

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

September 11, 2008

- I. **CALL TO ORDER** - The meeting was called to order at 1:33 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Randall Vaughn Chair; Neill Day; Ed Holmes; Carolyn Richardson; Joan Whitman; Lynn Roche-Phillips (arrived at 1:47 p.m.); Mike Cravens; Marie Copeland, Mike Owens and Patrick Brewer. Absent was Frank Penn.

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

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

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

- a. **PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (9/11/08)*** - located at 4574 Harrodsburg Road (a portion of).
(Council District 10) **(EA Partners)**

Representation – Bruce Simpson, attorney, was present representing the applicant, and requested postponement of PLAN 2008-71P to the October 9, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 9-0 (Roche-Phillips and Penn absent) to postpone PLAN 2008-71P to the October 9, 2008, Planning Commission meeting.

- b. **DP 2008-126: MILLER BIRD COMMERCIAL PARK SUBDIVISION, BLOCK A, UNIT 1, LOTS 1 – 6 (CURRY SHOES) (11/25/08)*** - located at 2555 Nicholasville Road. (Council District 4) **(The Roberts Group)**

Representation – Steve Hranicky, The Roberts Group, was present representing the applicant, and requested postponement of DP 2008-126 to the September 25, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Owens, seconded by Ms. Whitman, and carried 9-0 (Roche-Phillips and Penn absent) to postpone DP 2008-126 to the September 25, 2008, Planning Commission meeting.

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

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-76F to the October 9, 2008, Planning Commission meeting.

Action - A motion was made by Ms. Richardson, seconded by Ms. Whitman, and carried 9-0 (Roche-Phillips and Penn absent) to postpone PLAN 2008-76F to the October 9, 2008, Planning Commission meeting.

- d. **DP 2008-106: SIKURA-JUSTICE PROPERTY, UNIT 6 (POLO CLUB CENTER) (AMD.) (10/9/08)*** - located at 2945 Polo Club Boulevard and 6401 & 6409 Polo Club Lane. (Council District 12) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2008-106 to the October 9, 2008, Planning Commission meeting.

Action - A motion was made by Mr. Holmes, seconded by Mr. Day, and carried 9-0 (Roche-Phillips and Penn absent) to postpone DP 2008-106 to the October 9, 2008, Planning Commission meeting.

- e. **DP 2008-60: BLACKFORD TOWN CENTER (9/11/08)*** - located at 6600 Man O' War Boulevard.
(Council District 12) **(Rob Sims)**

Staff Comments – Mr. Martin stated that the staff had been notified by the applicant, who requested an indefinite postponement of DP 2008-60. (A copy of the email is attached as an appendix to these minutes).

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

Action - A motion was made by Mr. Day, seconded by Ms. Whitman, and carried 9-0 (Roche-Phillips and Penn absent) to indefinitely postpone DP 2008-60.

Note: Ms. Roche-Phillips arrived at this time.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, September 4, 2008, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Mike Cravens, Marie Copeland, Mike Owens and Carolyn Richardson. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Denise Bullock, Chris Taylor, Cheryl Gallt, Tom Martin, Kenzie Gleason, Rob Johnson and Frank Boateng; as well as Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire & Emergency Services; Bob Carpenter, Division of Building Inspection; and Jim Rebmman, Department of Environmental Quality. The Committee made recommendations on plans as noted.

