

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION AND ZONING ITEMS**

March 10, 2022

I. **CALL TO ORDER** - Chair Bruce Nicol called the meeting to order at 1:31 p.m. **via video teleconference** from the Division of Planning, 7th Floor, 101 E. Vine Street, Lexington, KY 40507. Due to the COVID-19 State of Emergency, this meeting is being held via live video teleconference pursuant to 2021 Senate Bill 25, and in accordance with KRS 61.826.

II. **ATTENDANCE**

Planning Commission Members present via video teleconference were: Ivy Barksdale; Headley Bell; Anthony de Movellan; Janice Meyer; Robin Michler; Bruce Nicol and Judy Worth.

Planning Staff members present: Jim Duncan, Director; Traci Wade; Autumn Goderwis; Tom Martin; Hal Baillie; Meghan Jennings; Daniel Crum; Samantha Castro; Stephanie Cunningham; and Paula Schumacher. Other staff members present were: Vaughn Adkins and Doug Burton, Division of Engineering; Captain Greg Lengal and Firefighter Embry Beatty, Division of Fire and Emergency Services; Jeff Neal, Division of Traffic Engineering; and Tracy Jones, Department of Law.

III. **APPROVAL OF MINUTES** – A motion was made by Ms. Meyer, seconded by Ms. Worth, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to approve the minutes of the January 13, 2022, meeting.

III. **POSTPONEMENTS AND WITHDRAWALS**

- a. PLN-MJDP-22-00009: RUTTENBURG & COHEN PROPERTY (LAKEVIEW-WOODSPOINT, UNIT 2) (AMD) (05/01/22)* - located at 305-425 CODELL DR., LEXINGTON, KY.
Council District 7
Project Contact: Barrett Partners, Inc.

Note: The purpose of this amendment is to increase buildable area and reflect change of use on Lots 2-5 & 16.

The Technical Committee and Staff Recommended: **Postponement**, because the proposed land use of a television studio is not a permitted use in the B-3 zone. The Subdivision Committee did not review this plan, at the applicant's request.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of the treatment 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. Addition of bearings and distances for all property lines.
10. Addition of record plat designation.
11. Correct orientation of vicinity map to match plan.
12. Dimension existing and proposed driveways.
13. Addition of parking space depth.
14. Addition of construction vehicle access.
15. Depict location of street cross-section on plan face.
16. Addition of uses on all lots.
17. Denote: No grading, stripping, excavation, filling or other disturbance of the natural ground cover shall take place prior to approval of an erosion control plan. Such plan must be submitted in accordance with Chapter 16 of the Code of Ordinances. The acceptance of the erosion control plan is to obtain a Land Disturbance Permit.
18. Discuss consolidation of lots that have buildings crossing property lines.
19. Discuss proposed land use of a television studio in the B-3 zone.

Applicant Representation: Tony Barrett, Barrett Partners, requested a one-month postponement of this item to allow discussion with the staff.

Action: A motion was made by Mr. de Movellan, seconded by Ms. Barksdale, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to postpone **PLN-MJDP-22-00009: RUTTENBURG & COHEN PROPERTY (LAKEVIEW-WOODSPOINT, UNIT 2) (AMD)** to the April 14, 2022, Planning Commission meeting.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

- b. PLN-MJDP-21-00073: KINGSTON HALL, UNIT 1, LOT 10 & KINGSTON HALL, UNIT 2, LOTS 14-18 (EAST BRIDGEFORD LAND & DEVELOPMENT CO.) (05/03/22)* - located at 2175 RUSSELL CAVE RD., LEXINGTON, KY.
Council District 12
Project Contact: Accurus Engineering

Note: The purpose of this amendment is to depict development of a building and associated parking on the site. The Planning Commission postponed this item at their February 10, 2022, meeting.

The Technical Committee and Staff Recommended: **Postponement.** There are questions regarding access, transportation infrastructure, and compliance with the Expansion Area Master Plan, tree canopy requirements and the proposed use.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Correct plan title to match staff report.
14. Denote: Exactions to the approval of the Division of Planning.
15. Delete preliminary drainage information.
16. Revise contour information to 2' intervals.
17. Delete Note #12.
18. Denote review by the Royal Springs Aquifer Committee and any recommendation.
19. Provided the Planning Commission finds the plan complies with the Expansion Area Master Plan.
20. Clarify proposed use and parking generator.
21. Discuss 1" to 120' scale and inclusion of adjacent lots for context.
22. Discuss pedestrian access.
23. Discuss vehicular access.
24. Discuss proposed road closure.
25. Discuss timing of construction of local street and Providence Place Parkway.
26. Discuss compliance with tree canopy requirements.

