

MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION AND ZONING ITEMS
January 12, 2023

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.
- II. **ATTENDANCE** – The meeting was attended by Commission members Larry Forester, Anthony de Movellan, Janice Meyer, Zach Davis, Headley Bell, Bruce Nicol, Ivy Barksdale, Robin Michler, Graham Pohl, and Judy Worth. Staff members present were Traci Wade, Tom Martin, Cheryl Gallt, Hal Baillie, Paula Schumacher, Tracy Jones and Brittany Smith, Department of Law; Vaughan Atkins, Division of Engineering; David Filiatreau, Division of Traffic Engineering; Greg Lengal, Division of Fire and Emergency Services; and Amelia Armstrong and Barry Dennis, Historic Preservation Office.
- III. **APPROVAL OF MINUTES** – Ms. Worth made a motion, seconded by Mr. Bell, and carried 9-0, (Ms. Meyer abstained, Mr. Penn absent) to approve the December 8, 2022 minutes.
- IV. **RESOLUTION FOR FORMER PLANNING COMMISSION MEMBER** – At this time, the Commission and the staff expressed their sincere appreciation to Mr. William Wilson for his dedication and service to the Planning Commission and the citizens of Lexington-Fayette County. Mr. Davis read the resolution that listed the achievements and contributions made by Mr. Wilson to the Planning Commission.

Mr. Wilson made comments thanking the Planning Commission members, staff members, mayors, and public.

- V. **POSTPONEMENTS AND WITHDRAWALS** - Requests for postponement and withdrawal were considered at this time.
- A. PLN-MJDP-22-00062: HOOVER & FORD PHILPOT EVANGELISTIC ASSOCIATION PROPERTY (THE FOUNTAINS AT PALOMAR)(AMD)(1/12/2023)* - located at 3801 HARRODSBURG ROAD, LEXINGTON, KY
Council District: 9
Project Contact: Vision Engineering

Note: The purpose of this amendment is to revise the building, parking, and circulation on Lots 1, 4, 6, & 8.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding the proposed loading dock and compactor at rear of building relative to rear screening notes, as well as questions regarding the service road.

Should this plan be approved, the following conditions 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 landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote time of proposed turn lane construction on Harrodsburg Road.
14. Discuss enhanced vehicular use area (VUA) screening along Man O' War Boulevard.

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

15. Discuss proposed loading dock and compactor at rear of proposed building on Lot 8, and impact on existing access easement and traffic movement through the site.

Applicant Representation – Bruce Simpson, requested a two week postponement so that the proposed changes to the plan could be finalized.

Action - Mr. Pohl made a motion, seconded by Mr. de Movellan, and carried 10-0, (Penn absent) to postpone PLN-MJDP-22-00062: HOOVER & FORD PHILPOT EVANGELISTIC ASSOCIATION PROPERTY (THE FOUNTAINS AT PALOMAR)(AMD) to the January 26, 2023 meeting.

B. IVCP ATHENS SOUTH LLC ZONING MAP AMENDMENT & BOONESBORO MANOR (INTERSTATE PARK) ZONING DEVELOPMENT PLAN

1. PLN-MAR-22-00023: IVCP ATHENS SOUTH LLC – a petition for a zone map amendment from an Interchange Service Business (B-5P) zone, to a Highway Service Business (B-3) zone, for 30.24 net (37.36 gross) acres, for property located at 5380 and 5354 (a portion of) Athens-Boonesboro Road. In association with the application, the petitioner is seeking a conditional use permit to allow for the construction of a soccer stadium.

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.

The applicant is seeking to rezone the subject property to the Highway Service Business (B-3) zone to allow for the construction of a 6,500 seat soccer stadium, training facility, and a medical treatment facility. To allow for the construction of the stadium, the applicant is also requesting a conditional use permit. The proposed development would be accessed from Doe Run Trail and a proposed access point a 1,000 feet west of the current access point.