General Notes

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

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

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

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

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

1. Page 3, Item d. PLAN 2008-112F: FOREST HILL LAND COMPANY SUBDIVISION, BLOCK "H," LOTS 33 & 34 (11/13/08)* - located at 422 Michigan Street. (Council District 2) **(Foster – Roland)**
2. Page 3, Item e. PLAN 2008-113F: HINDA HEIGHTS SUBDIVISION, UNIT 4-B (11/13/08)*- located at 1938 Bellefonte Drive. (Council District 4) **(MCS, Inc.)**
3. Page 3, Item f. PLAN 2008-114F: COVEY RIDGE DEVELOPMENT COMPANY (AMD) (11/13/08)* - located at 5527 Athens-Boonesboro Road. (Council District 12) **(Allen Engineering, Inc.)**
4. Page 4, Item g. PLAN 2008-115F: ANDERSON PROPERTY, UNIT 4 (11/13/08)* - located at 545 Chilesburg Road. (Council District 7) **(EA Partners)**
5. Page 4, Item h. PLAN 2008-116F: GREENDALE HILLS, UNIT 3, PHASE 2 (11/13/08)* - located at 1055 & 1075 Greendale Road. (Council District 2) **(Hall-Harmon Engineers)**
6. Page 5, Item k. PLAN 2008-86F: LAKEVIEW ACRES, UNIT 3, TRACT 10, LOT 12 (AMD) (11/13/08)* - located at 1545 Lakeview Drive. (Council District 5) **(Endris Engineering)**
7. Page 9, Item f. DP 2008-114: MITCHELL PROPERTY (A PORTION OF COPE, MITCHELL, COOPER) (10/29/08)* - located at 1290 & 1340 Deer Haven Lane. (Council District 12) **(Sherman/Carter/Barnhart)**

Mr. Sallee noted that the required affidavit for the posting of the sign for DP 2008-114 had been submitted to staff; in addition, the EAMP Compliance Report had been previously distributed to the Commission.

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

8. Page 9, Item g. DP 2008-120: LEXINGTON INDUSTRIAL FOUNDATION, BLOCK "A," LOT 1 (LINK-BELT) (AMD) (11/13/08)* - located at 2651 Palumbo Drive. (Council District 6) **(MLH Civil Engineering)**
9. Page 10, Item h. DP 2008-121: VILLAGE SQUARE (MERRYMAN INVESTMENTS) (AMD) (11/13/08)* - located at 2233 Versailles Road. (Council District 11) **(Wheat and Ladenburger)**

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

Citizen Comment – John Tucker requested that PLAN 2008-115F be removed from the Consent Agenda to further discuss the water problems in the area.

Dave Booth requested that DP 2008-114 be removed from the Consent Agenda to further discuss a number of conditions listed on the recommendations for approval.

Mr. Vaughn noted that PLAN 2008-115F and DP 2008-114 would be removed from the Consent Agenda in order for the Commission to review the applicants' requests.

Action - A motion was made by Mr. Day, seconded by Ms. Whitman, and carried unanimously (Penn absent) to approve the following items listed on the consent agenda:

1. PLAN 2008-112F: FOREST HILL LAND COMPANY SUBDIVISION, BLOCK "H," LOTS 33 & 34 - located at 422 Michigan Street.
2. PLAN 2008-113F: HINDA HEIGHTS SUBDIVISION, UNIT 4-B - located at 1938 Bellefonte Drive.
3. PLAN 2008-114F: COVEY RIDGE DEVELOPMENT COMPANY (AMD) - located at 5527 Athens-Boonesboro Road.
4. PLAN 2008-116F: GREENDALE HILLS, UNIT 3, PHASE 2 - located at 1055 & 1075 Greendale Road.
5. PLAN 2008-86F: LAKEVIEW ACRES, UNIT 3, TRACT 10, LOT 12 (AMD) - located at 1545 Lakeview Drive.
6. DP 2008-120: LEXINGTON INDUSTRIAL FOUNDATION, BLOCK "A," LOT 1 (LINK-BELT) (AMD) - located at 2651 Palumbo Drive.
7. DP 2008-121: VILLAGE SQUARE (MERRYMAN INVESTMENTS) (AMD) - located at 2233 Versailles Road.

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

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. **Final Subdivision Plans**

Note: The next two items were heard simultaneously.

- a. PLAN 2008-24F: THOMAS COMMUNICATIONS, INC., UNIT 1-C (WALNUT GROVE ESTATES) (9/11/08)* – located at 2236 Walnut Grove (a portion of). (Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this plan at its March 13, 2008; April 14, 2008; May 8, 2008; June 12, 2008; July 10, 2008, and August 14, 2008, meetings.

The Subdivision Committee Recommended: Postponement. There were questions regarding the ability to provide adequate water service and fire protection to this subdivision.