Applicant Representation: Richard Murphy, attorney, requested a one-month postponement of this item in order for the applicant to continue to work on plan revisions.

Action: A motion was made by Mr. Michler, seconded by Mr. de Movellan, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to postpone **PLN-MJDP-21-00073: KINGSTON HALL, UNIT 1, LOT 10 & KINGSTON HALL, UNIT 2, LOTS 14-18 (EAST BRIDGEFORD LAND & DEVELOPMENT CO.)** to the April 14, 2022, Planning Commission meeting.

1. COWGILL, INC. ZONING MAP AMENDMENT & CANDIA CORPORATION ZONING DEVELOPMENT PLAN

- a. PLN-MAR-21-00020: COWGILL, INC. (AMD) (03/10/22)* - continued hearing on an amended petition for a zone map amendment from a Neighborhood Business (B-1) zone to a High Rise Apartment (R-5) zone, for 1.5956 net (1.7176 gross) acres, for property at 340 Legion Drive (a portion of). A conditional use permit has also been requested to allow a stand alone parking lot in a B-1 zone.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. This will be accomplished while protecting the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

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The applicant is seeking to rezone a portion of the subject property from a Neighborhood Business (B-1) zone to the High Rise Apartment (R-5) zone in an effort to construct a five-story multi-family residential structure.

The Zoning Committee Recommended: **Postponement**.

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

1. The zone change application for the subject property, as proposed, does not completely address the development criteria for a zone change within the Corridor Place Type, and the Medium-High Density Residential Development Type. The following criteria require further discussion by the applicant to address compliance with the Comprehensive Plan:
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
 - c. A-DS5-4: Development should provide a pedestrian-oriented and activated ground level.
 - d. A-DS7-1: Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
 - e. A-DS7-2: Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
 - f. B-SU11-1: Green infrastructure should be implemented in new development. (E-GR3)
 - g. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
 - h. D-CO2-2: Development should create and/or expand a safe, connected multi-modal transportation network that satisfies all users' needs, including those with disabilities.
- b. CONDITIONAL USE PERMIT REQUEST – To allow a stand alone parking lot within the Neighborhood Business (B-1) zone.

The Zoning Committee made no recommendation.

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

1. The proposed parking lot should not have an adverse influence on existing or future development of the subject property or the surrounding area. The proposed design of the parking lot facilities meets the requirements of Article 16 and will allow for future development.

This recommendation of approval is made subject to the following conditions:

- a. Provided the Urban County Council approves the requested zone change to the R-5 zone, otherwise the requested conditional use shall be null and void.
 - b. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
 - c. The B-1 zoned portion of the property shall not have direct access to Legion Drive.
 - d. All necessary permits shall be obtained from the Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
 - e. Action of the Planning Commission shall be noted on the Development Plan for the subject property.
- c. PLN-MJDP-21-00065: CANDIA CORPORATION (03/10/22)* - located at 340 LEGION DRIVE, LEXINGTON, KY
Project Contact: Carman

The Subdivision Committee Recommended: **Postponement**. There are questions regarding compliance with stormwater requirements, tree inventory, proposed B-1 use, and building orientation.

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

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Urban Forester's approval of tree inventory map.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Denote: No building permits shall be issued unless and until a final development plan is approved by the Planning Commission.
8. United States Postal Service Office's approval of kiosk locations or easement.
9. Dimension access point at northeast corner of site.
10. Dimension the proposed building.
11. Depict construction access point.
12. Depict street cross-section on plan face.