The Zoning Committee Recommended: **Approval.**

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

- a. A restricted Highway Service Business (B-3) zone is in agreement with the 2018 Comprehensive Plan's Goals, Objectives, and Policies, for the following reasons:
- b. The proposed development supports infill opportunities (Theme A, Goal #2) by developing in an area that is meant for commercial or industrial development with a commercial development focused on economic development.
- c. The proposed development will create jobs and prosperity by showcasing local assets, which will be specifically focused on the promotion and enhancement of sports tourism, entertainment and other quality of life opportunities that attract young, and culturally diverse professionals and a work force of all ages and talents (Theme C, Goal #1 and #2).
- d. The proposed development will enhance Lexington's ability to host regional athletic tournaments through the inclusion of the soccer stadium and training facility (Theme C, Livability Policy #3 of the Comprehensive Plan).
2. The justification and corollary development plan are in agreement with the 2017 Rural Land Management Plan, for the following reasons.
 - a. The proposed rezoning will allow for greater utilization of property within the Blue Sky Rural Activity Center that support highway and interstate service commerce, while also allowing for greater flexibility for job production, which would target the production of employment at higher wages.
 - b. The proposed development is situated along the portion of the property that is most heavily impacted by light, air and sound impacts that are caused by Interstate 75 and is adequately buffered from the westernmost Agricultural Rural (A-R) zoning that abuts 5354 Athens Boonesboro Road.

- c. The proposed development does not negatively impact the viewshed along Athens Boonesboro Road as the area is buffered by topographic variations and the established development along the roadway.
- 3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:
 - a. The following uses shall be prohibited:
 - i. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - ii. Minor or major automobile and truck repair.
 - iii. Pawnshops.
 - iv. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - v. Retail sale of automotive parts with storage and distribution of inventory to other local establishments under the same ownership.

The restrictions are necessary and appropriate in order to restrict those land uses that could have a negative impact on the surrounding agricultural zones and Athens Boonesboro Road, a major gateway into the Lexington Fayette Urban County. These restrictions will protect the aesthetic character of the Athens Boonesboro Road gateway, as recommended by the 2017 Rural Land Management Plan (RLMP).

- 4. This recommendation is made subject to approval and certification of PLN-MJDP-22-00073: Boonesboro Manor (Interstate Park Property)(AMD), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- 2. Conditional Use Request - In association with the zone change request for the property, the applicant is seeking a Conditional Use Permit within the Highway Service Business (B-3) zone to operate a stadium 5380 and 5354 (a portion of) Athens Boonesboro Road.

The Zoning Committee Recommended: **Approval**.

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

- 1. Granting the requested conditional use permit should not adversely affect the subject property or surrounding properties since noise and lighting issues will be addressed to the extent possible, in order to minimize any negative effect they may have on surrounding property owners; access will be available and adequate to allow traffic to flow into and out of/away from the stadium without causing a significant negative impact on peak hour levels of service; and the location is to an accessible arterial roadway; and illuminated signage will be screened from the public right-of-way.
- 2. Adequate public facilities will be available in the area to support the proposed stadium.
- 3. Parking will be provided in accordance with the submitted Parking Demand Mitigation Study, including shared parking with the adjacent proposed uses and should be adequate to serve the stadium use.

This recommendation of **Approval** is made subject to the following conditions:

- a. Provided the Urban County Council approves the requested zone change to the B-3 zone, otherwise the requested conditional use shall be null and void.
- b. Any outdoor theater screen or illuminated scoreboard shall be screened from view so that it cannot be seen from Athens Boonesboro Road.
- c. There shall be no fireworks utilized on the site.
- d. The development shall be constructed in accordance with the approved Final Development Plan, or as amended by the Planning Commission.
- e. All necessary permits and approvals shall be obtained from the KY Transportation Cabinet, and Divisions of Planning, Traffic Engineering, Engineering, and Building Inspection prior to construction and occupancy.
- f. Action of the Planning Commission shall be noted on the Development Plan for the subject property.
- g. The conditional use shall be operated in accordance with the submitted justification statement.