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

1. Urban County Engineer's acceptance of drainage, floodplain, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner'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. Denote: This property shall be developed in accordance with the approved final development plan.

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

9. Revise unit boundary (with Unit 1-D) to provide lot frontage for that unit.
10. Delete trees without corresponding Tree Protection Areas (TPA) from plan face.
11. Addition of "A-A" cross-section on Unit 1-C area.

- b. PLAN 2008-25F: THOMAS COMMUNICATIONS, INC., UNIT 1-D (WALNUT GROVE ESTATES) (9/11/08)* – located at 2236 Walnut Grove (a portion of). (Council District 12) **(EA Partners)**

Note: The Planning Commission postponed this plan at its March 13, 2008; April 14, 2008; May 8, 2008; June 12, 2008; July 10, 2008, and August 14, 2008, meetings.

The Subdivision Committee Recommended: Postponement. There were questions regarding the street frontage and the ability to provide adequate water service and fire protection to this subdivision.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner'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. Revise boundary of plan.
9. Discuss lot frontage.

Staff Presentation – Mr. Martin directed the Commission's attention to the proposed final subdivision plans. He said that these developments are proposals for a single family development on Walnut Grove Lane, noting that Walnut Grove Lane used to connect to Deer Haven Lane. He then said that the Commission has already approved the two plats for the front portion of the development, and now a request for the rear portion of the development has been submitted. He said that PLAN 2008-24F will be the single family lots, while PLAN 2008-25F will be the greenspace area, noting that there is an 80 percent open space requirement for the entire development.

Mr. Martin stated that the Subdivision Committee had recommended postponement of these proposals, due to the lack of adequate water service being available for this development. He said that since the Committee meeting, the staff had received a letter from the Kentucky American Water Company stating that the applicant has addressed those issues regarding the water service. In response to the letter from Kentucky American Water Company, as well as the applicant's revised submission, the staff is now recommending approval of these two proposals, subject to the following conditions:

PLAN 2008-24F: THOMAS COMMUNICATIONS, INC., UNIT 1-C (WALNUT GROVE ESTATES)

1. Urban County Engineer's acceptance of drainage, floodplain, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner'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. Denote: This property shall be developed in accordance with the approved final development plan.
- ~~9. Revise unit boundary (with Unit 1-D) to provide lot frontage for that unit.~~
10. 9. Delete trees without corresponding Tree Protection Areas (TPA) from plan face.
- ~~10. Document water service is available to this subdivision prior to certification.~~
- ~~11. Addition of "A-A" cross-section on Unit 1-C area.~~
11. Document compliance with minimum (80%) open space area.

PLAN 2008-25F: THOMAS COMMUNICATIONS, INC., UNIT 1-D (WALNUT GROVE ESTATES)

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscape buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner's approval of environmentally sensitive areas.

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

7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
- ~~8. Revise boundary of plan.~~
- ~~9. Discuss lot frontage.~~
8. Document water service is available to this unit prior to certification.

Mr. Martin then directed the Commission attention's to PLAN 2008-24F, condition number 11, and said that the applicant will need to document the minimum 80 percent open space requirement. He then said that this condition stems from the open space areas that were lost through the consolidation of properties on previous plats. The staff believes that the applicant can comply with this recommendation; however, the staff would like to maintain an ongoing documentation of the open space requirement.

In conclusion, Mr. Martin stated that the applicant will need to document the availability of water service for both of these proposals (PLAN 2008-24F, condition number 10 and PLAN 2008-25F, condition number 8). He said that even though the applicant and Kentucky American Water Company (KAWC) are in agreement, the staff is concerned with the fact that there is no timing set as to when this connection will happen.

Representation – Rory Kahly, EA Partners, was present representing the applicant, as well as Richard Murphy, attorney. Mr. Kahly stated that the applicant is in agreement with the staff's revised recommendations; however, as for condition # 10 (PLAN 2008-24F) and condition # 8 (PLAN 2008-25F), there has always been a question as to how much pressure there is on those sites. He said that the agreement between the applicants and KAWC is to allow KAWC to construct an additional water line across a secured easement, which will result in increased water pressure. He then said that, at the expense of the applicant the water line will be constructed. Mr. Kahly said that they have requested documentation that those funds have been paid and the easement has been recorded. This will allow the land to be marketed and sold during the construction of the water line. He then said that the documentation should only show that the applicant has done as much as they can, and it is up to KAWC to install the actual line.