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13. Addition of tree inventory map (TIP) per Article 26.
14. Discuss stormwater detention.
15. Discuss compliance with Multi-Family Design Standards.
16. Discuss building orientation to right-of-way.
17. Discuss need for a conditional use permit for parking lot in a Neighborhood Business (B-1) zone.
18. Discuss Placebuilder criteria.
 - a. A-DS3-1: Multi-family residential developments should comply with the Multi-family Design Standards in Appendix 1.
 - b. A-DS5-3: Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.
 - c. A-DS5-4: Development should provide a pedestrian-oriented and activated ground level.
 - d. A-DS7-1: Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.
 - e. A-DS7-2: Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.
 - f. B-SU11-1: Green infrastructure should be implemented in new development. (E-GR3)
 - g. D-CO2-1: Safe facilities for all users and modes of transportation should be provided.
 - h. D-CO2-2: Development should create and/or expand a safe, connected multi-modal transportation network that satisfies all users' needs, including those with disabilities.

Applicant Representation: Zach Cato, attorney, stated that the applicant had met with staff on several occasions to discuss this zone change and development plan, and had determined that the project was not feasible at this time. He requested to withdraw the zone change, conditional use and zoning development plan.

Action: A motion was made by Mr. Michler, seconded by Ms. Worth, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to withdraw **PLN-MAR-21-00020: COWGILL, INC. (AMD)** and **PLN-MJDP-21-00065: CANDIA CORPORATION**.

- d. **PLN-MJDP-21-00067: NEWTOWN SPRINGS, UNIT 1, LOT 2 (AMD)** (03/10/22)* - located at 1449 NEWTOWN CENTER WAY, LEXINGTON, KY.
Council District 1
Project Contact: Banks Engineering

Note: The purpose of this amendment is to revise the development on Lot 2 to add an automobile service station. The Planning Commission postponed this item at their December 9, 2021, January 13, 2022, and February 10, 2022, meetings.

The Subdivision Committee Recommended: **Postponement.** There were questions regarding compliance with conditional zoning restriction 3C, the proposed site access, and compliance with the B-1 setback.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of the treatment 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. Denote Royal Springs Aquifer committee recommendation.
13. Denote revised layout in overall Newtown Springs development plan.
14. Discuss compliance with conditional zoning restriction 3C.
15. Discuss the quantity of proposed parking.
16. Discuss proposed access locations.
17. Discuss ice machine potential conflict with easement.
18. Discuss compliance with B-1 setback.

Applicant Request: Mr. Martin stated that the applicant had communicated with the staff to request a one-month postpone of this item in order to continue to work on the building and canopy design.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Action: A motion was made by Mr. de Movellan, seconded by Ms. Meyer, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to postpone **PLN-MJDP-21-00067: NEWTOWN SPRINGS, UNIT 1, LOT 2 (AMD)** to the April 14, 2022, Planning Commission meeting.

- IV. LAND SUBDIVISION ITEMS** – The Subdivision Committee met on Thursday, March 3, 2022, at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Headley Bell, Anthony de Movellan, Janice Meyer, Frank Penn, and Judy Worth. 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, Autumn Goderwis, Tom Martin, Hal Baillie, Meghan Jennings, Cheryl Gallt, Samantha Castro, and Stephanie Cunningham; Captain Greg Lengal, Division of Fire and Emergency Services; Doug Burton, Division of Engineering; Jeff Neal, Division of Traffic Engineering; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

- A. 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 items appearing on the consent agenda:

- a. **PLN-MJDP-21-00050: RAMSEY/SULLIVAN PROPERTY, LOT 4 (AMD) (03/10/22)*** - located at 2671 KEARNEY RIDGE BLVD., LEXINGTON, KY.
Council District 12
Project Contact: EA Partners, PLC

Note: The purpose of this amendment is to add land area to the area regulated by the plan, depict the location of a 2-acre park, depict revised buildings and parking layout. The Planning Commission postponed this application at their October 14, 2021, November 11, 2021, December 9, 2021, January 13, 2022, and February 10, 2022, meetings.

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 & Pedestrian Planner's approval of the treatment 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. United States Postal Service Office's approval of kiosk locations or easement.
 12. Parks and Recreation approval of park location and associated features (access, frontage, topography).
 13. Resolve number of units to be constructed relative to the timing of the construction and dedication of Sullivan's Trace.
 14. Resolve landscape buffer against railroad (Article 18-3(a)(1)(5) of the Zoning Ordinance).
 15. Provide cross-section for access easement along proposed park frontage.
- b. **PLN-MJDP-22-00003: BLUEGRASS STOCKYARDS, LLC (LISLE AVENUE OPERATIONS CENTER) (05/01/22)***
- located at 375 LISLE INDUSTRIAL AVE., LEXINGTON, KY.
Council District 11
Project Contact: Chad Graber

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Note: The purpose of this amendment is to denote the proposed building and parking layout.