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

- h. Any outdoor lighting shall be directed downward and toward the interior of the site in order to minimize any light overflow onto adjoining or nearby properties.
- i. Hours of events held at the stadium shall be limited to no earlier than 7:00 a.m. and no later than 11:00 p.m.
- j. Timing of access and roadway improvements shall be determined at the time of the Final Development Plan, prior to the establishment of the conditional use.

3. PLN-MJDP-22-00073: BOONESBORO MANOR (INTERSTATE PARK) (AMD) (1/29/2023)* - located at 5380 and 5354 ATHENS-BOONSBORO ROAD, LEXINGTON, KY
Council District: 12
Project Contact: CMW, Inc.

Note: The purpose of this amendment is to depict the size and location of the proposed stadium a training facility, in support of the requested zone change from Interchange Service Business (B-5P) zone to Highway Service Business (B-3) zone.

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

- 1. Provided the Urban County Council approves the zone change to B-3; otherwise, any Commission action of approval is null and void.
- 2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers, and floodplain information.
- 3. Urban County Traffic Engineer's approval of street cross-sections and access.
- 4. Urban Forester's approval of tree preservation plan.
- 5. Greenspace planner's approval of the treatment of greenways and greenspace.
- 6. Department of Environmental Quality's approval if environmentally sensitive areas.
- 7. United States Postal Service Office's approval of kiosk locations or easement.
- 8. Department of Highway's approval of proposed access to Athens Boonesboro Road (KY 418).
- 9. Provided the Planning Commission approves the conditional use permit for a stadium.
- 10. Provided the Planning Commission accepts the Parking Demand Mitigation Study.
- 11. Resolve parking locational and connection standards at time of the Final Development Plan.
- 12. Resolve stormwater management at the time of the Final Development Plan.
- 13. Resolve access to Athens Boonesboro Road at Doe Run Trail.
- 14. Resolve design and timing of new proposed access to Athens Boonesboro Road.
- 15. Resolve sanitary sewer connection and pump station upgrades at the time of the Final Development Plan.
- 16. Resolve bicycle/pedestrian infrastructure at roadway intersections and bicycle parking at the time of the Final Development Plan.
- 17. Discuss Placebuilder criteria.

Staff Comments – Mr. Baillie requested a two week postponement so that proper signage could be posted at the property.

Action – Mr. de Movellan made a motion, seconded by Mr. Bell, and carried 10-0, to postpone IVCP ATHENS SOUTH LLC ZONING MAP AMENDMENT & BOONESBORO MANOR (INTERSTATE PARK) ZONING DEVELOPMENT PLAN to the January 26, 2023 meeting.

- C. PLN-MJDP-18-00004 (AKA DP 2004-153): TRIPLE STARS PROPERTY (2/13/23)* - located at 920 OLD TODDS ROAD, LEXINGTON, KY
Council District: 7
Project Contact: CS International Group, Inc.

Note: The Planning Commission approved this plan at their October 14, 2004, meeting, and reapproved on February 8, 2018, subject to the following conditions. The applicant requested re-approval on November 14, 2022.

The Subdivision Committee recommended: **Postponement**. There are questions regarding the plan meeting the new parking requirements and Article 8 of the Zoning Ordinance.

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

Should this plan be approved, the following conditions 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. Landscape Examiner's approval of landscaping.
4. Urban Forester's approval of tree preservation plan.
5. Denote: No building permits shall be issued until a final subdivision plan has been approved and certified by the Planning Commission.
6. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
7. Revise general note on grading to reference Article 16 of the Code of Ordinance.
8. Verify or correct owner, applicant name and information.
9. Denote: No amendments to the Final Development Plan shall be required for additions or alterations to individual townhouses provided they comply with the Zoning Ordinance.
10. Correct current zoning in the site statistics.

Staff Comments – Mr. Martin told the Commission that the applicant had requested a postponement to address the parking and redesign of the development.

