Sallee stated that the staff felt the proposed phasing inhibited the connectivity to the proposed access, which was the primary issue of concern to the staff.

Mr. Kahly said that with the exception of the corner lot, the applicant owns the land, and asked for clarification as to how the future phasing would prohibit future connectivity points. Mr. Martin said that if the access point on Beaumont Centre Circle were to remain, then it should connect into an internal street system and not dead-end into the development. He said that the staff believes there are other options available to provide that connection.

Ms. Roche-Phillips asked what would the access network be for if this will be the only building on the lot. Mr. Martin said that it could affect the future phasing and development of the land, such as a larger building that houses more employees. He then noted that the adjacent land could be impacted as well, if the vacant lot is developed.

Mr. Cravens asked what type of roads lead into the townhouse development. Mr. Martin replied that the roads are private access easements. Mr. Cravens then said that it had been stated that it was easier to turn onto a street versus the apron, and asked if there is an apron leading into the townhouse development. Mr. Martin said that the streets into the townhouse development are of average turning radius. Mr. Cravens clarified that he meant the entrance into the townhouse development. Mr. Martin said that he believed those are at grade. Mr. Kahly replied that the entrances are at grade and there is no apron. Mr. Cravens then asked if the pavement continues on into the development. Mr. Kahly said that he believes it does. Mr. Sallee said that the staff believes that to be true, as well. Mr. Martin said that it appears to be at grade, according to the aerial photograph. He said that the streets leading into the townhouse development are at grade, but the internal system is different. Mr. Cravens confirmed that there are streets leading into the townhouse development, and asked if they are city streets. Mr. Martin replied that there are st4reest going into the townhouse development. The staff does not know the status of all the streets, but there is a combination of both public and private within this area. Mr. Kahly said that the street system within the townhouse development is private. Mr. Cravens then clarified that the entrance into the townhouse development is not the same as a service road. Mr. Kahly said that that was correct. Mr. Cravens asked why access isn't allowed for the applicant if it is allowed for the townhouse development. He said that the other alternative is to trash the plan and start over with the entrance being off of Monarch Street. Mr. Kahly noted that the applicant does own all the land, except for the 1-acre parcel at the corner of Lakecrest Circle and Beaumont Centre Circle. Mr. Cravens said that there will only be one way out of the development, which is something the Fire Department doesn't want.

Mr. Day said that there could be an access Midnight Pass. Mr. Kahly said that access from Midnight Pass will be in the Phase 2 portion of the development.

Mr. Vaughn said that the Commission has the following options: 1) approve the applicant's request, subject to the conditions listed by staff, changing condition number 10 to read: "Resolve proposed access to Beaumont Centre Circle" and condition number 11 to read: "Resolve phasing of future development;" or 2) approve the applicant's request, subject to removal of the access to Beaumont Centre Circle.

Action - A motion was made by Mr. Cravens, seconded by Ms. Whitman, to approve DP 2008-88, subject to the conditions listed by staff, changing condition number 10 to read: "Resolve proposed access to Beaumont Centre Circle."

Mr. Vaughn clarified that condition number 11 will be deleted. Mr. Cravens said that he does not want the entire plan to be turned down due to the access easement; therefore, he suggested changing condition number 11 to read: "Resolve phasing of future development."

Mr. Vaughn further clarified that the motion on the floor includes changing condition number 10 to "resolve" and deleting condition number 11, because if the access is no longer there, then the future phasing is not an issue. Mr. Cravens agreed with Mr. Vaughn's statement.

Mr. Vaughn confirmed that there is a motion on the floor to approve DP 2008-88, subject to the 11 conditions, changing condition number 10 to read: "Resolve proposed access to Beaumont Centre Circle" and deleting condition number 11.

As a point of clarification, Ms. Roche-Phillips said that if the access is granted onto Beaumont Centre Circle, then there will be a right-in and a right-out. Mr. Kahly said that at this time there is not a right-in or a right-out because the access point is directly across from Wall Street. He noted that prior to a right-in or right-out, they will need to come before the Commission for approval of a median point, plus they will need to prove to Traffic Engineering that this can be done.