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 & Pedestrian Planner's approval of the treatment 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. Denote boundaries of property with solid dark line and addition of bearings and distances.
14. Revise labeling of proposed medical facility to "accessory medical clinic (for employees and their families only)."
15. Resolve driveway access to fire water tank maintenance area.
16. Resolve pedestrian and road infrastructure improvements as shown on PLN-MJDP-18-00099.
17. Remove driveway access to South Forbes Road.

Ms. Wade noted that **PLN-MJDP-22-00003: BLUEGRASS STOCKYARDS, LLC** would need to be removed from the consent agenda, since the applicant intended to present a revised plan.

Action: A motion was made by Ms. Meyer, seconded by Ms. Barksdale, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to approve **PLN-MJDP-21-00050: RAMSEY/SULLIVAN PROPERTY, LOT 4 (AMD)**, subject to the 15 conditions as listed on the agenda.

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.

1. DEVELOPMENT PLANS

- a. **PLN-MJDP-22-00003: BLUEGRASS STOCKYARDS, LLC (LISLE AVENUE OPERATIONS CENTER) (05/01/22)*** - located at 375 LISLE INDUSTRIAL AVE., LEXINGTON, KY.
Council District 11
Project Contact: Chad Graber

Note: The purpose of this amendment is to denote the proposed building and parking layout.

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 & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.

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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. Denote boundaries of property with solid dark line and addition of bearings and distances.
14. Revise labeling of proposed medical facility to "accessory medical clinic (for employees and their families only)."
15. Resolve driveway access to fire water tank maintenance area.
16. Resolve pedestrian and road infrastructure improvements as shown on PLN-MJDP-18-00099.
17. Remove driveway access to South Forbes Road.

Staff Presentation: Mr. Martin directed the Commission's attention to the final development plan and briefly explained the proposed request. He explained that the proposed driveway access to South Forbes Road and the applicant's plans for the historic McConnell House were two of the major concerns at the Subdivision Committee meeting. The Subdivision Committee did recommend approval of this plan, subject to the 17 conditions as listed on the agenda.

Mr. Martin stated that the applicant had requested to remove this item from the consent agenda in order to discuss the extent of the street improvements along the rights-of-way of Lisle Industrial Avenue and South Forbes Road. The plan does depict improvements along South Forbes Road, including sidewalks, curbs, and gutters. The plan also proposes an employee medical clinic as part of a second phase of development on the property. Mr. Martin noted that the applicant would have five years to construct the medical clinic as part of the original plan approval; if their timetable for construction falls outside the five-year window, the applicant would then need to request a reapproval from the Planning Commission in order to construct the employee medical clinic.

Mr. Martin stated that one of the staff's major areas of concern with this plan was the proposed improvements to South Forbes Road, including pedestrian facilities to connect to the existing Town Branch Trail system to the west. Kentucky Utilities has expressed some concerns about their ability to provide those improvements.

Commission Questions: Ms. Worth asked if the Town Branch Trail connection would be located on the same side of South Forbes Road as the subject property, or on the opposite side. Mr. Martin answered that the trail connection would be made on the same side of the street.

Applicant Presentation: Eli Grubbs, Kentucky Utilities, stated that the applicant's main concern with installing pedestrian facilities along South Forbes Road is that they do not own the land, and they typically do not make capital improvements on land they do not own. He said that the applicant is willing to construct the sidewalks within their property.

Mr. Martin clarified that the applicant is proposing to locate pedestrian facilities in an easement on the Lisle Industrial Avenue side of the property, not in the right-of-way. The applicant has stated that they have a legal concern about their ability to work in the right-of-way, which they do not own.

Mr. Martin stated that there had been some discussions with the applicant about the possibility of an "in lieu of" payment to be tied to the trail construction. That would not address the staff's immediate concerns, but could serve as a potential solution.