Action – Mr. Pohl made a motion, seconded by Ms. Worth, and carried 10-0 (Penn absent) to postpone PLN-MJDP-18-00004 (AKA DP 2004-153): TRIPLE STARS PROPERTY to the February 9, 2023 meeting.

- D. PLN-MJDP-22-00074: LEXINGTON MALL, LOT 6A (TIDAL WAVE AUTO SPA) (AMD) (2/26/23) - located at 2401 RICHMOND ROAD, LEXINGTON, KY
Council District: 5
Project Contact: Paulson Mitchell Inc.

Note: The purpose of this amendment is to depict redevelopment of Lot 6A for building and parking circulation.

The Subdivision Committee Recommended: **Postponement**. The development plan is not legible and there are questions about the plan meeting the requirements of Article 21 and Article 12 of the Zoning Ordinance.

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

1. Urban County Engineer's acceptance of drainage, storm, sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Improve plan legibility.
14. Depict plan to scale.
15. Correct plan title to match staff report.
16. Correct plan type to "Amended Final Development Plan."
17. Complete bearings and distances on the whole development.
18. Addition of plat designation.
19. Improve vicinity map legibility.

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

20. Dimension access, driveways, parking spaces, sidewalks, and buildings.
21. Denote construction access point.
22. Addition of street cross-sections and location on plan face.
23. Addition of site statistics for entire development.
24. Addition of all required notes from previous certified plan.
25. Document compliance with Article 21-7(b)(3) of the Zoning Ordinance with Lynn Imaging, 859-255-1021.
26. Discuss compliance with Article 12-8(h) for multi-modal accommodations.
27. Discuss proposed land use with the B-6P zone. Only self-service car washes are permitted.

Staff Comments – Mr. Martin stated that the applicant requested a one month postponement to continue working on issues with the plan.

Action – Mr. de Movellan made a motion, seconded by Ms. Meyer, and carried 10-0 (Penn absent) to postpone PLN-MJDP-22-00074: LEXINGTON MALL, LOT 6A (TIDAL WAVE AUTO SPA) (AMD) to the February 9, 2023 meeting.

- E. PLN-MJDP-22-00079: COLEMAN PROPERTY (NEWTOWN PIKE HAMPTON INN & SUITES) (AMD) (2/26/23) - located at 1880 NEWTOWN PIKE, LEXINGTON, KY
Council District: 2
Project Contact: Thoroughbred Engineering

Note: The purpose of this amendment is to revise for a proposed hotel.

The Subdivision Committee Recommended: **Postponement**. There are questions regarding compliance with the Article 16 requirements.

Should this plan be approved, the following conditions 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 landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of 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 height of proposed retaining wall.
15. Denote floor area ratio per Article 21.
16. Denote zoning of adjacent property.
17. Denote canopy height in feet.
18. Denote review by Royal Springs Aquifer Committee.
19. Addition of Newtown Pike cross-section.
20. Addition on access easement cross-section.
21. Denote front yard setback.
22. Revise parking adjacent to Coleman Court to meet Article 16 requirements.
23. Remove parking from access easement to comply with Article 16 requirements.
24. Denote review by the Royal Springs Aquifer Committee.

Staff Comments – Mr. Martin stated the applicant requested a one month postponement so that they can resolve several issues with the plan.

Action – Mr. de Movellan made a motion, seconded by Ms. Barksdale, and carried 10-0 (Penn absent) to postpone PLN-MJDP-22-00079: COLEMAN PROPERTY (NEWTOWN PIKE HAMPTON INN & SUITES) (AMD) to the February 9, 2023 meeting.

VI. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Mr. Davis, seconded by Mr. Bell, and carried 10-0 to approve the January bond memos.