Mr. Vaughn stated that the motion on the floor allows for clear access for right-in and right-out turn movements.

The motion failed 4-4 (Holmes, Penn, Day and Vaughn opposed).

Mr. Vaughn deferred to the Law Department for guidance due to the motion failing, 4-4. Ms. Boland said that since the motion did not pass, the Chair could accept another motion.

Mr. Kahly said that in light of the motion, he suggested postponing this request in order to speak with Traffic Engineering concerning the safety of the intersection.

Mr. Vaughn asked to which meeting he would like to postpone this request, and Mr. Kahly suggested a two-week postponement. Mr. Sallee commented that there are 5 zone changes and 1 subdivision item already scheduled for the next meeting. Mr. Kahly then requested that DP 2008-88 be postponed to the August 14, 2008 meeting.

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 9-0 to postpone DP 2008-88 to the August 14, 2008, Planning Commission meeting.

D. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Mr. Penn, seconded by Ms Roche-Phillips, and carried 9-0 to approve the release and call of bonds as detailed in the memorandum dated July 10, 2008, from Ron St. Claire, Division of Engineering.

V. COMMISSION ITEMS - The Chairman will announce that any item the staff would like to present will be heard at this time.

a. **UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session on July 17, 2008. He said that there will be a discussion regarding the possible hearing dates for the Courthouse Area Appeal, Centrepointe, as well as a general discussion, as to what the Commission's role is in these cases. He noted that there will be a presentation from the Historic Preservation staff concerning the revised H-1 Design Guidelines. He then said that the staff will also give an update on the Ad Hoc Committee, as well as give a review on Subdivision Performance Bonds and Letters of Credit.

Mr. Vaughn commented that it is a good idea to have a refresher course on the Subdivision Performance Bonds and Letters of Credit.

b. **OTHER COMMENTS** – Mr. Vaughn stated that there are 3 new potential Planning Commission members being recommended by the Administration; and until that time, there is the possibility of the Commission not having enough members present for a quorum. He said that he has confirmation that at least one current member will not be present for the July 24th Planning Commission hearing. Mr. King noted that the Council will return on August 12th and the next scheduled work session is not until August 14th; therefore, until that time, the Commission will be short several members. Mr. Vaughn noted that there may not be a quorum for the July 24th meeting. Mr. King pointed out that there are five Thursdays in July, and the Commission could possibly schedule a special meeting for the 31st. Mr. Vaughn commented that he will be out of town on that day. Mr. King then said that the Commission should make a motion to authorize the change in the meeting date, if desired, and then the staff will inform all interested parties of this change. Mr. Sallee noted that the notices for the five zone changes have been mailed and those zone changes are scheduled for the July 24th meeting. He said that the signs for these zone changes have also been posted by the staff. Mr. Sallee then stated that this type of situation has happened in the past; and in the past, the items listed on an agenda were moved back to the next available meeting date. He said that if the Commission were to decide today that the regular meeting would be held on the 31st, then the staff would do it's best to notify the public. Mr. Vaughn suggested that the Commission move the July 24th meeting to July 31st, in hopes that there will be a quorum that day.

Action - A motion was made by Mr. Day, seconded by Ms. Roche-Phillips, and carried 9-0 to approve the change of date for the July 24, 2008, Planning Commission meeting to be held on July 31, 2008.

Mr. Sallee said that the staff will do their best to notify all interested parties.

VI. STAFF ITEMS – Staff items, if any, will be considered at this time.

VII. AUDIENCE ITEMS – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

VIII. NEXT MEETING DATES -

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers.. July 17, 2008
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building).......................... July 23, 2008
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers...................................... **July 31, 2008**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)........................... August 7, 2008
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... August 7, 2008
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **August 14, 2008**

X. ADJOURNMENT- There being no further business, the meeting was adjourned at 3:55 p.m.

____
Randall Vaughn, Chair

____
Frank Penn, Secretary

CT/CG/TM/JE/BR/WLS/DB