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

Commission Questions: Mr. Nicol asked if Mr. Grubbs would be agreeable to retaining condition #16 as a "resolve" item. Mr. Grubbs responded that he could not agree to that condition if it meant that the applicant would be required to construct the sidewalk on South Forbes Road. Ms. Wade explained that the Planning Commission needed to determine whether a sidewalk was needed along South Forbes Road, and whether the applicant should be allowed to not construct the sidewalk. Mr. Grubbs stated that the applicant would agree to install curb, gutter, and sidewalk on Lisle Industrial Avenue, which is part of their property, but not along South Forbes Road, which they do not own. Mr. Martin noted that the right-of-way is not owned by any particular entity, but rather by the community. He said it appeared that the applicant was seeking some solution that would allow them to proceed with this development without constructing the sidewalk. Mr. Nicol stated that he believed that the Commission needed to have a discussion about the need for the sidewalk.

Commission Discussion: Ms. Worth stated that, at the Subdivision Committee meeting, there was a lot of concern about pedestrian safety along South Forbes Road. She asked if this plan would result in that portion of South Forbes Road being left without a sidewalk. Mr. Martin responded that the applicant contends that they cannot install the sidewalk on property that they do not own.

* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

Mr. Nicol opined that this plan should not go forward until some provision is made for the installation of the sidewalk.

Mr. Bell asked who owned the right-of-way. Mr. Martin answered that the applicant owns the property, but the right-of-way is public and belongs to everyone. He explained that, normally during the development process, an applicant would make ½ section improvements to all of their street frontage, similar to what is being proposed along Lisle Industrial Avenue, and then dedicate the improvements to the government for maintenance. Mr. Martin added that, depending on the situation, sometimes partial improvements are provided. Mr. Bell asked if LFUCG was responsible for construction of the sidewalk. Mr. Martin answered that the city would be responsible for construction of a shared-use trail. Mr. Bell asked if the staff believed that this issue could be resolved with the applicant. Mr. Martin answered that the staff would need to have further discussions with the applicant, but there was not a guarantee that they would eventually reach an agreement. Mr. Bell asked if the plan would come back to the Commission if the sidewalk issue is not resolved, which Mr. Martin answered affirmatively.

Mr. Graber, Project Engineer, stated that, regardless of the legality of the issue, the sidewalk would “go nowhere,” since there were no sidewalks with which to connect. He said that it was also likely that any sidewalk installed along South Forbes Road might not match up with the trail access.

Mr. Nicol opined that the infrastructure would need to be constructed, even if the sidewalks are not currently connected.

Mr. Bell asked if construction of the sidewalk could be deferred until such time as the shared-use trail is built. Ms. Wade answered that, if a timing restriction was imposed, it should have some trigger, such as issuance of a permit or occupancy of a building. She noted that a trigger on this plan could be the phase two construction of the medical clinic, which would result in an increase in traffic on the site.

Mr. Nicol asked how phases one and two of the project would be divided. Mr. Martin answered that the applicant had dedicated phase two on the plan, and they would need to pull permits for that phase prior to construction of the medical clinic. Mr. Nicol said that the condition could be worded to resolve the construction of the sidewalk along with phase two, which would give the applicant five years with the approval of this plan.

Mr. Michler asked if the staff was informed about the petitioner’s legal concerns on the morning of this meeting. Mr. Martin answered that the applicant did not mention legal issues prior to the morning of this meeting, but they had always been concerned about the extent of the improvements recommended by staff, particularly those on South Forbes Road. Mr. Michler said that he was concerned that the applicant is basing their reluctance to install the sidewalk on a legal restriction, but the staff had not received an opinion from either the Public Service Commission or the LFUCG Law Department on the validity of that concern. He said that he would be willing to vote to include a condition to resolve the construction of the sidewalk, but not if that construction was tied to phase two.

Mr. Grubbs stated that the applicant had requested advisement from their counsel on the legality of installing the sidewalk in the public right-of-way. He added that, regardless of the legal issues, the applicant is reluctant to use capital funds to improve property that is owned by someone else. Mr. Nicol said that the legality of constructing the sidewalk and the reluctance of the applicant to spend money on the right-of-way were two different issues, and he asked Mr. Grubbs which one correctly described this situation. Mr. Grubbs answered that the applicant had reached out to their legal counsel for information, but they did not intend to construct a sidewalk along South Forbes Road. He added that the proposed facility would involve 200 jobs.