VII. LAND SUBDIVISION ITEMS – The Subdivision Committee met on Thursday, January 5, 2023 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Judy Worth, Anthony de Movellan, Janice Meyer, and Headley Bell. Committee members present were Vaughan Adkins, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Tom Martin, Cheryl Gallt, Hal Baillie, Autumn Goderwis, Daniel Crum, Paula Schumacher, Greg Lengal, Division of Fire and Emergency Services; Stephen Parker, Division of Traffic Engineering; Tracy Jones and Brittany Smith, Department of Law; and Doug Burton, Division of Engineering. 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 read the Consent Agenda noting that PLN-MJDP-22-00078 needed to be removed due to a minor change that needed to be heard by the Commission. She stated that the following items continue to appear on the consent agenda:

1. PLN-MJDP-19-00052: KID'S HOUSE CHILD CARE CENTER (AHLULBAYT CENTER) (AMD) – located at 1449 & 1452 BRYAN AVE., LEXINGTON, KY.
Council District: 1
Project Contact: Kentucky R&A LLC

Note: The Planning Commission approved this plan on November 14, 2019, and re-approved this plan on September 9, 2021. The applicant requested re-approval of this plan on November 14, 2022.

The Subdivision Committee recommended: Re-approval, subject to the following conditions;

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

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

6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Complete note #13 referencing date of variance approval.
10. Complete Tree Preservation Plan (TPP) information required by Article 26-4(b) and (c) of the Zoning Ordinance.
11. Documentation of account with Lynn Imaging to meet Article 21-7(b)(3) of the Zoning Ordinance.
12. Recordation of consolidation plat prior to plan certification.
13. Denote zone-to-zone screening per note #16 on previous plan (ZDP 2014-18).
14. Denote proposed and existing easements on plan.
15. Denote tree protection area from the previous plan (ZDP 2014-18).
16. Correct floor area ratio and lot coverage in site statistics.
17. Resolve note #15 from the previous plan (ZDP 2014-18) regarding tree planting.
18. Resolve note #15 on this plan for additional screening for change of use.
19. Resolve compliance with Articles 16 & 18 parking requirements.

2. PLN-MJDP-21-00045: RICHARDSON PROPERTY (AMD) (12/06/21)* - located at 324 HANNAH TODD PLACE, LEXINGTON, KY
Council District: 7
Project Contact: Commonwealth Designs Inc.

Note: The purpose of this amendment is to remove 5 townhomes and increase the number of condominiums by 18.

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

Note: The Planning Commission originally approved this plan at their October 10, 2021. The applicant requested reapproval on October 26, 2022. The Planning Commission postponed the application at the December 8, 2022 meeting.

The Subdivision Committee recommended: **Re-approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of the treatment of bike trails and pedestrian facilities.
7. Greenspace Planner's approval of access to HOA lot and shared-use path.
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. United States Postal Service Office's approval of kiosk locations or easement.
11. Addition of topography in area of amendment.
12. Denote access point for construction vehicles.
13. Addition of dimensions on all condominium buildings.
14. Clarify site statistics for number of condominium units.

3. PLN-MJDP-22-00083: OVERBROOK LAND COMPANY & SMILEY PROPERTY (LEXUS PARKING EXPANSION) (2/26/23) - located at 1230 & 1264 EAST NEW CIRCLE ROAD, LEXINGTON, KY
Council District: 2
Project Contact: Vision Engineering

Note: The purpose of this amendment is to create additional parking for adjacent lot.

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

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

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 landscaping buffers.
4. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
5. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
6. Department of Highway's approval of access to New Circle Road (KY 4).
7. Addition of all development plan information from ZDP 2008-81.
8. Denote access easement and maintenance responsibility.
9. Denote any existing or proposed easements.
10. Revise parking area to meet Article 16 vehicular use area requirements.
11. Revise parking area to meet Article 18 for landscape requirements.
12. Resolve improvements to New Circle Road.
13. Resolve existing Parkette sign and compliance with Article 17 of the Zoning Ordinance.

Action – Mr. Pohl made a motion, seconded by Ms. Worth, and carried 10-0 (Penn absent) to approve the amended consent agenda as presented by staff, noting that the required signage had been posted.

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. Final Subdivision Plans

- a. PLN-FRP-22-00042: LOUDON PARK ADDITION, BLOCK 15, LOT 2 (AMD) (1/1/2023)* - located at 410, 416, and 418 E. SEVENTH STREET, LEXINGTON, KY
Council District: 1
Project Contact: CAM Surveying

Note: The purpose of this amendment is to subdivide one lot into three lots per Article 4-5(a) of the Zoning Ordinance.

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. Addressing Office's approval of street names and addresses.
4. Urban Forester's approval of tree protection area(s) and required street tree information.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. United States Postal Service Office's approval of kiosk locations or easement.
8. Document compliance with Article 4-5(a) of the Zoning Ordinance with separate utility bills for each lot.

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9. Document three sewer taps for the property.
10. Depict location of cross-section on plan face.
11. Addition of street cross-section for Pemberton Lane.

Staff Comments – Mr. Martin made the presentation of the plat. He said the current Zoning Ordinance would not allow these lots to be subdivided, but that they have been used as three separate lots since the units were built. He told the Commission that each unit must have their own sewer taps and utility bills.

Applicant Representation – Gary Roland, CAM Surveying, stated that although they have been treated as three separate lots for years, the applicant wanted to clean up the title by separating them via plat, in conformity with Article 4-5(a) of the Zoning Ordinance.

Action – Mr. Davis made a motion, seconded by Ms. Barksdale, and carried 10-0 (Penn absent) to approve PLN-FRP-22-00042: LOUDON PARK ADDITION, BLOCK 15, LOT 2 (AMD)

- b. PLN-FRP-22-00050: SEBASTIAN PROPERTY, UNIT 3-G (2/26/23) - located at 2826 LEESTOWN ROAD, LEXINGTON, KY
Council District: 2
Project Contact: EA Partners

Note: The purpose of this plat is to record 62 lots for single family attached and detached residences and 1 HOA common area lot.

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.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to certification.
9. United States Postal Service Office's approval of kiosk locations or easement.
10. Denote no access to Leestown Road from Lots 37-44, 59-66, and 78.
11. Provided the Planning Commission grants the requested waiver to 4-7(c)(1) of the Land Subdivision Regulations.

Staff Presentation - Mr. Martin described the development plan and the associated waiver. He said that construction timing relating to the access easement to the townhomes was the underlying issue that necessitated a waiver.

Applicant Representation - Rory Kahly, EA Partners, was present to represent the applicant, but did not add any comments.

Action - Mr. de Movellan made a motion, seconded by Mr. Bell, and carried 10-0 (Penn absent) to approve PLN-FRP-22-00050: SEBASTIAN PROPERTY, UNIT 3-G.

Mr. de Movellan also made a motion, seconded by Mr. Bell, and carried 10-0 (Penn absent) to approve the waiver associated with the plan.

- c. PLN-MNSUB-22-00050: WILLIS & JUSTIN SAUTTER, 1974 TRUSTS (2/26/23) - located at 3723 NEWTOWN PIKE, LEXINGTON, KY

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

Council District: 12
Project Contact: CAM Surveying

The Staff Recommends: **Approval**, subject to the following conditions;

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Provided the Planning Commission grants the requested waiver to Article 6-4(c) of the Land Subdivision Regulations.

Staff Presentation - Mr. Martin described the minor subdivision plat and the waiver associated with it. He pointed out the two lots that would be formed by the consolidation plat. He explained the issue of frontage shortage in one of the proposed lots.

Applicant Representation - Gary Roland, CAM Surveying, was present for the applicant. He reiterated the road frontage problem.

Action - Ms. Meyer made a motion, seconded by Ms. Worth, and carried 10-0 (Penn absent) to approve PLN-MNSUB-22-00050: WILLIS & JUSTIN SAUTTER, 1974 TRUSTS along with the accompanying waiver, based on the proposed findings.