Ms. Worth stated that it appeared that the Planning Commission had three options: leave the condition as “resolve” and trust that the staff and the applicant would reach a consensus on the sidewalk; leave the condition as “resolve” and add a triggering event; or conclude that they would need additional information and legal advice prior to making a decision on this plan.

Ms. Meyer stated that she agreed with Ms. Worth’s assessment, and she would not be comfortable making a decision on this plan as proposed. She said that she would be willing to vote for a postponement. Ms. Wade asked if the Planning Commission would like additional information of a particular nature. Ms. Meyer answered that she would like additional information related to condition #16. Ms. Wade suggested that the staff obtain legal opinions from the LFUCG Law Department and the Public Service Commission about whether a public utility should be required to construct improvements in the right-of-way, with which Ms. Meyer agreed.

Action: A motion was made by Ms. Meyer, seconded by Ms. Worth, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to postpone **PLN-MJDP-22-00003: BLUEGRASS STOCKYARDS, LLC (LISLE AVENUE OPERATIONS CENTER)** to the April 14, 2022, Planning Commission meeting, in order to allow staff and the applicant more time to provide legal information related to condition #16.

- b. PLN-MJDP-22-00008: LEXINGTON CLINIC (05/01/22)* - located at 1221 SOUTH BROADWAY, LEXINGTON, KY.
Council District 11
Project Contact: Carman

Note: The purpose of this amendment is to increase the total square footage of building #2 and revise 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 & Pedestrian Planner's approval of the treatment 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 access off Gibson Avenue.
14. Dimension walkways.
15. Clarify note labeling of permeable pavement system (Note #11).
16. Denote height of building #2 in feet.
17. Addition of floodplain information and 25' building setback.
18. Addition of vegetative buffer.
19. Remove and relocate on place face construction access (Parkway Drive).
20. Improve legibility of building line setback in B-1 zone.
21. Denote that certification of PLN-MJDP-21-00068 is required prior to certification of this plan.
22. Denote Floodplain Appeals Committee decision and/or compliance with Article 19 of the Zoning Ordinance.
23. Provided the Planning Commission makes a finding the plan complies with Article 8-16(o)(3) of the Zoning Ordinance.

Staff Presentation: Mr. Martin directed the Commission's attention to the final development plan and briefly explained the proposed request. He noted that a two-story building was originally proposed for the property, along with the new facility that was recently constructed; the applicant is now proposing to construct a four-story office building, which exceeds the allowable height limit in the B-1 zone. The applicant has indicated that they believe that their proposal is in agreement with the B-1 Form-Based Neighborhood Business Project requirements.

Mr. Martin explained that there is a development plan for the rear portion of the property, near the creek, which has not been certified. This plan will not be certified until the issues with the floodplain and the vegetative buffer have been resolved, following presentation of the earlier plan to the Floodplain Appeals Committee in April. Mr. Martin noted that, upon completion of the building proposed on this plan, total square footage for the Lexington Clinic site will be over 217,000.

Form-Based Code Presentation: Ms. Goderwis stated that the applicant was requesting to use the special provisions of Article 8-16 of the Zoning Ordinance to allow a Form-Based Neighborhood Business Project in order to exceed the typical height allowance in the B-1 zone. The applicant was required to submit a Character and Context Study, which addresses how the development will fit in with the surrounding area in order to justify the use of the Form-Based criteria. In this case, the applicant cited several other buildings along the South Broadway corridor that are similar in height, massing, and materiality.

Ms. Goderwis stated that the staff was able to find that the applicant made a strong effort to address the intent of the Form-Based Project, but they believe that some additional details on the use of open space and supplemental landscaping would be beneficial. The staff recommended approval, subject to the following conditions:

1. Provide a revised Area Character and Context Study illustrating the supplemental landscaping concepts and provision of defined public space.
2. Denote on the Final Development Plan "This development plan shall comply with the Area Character and Context Study as approved by the Planning Commission per Article 8-16(o)(3)."

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Commission Questions: Ms. Worth asked if the Form-Based Project recommendations should be added to the list of 16 recommended conditions on this plan, which Ms. Goderwis answered affirmatively.