2. Development Plans

- g. PLN-MJDP-22-00078: SHADOW WOOD, PHASE II (RICHWOOD BEND) (2/26/23) - located at 601 OLD TODDS ROAD AND 96 & 100 CODELL DRIVE, LEXINGTON, KY
Council District: 7
Project Contact: Prime Engineering

Note: The purpose of this amendment is to revise apartment 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 landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Revise interior vehicular use area to meet 30% tree canopy per Article 16.

Staff Presentation - Mr. Martin described the development plan, reminding the Commission that this is a piece of a property that was part of a recent zone change. He pointed out that the applicant would have to ask the Board of Adjustment for a variance regarding setbacks from the abandoned right-of-way. He mentioned that the plan was for affordable housing so there was a need to approve the plan so that the funding process would not be interrupted.

Commission Questions - Mr. Michler asked where the right of way was, and Mr. Martin clarified the location.

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Applicant Representation – Steve Garland, Prime AE, and Johann Graham, AU Associates, were present for the applicant. Mr. Garland said that the right-of-way was a difficulty, but the plan needed to be approved in case the process of going through the court took longer than expected for claiming or accepting abandoned right-of-way. He told the Planning Commission that they had already filed a Board of Adjustment application to request the variance. Mr. Graham told the Commission that they were in negotiation with the neighbor regarding the shared right-of-way.

Commission Questions - Mr. Michler asked about using Todds Road as an alternative access. Mr. Graham explained that the topography made that impossible.

Ms. Worth asked for clarification about adding a condition regarding the BOA approval. Mr. Martin said that there would have to be a note put on the plan that specified the approval.

Action – Ms. Worth made a motion, seconded by Ms. Barksdale, and carried 10-0 (Penn absent) to approve PLN-MJDP-22-00078: SHADOW WOOD, PHASE II (RICHWOOD BEND) with the conditions listed by staff and a requirement to note Board of Adjustment approval to reduce setbacks along the abandoned right-of-way.

IIX. STAFF ITEMS

- B. BOAR 2022-1: DR. LARRY FRANCIS** - Appeal of the Board of Architectural Review (BOAR) decision on October 19, 2022 with respect to the addition of solar panels to the front porch roof for the property located at 137 S Hanover Avenue, in the Ashland Park Historic District.

Staff Presentation - Mr. Baillie explained the appeal of a Board of Architectural Review Board decision. He entered the documents into the record including:

1. The Historic Guidelines
2. Article 13 of the Zoning Ordinance
3. Record of information provided by the Historic Preservation Office
4. Information submitted by applicant.

He highlighted the appeal request, location of the property, history of the case, letter of appeal, and the staff's findings in his presentation.

Amelia Armstrong, Historic Preservation Office, made additional comments and displayed some additional photographs of the property. She reiterated why the BOAR decision was made.

Commission Questions - Mr. Davis asked about the history of the homeowner, making changes to the property without a Certificate of Appropriateness. Ms. Armstrong replied that they had also built a vinyl fence, which was disapproved by the Board of Architectural Review, approved by the Planning Commission upon appeal, and ultimately removed by the homeowner.

Mr. Michler, asked about the applicant using other energy saving measures, specifically mentioning the use of electric cars and the need for the extra power from the solar panels. Ms. Armstrong said that the applicant did have two electric vehicles that were charged at the home, and that this was taken into consideration at the time the decision was made. She said that most solar panels are approved, but that this one was not, specifically because of the location on the front elevation of the home. Mr. Michler asked about a house on Ashland Avenue that had a similar solar panel installed on the front elevation, but Ms. Armstrong was not aware of it. She noted that there three other homes in the area that had applied for solar panels, and were approved for them.

Applicant Representation - Jamie Clark, Synergy Homes, was present to represent the applicant. He told the Commission members that another company started the process, but that he came in after the installation had begun. He was told that the panels had been approved. He also mentioned that the location of the panels were the best location for optimal use.

Commission Questions - Mr. Nichol asked if there was a possibility of some kind of trim being added to block the panel from view. Mr. Clark said that his client was willing to do that, but that the idea was rejected.