Applicant Presentation: Steve Ruschell, attorney, stated that the applicant was in agreement with the staff's recommendations, and he requested approval. He said that the applicant is in agreement with all of the staff's recommendations, including those for the Form-Based Neighborhood Business Project.

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

Action: A motion was made by Ms. Worth, seconded by Ms. Meyer, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to approve **PLN-MJDP-22-00008: LEXINGTON CLINIC**, including the staff's finding for approval of the Form-Based Neighborhood Business Project, subject to the 23 conditions listed in conjunction with the development plan, adding the two conditions included in the staff's Form-Based Neighborhood Business Project report.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Ms. Meyer, seconded by Ms. Barksdale, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to accept the Release and Call of Bonds memo dated March 10, 2022, as presented by the Division of Engineering.

V. COMMISSION ITEMS

- a. **PFR-2022-1: LEXINGTON PUBLIC LIBRARY VILLAGE BRANCH** – a Public Facility Review to replace an existing public library, retail space, and fast food restaurant with a larger public library structure, located at 2197 Versailles Rd.

Staff Presentation: Ms. Goderwis presented the staff report, explaining that the Lexington Public Library is proposing to remove its existing Village Branch location, along with some adjoining retail and fast-food uses, in order to construct a new 30,000 square-foot library facility. The new facility is proposed to include community open space, meeting rooms, a maker space, and traditional library stacks and reading rooms. The project will result in a loss of seven parking spaces; due to a reciprocal parking agreement with the adjoining retail development, 139 total spaces will be available between the two lots.

Ms. Goderwis stated that the staff had reviewed this proposal for compliance with the 2018 Comprehensive Plan, as well as the Cardinal Valley Small Area Plan, and found it to be in agreement with the recommendations of both plans. She noted that the Cardinal Valley Small Area Plan recommended that the library be relocated to the Oxford Drive area, but the staff believes that the proposed new facility meets the spirit of that recommendation and will be accessible to the Cardinal Valley area at large.

Commission Comments: Ms. Worth opined that the new library facility was long overdue.

Mr. Michler agreed that this area would be well served by an expanded library, but noted that he did not understand why parking was proposed in front of the building, rather than behind. The Planning Commission has been encouraging private developers to bring their buildings up to the street, and place parking to the rear, for some time now.

Applicant Presentation: Kevin Warner, CARMAN Landscape Architecture, stated that there were existing setback requirements and parking agreements that constrained the location of the new library facility. He noted that this plan proposes an improved pedestrian access, which the applicant believes will be an asset to the area.

Action: A motion was made by Mr. Michler, seconded by Ms. Worth, and carried 7-0 (Davis, Forester, Penn, and Pohl absent) to accept the staff's findings that the proposed public library facility is in agreement with the recommendations of the Comprehensive Plan and the Cardinal Valley Small Area Plan.

- b. **PFR-2022-2: LEXINGTON POLICE DEPARTMENT – POLICE EAST SECTOR ROLL CALL** – a Public Facility Review to construct a new Roll Call Center for the Lexington Police Department, located at 4385 Clearwater Way (AKA 650 Southpoint Drive (a portion of)).

Staff Presentation: Ms. Goderwis presented the staff report, explaining that the Lexington Police Department is proposing to construct a new roll call facility on undeveloped land, including a one-story building with a partial basement, and associated parking. The new facility is proposed to be 7,700 square feet in size, with a ground-floor footprint of 6,200 square feet and a partial basement and storm shelter. Two access points are proposed to Saron Drive, with one access to Clearwater Way; the Clearwater Way access and eight front parking spaces will be designated for the public, while 52 parking spaces to the rear will be used for police vehicles. The proposed facility would be located well out of the nearby floodplain area, and the existing heavy treeline would be maintained.