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Mr. Barry Dennis, Historic Preservation, told the Commission members that the guidelines state that the front of structures could not be modified in any historic district, but that the side or rear face changes could be approved.

Mr. Clark said that there was a concern for impact that would be made on the side and rear neighbors if the panels were to be moved.

Ms. Meyer asked how many panels would be needed to make up the difference of having the panels removed from the front. Mr. Clark said the number of panels on the north facing roof would need to be doubled to create the same amount of energy. She also asked how much energy would be lost if the panels were removed. Mr. Clark replied that it was about \$75 per month in energy. He also stated that the homeowner, if denied the appeal, would be adding up to 30 additional panels onto the back of the home and garage.

Mr. Pohl asked the total height of the panels. Mr. Clark replied about 3 to 6 inches. Mr. Pohl stated that he was concerned with the bottom of the windows, and that the Central Avenue view of the home was not easy to see.

Ms. Armstrong pointed out the picture of the rear view of the home to Mr. Pohl.

Ms. Worth asked if there would be enough energy remaining if the front panels were removed. Mr. Clark said the home was very close to zero energy, but removing the panels would cut the collected power by about 50%.

Mr. de Movellan asked if there had ever been any approvals for the panels on the front roof. Mr. Clark replied that he was told that the panels had been approved at the time he took over the project.

Staff Comments – Mr. Baillie told the Commission that the height of the panels was mentioned in the staff report as 6 inches. He also reminded them that their decision was whether or not the panels are in adherence with the historic guidelines.

Mr. Clark said that he believed the guidelines needed to change, and shared some figures about the history of solar panels.

Commission Comments - Mr. Bell asked Mr. Pohl about the history of the solar panels and how it relates to this case. Mr. Pohl answered that the guidelines are very clear and that the installation goes against them. He stated that he believed that the Planning Commission did not have the authority to change the guidelines.

Ms. Worth stated that she felt like the Comprehensive Plan should address the need for these updates.

Mr. Michler asked for clarification of the definition of the primary elevation. Ms. Armstrong replied they included anything that was part of the side that faced the street and had the front door as part of the primary elevation. He also asked if there was a height limit to the guideline. Ms. Armstrong replied that there was no difference in the guidelines.

Mr. Pohl asked if the panels would be allowed on a parapet roof and were unseen. Ms. Armstrong replied that it may be, but would have to see a specific situation to make a judgement.

Ms. Armstrong made some clarifications about the process that was used to come to the decision.

Mr. Nicol asked if a change would ever be considered in these guidelines. Ms. Armstrong replied that a lengthy study would be needed.

Mr. Bell asked when the guidelines were last reviewed for possible change, and Ms. Armstrong replied that it was 2016.

Ms. Barksdale asked if the panels could be recessed. Ms. Armstrong said that would be difficult to do without changing the historical features of the home.

Mr. Clark made several comments in respect to solar power, its growth and the need for change in the guidelines.

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Staff Comments - Mr. Baillie clarified that the Planning Commission was only to decide whether or not the Historic Preservation Office and/or BOAR erred in their decision.

Mr. Davis asked if the appellant had the opportunity to appeal to any other body. Mr. Baillie said that they could appeal a Planning Commission decision to the Fayette County Circuit Court.

Mr. Michler asked for clarification on the appeals process and the status of the existing solar panels. Mr. Baillie gave clarification to the process and the removal of the panels.

Mr. Pohl said that the photo is clearly showing that the guidelines have not been followed.

Action - Mr. Pohl made a motion, seconded by Mr. Bell, and carried 10-0, (Mr. Penn) to disapprove the appeal, BOAR 2022-1.

Commission Comments - Ms. Worth clarified that she wanted to vote in favor of the appellant, but could not at this time.

IX. STAFF ITEMS – Ms. Wade reminded the Commission members of the upcoming Work Session on January 19, 2023.

X. ADJOURNMENT – The meeting adjourned at 3:10 p.m.

Larry Forester

Janice Meyer