Ms. Goderwis stated that the staff had reviewed this proposal for compliance with the 2018 Comprehensive Plan, and found it to be in agreement with its recommendations. She noted that the staff does believe that there are several Placebuilder criteria that the proposal does not address, and they are recommending that the Police Department consider modifying the proposal to bring it into compliance with the following criteria:

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- **A-DS5-3:** *Building orientation should maximize connections with the surrounding area and create a pedestrian-friendly atmosphere.* The proposed site layout does not include pedestrian connections to Clearwater Way. Staff recommends that the front yard setback be reduced to match the front yard setbacks of the duplexes and office building across Clearwater Way and that a pedestrian access be provided to connect with the existing sidewalk along Clearwater Way.
- **A-DS7-1:** *Parking should be oriented to the interior or rear of the property for non-residential or multi-family developments.* Staff recommends that the Police Department and/or the Division of General Services consider relocating the 8 “public” parking spaces to the side or rear of the building in order to create a more pedestrian friendly streetscape along Clearwater Way.
- **A-DS7-2:** *Any non-residential or multi-family parking not buffered by a building should be screened from the streetscape view and adjacent properties.* Staff recommends that the Police Department and/or the Division of General Services provide Vehicular Use Area Perimeter screening in accordance with Article 18-3(a)(2) of the Zoning Ordinance.

Ms. Goderwis stated that the Police Department’s design team indicated that they would be agreeable to some of the staff’s recommendations, including adding a pedestrian connection to Clearwater Way and providing increased landscaping, but they would not be willing to re-orient the building or parking, due to the site’s topography.

Applicant Presentation: Joyce Followell, Abbie Jones Consulting, stated, with regard to pedestrian access to the front of the building, that it was an oversight to not include pedestrian access to Clearwater Way. The front entrance is proposed to be equidistant from both Saron Drive and Clearwater Way, which is a safety concern when constructing police facilities. With regard to the staff’s recommendations to relocate the parking to the side of the building, Ms. Followell explained that the 20% slope of the property would require the use of retaining walls, which the Police Department would prefer to avoid due to expense and the need to haul in significant fill. She added that the Police Department did intend to provide vehicular use area landscaping.

Commission Questions: Mr. Michler asked how many officers would be reporting to this roll call center. Ms. Followell answered that approximately 50 officers per shift would be reporting to this location.

Mr. Nicol asked why the public and handicap parking were proposed to be located at the front of the building along Saron Drive. Ms. Followell answered that the Saron Drive side of the building is proposed to be used as the public entrance; the rear side of the building will be used for storage and a storm shelter. Mr. Nicol noted that accessibility for the handicap spaces might be easier from the Clearwater Way side of the property. Ms. Followell noted that the handicap spaces are proposed to be located approximately 14 feet from the front door, at the nearest point possible.

Jon Rollins, BCI, stated that the proposed building occupancy includes 22 officer desks; 48 roll call seats; and a meeting room that could accommodate 40 people.

Citizen Comments: Samantha Castro, 899 Jairus Drive, stated that she was concerned about the location of the proposed facility near Veterans Park Elementary School, which generates a great deal of vehicle and pedestrian traffic. Ms. Followell answered that the police shift changes would not coincide with peak school traffic. She added that the presence of the roll call center near the school could increase safety for the students at the school, as well as providing stronger connections between the officers and the community.

Action: A motion was made by Ms. Worth, seconded by Mr. Bell, and carried (Davis, Forester, Penn, and Pohl absent) to accept the staff’s findings that the proposed Police Department roll call center is in agreement with the recommendations of the Comprehensive Plan, and encouraged the applicant to follow the staff’s three recommendations as listed.

VI. **STAFF ITEMS** – No such items were presented.

VII. **AUDIENCE ITEMS** – No such items were presented.

VIII. **MEETING DATES FOR MARCH AND APRIL 2022**

Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	March 17, 2022
Zoning Items Public Hearing , Thursday, 1:30 p.m., Video Teleconference	March 24, 2022
Technical Committee, Wednesday, 8:30 a.m., 3 rd Floor Phoenix Building	March 30, 2022
Work Session, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	March 31, 2022
Subdivision Committee, Thursday, 8:30 a.m., 3 rd Floor Phoenix Building	April 7, 2022
Zoning Committee, Thursday, 1:30 p.m., 3 rd Floor Phoenix Building	April 7, 2022
Subdivision Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 14, 2022

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- IX. **ADJOURNMENT** - There being no further business, Mr. Nicol declared the meeting adjourned at 3:10 p.m.

Larry Forester, Chair

Janice Meyer, Secretary

TLW/AG/TM/CG/sc