Mr. Murphy stated that the issue with KAWC has been resolved; and once the deposit is secured, the applicant will pay for the entire cost of the water line. After that point, he said that KAWC will then pay their contractors to construct the water line within a matter of months. He then said that if condition number 10 (PLAN 2008-24F) and condition number 8 (PLAN 2008-25F), can be tied into paying that deposit, then that would allow construction of the infrastructure to begin while the water line is being completed. In conclusion, Mr. Murphy assured that the deposit for the water line will be there.

Planning Commission Questions – In response to a question from Mr. Brewer, Mr. Martin said that there are concerns with the timing of the water line, but some of the issues are not within the applicant's control. He said that from the applicant's perspective, this is a reasonable approach.

Mr. Owens clarified that there would not be any occupancy permits until the water line is resolved. Mr. Martin replied that that is true, based on the building permit process.

Mr. Cravens said that once the deposits have been paid, it would take about 60 days for construction to begin. He asked if this process has started. Mr. Martin said to the staff's knowledge, they did not believe it has begun. Mr. Cravens believed that there will not be any houses built within the 60 days while the water line is being constructed. Mr. Martin said that that could be true, and the applicants would need to elaborate on that discussion. Mr. Cravens confirmed that there is some water pressure in this area, to which Mr. Martin replied that there is.

Action - A motion was made by Mr. Cravens, seconded by Mr. Day, and carried 10-0 (Penn absent) to approve PLAN 2008-24F, subject to the revised conditions as listed by the staff; and PLAN 2008-25F, subject to the revised conditions listed by the staff.

- g. PLAN 2008-115F: ANDERSON PROPERTY, UNIT 4 (11/13/08)* - located at 545 Chilesburg Road.
(Council District 7) **(EA Partners)**

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas (per approved development plan).
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.

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

7. Correct note number 11.
8. Addition of street frontage information in the site statistics.

Staff Presentation – Mr. Martin directed the Commission's attention to the final record plat, and said that this property is located off of Chilesburg Road, near Still Meadow Lane. He said that the purpose of this plat is to subdivide the 3.13 acres into a single family home and a homeowner's association lot. He noted that there is a Scenic Overlay area off of Chilesburg Road. Originally the plat had shown 5 townhouses, as well as an access easement off of Still Meadow Lane; however, since that time, the access easement has been removed. He then noted that the applicant's intent is to build a single family home on the rear lot.

In conclusion, Mr. Martin directed the Commission's attention to the overall view of the property, and oriented them to the location of the subject site, and the surrounding streets. He stated that the Subdivision Committee had recommended approval of the applicant's request, subject to the 8 conditions listed on the agenda.

Planning Commission Questions – Mr. Vaughn asked for further clarification to the orientation of the overall area. Mr. Martin again pointed out the location of Chilesburg Road, Still Meadow Lane and the subject site to the Commission.

Petitioner's Presentation – Rory Kahly, EA Partners, was present representing the applicant. He said that the applicant was in agreement with the staff and requested approval.

Citizen Comments - John Tucker, who owns property on Chilesburg Road, was present. He stated that he had reviewed the applicant's development plan and he was concerned about line 7 under the notes. He said that he has always shown a concern with the water coming off of these developments, and line 7 states that the detention basin will be provided offsite. He then said that there are three watersheds in the area, and he believes that the off-site detention will be his property.

Directing the Commission's attention to the final record plat, he stated that there is a water easement along Still Meadows Lane; and once it crosses Chilesburg Road, the water enters the creek, which then comes onto his property. He said that if this request is approved, it will allow more water to be placed on his land.

Mr. Tucker then said that in speaking with Engineering, he had asked where this detention basin would be located, and their answer was that the off-site detention would be the reservoir, which is beyond his property. He then asked the Planning staff the same question, and they had the same reply. He commented that after everything that has happened with the Consent Decree, something needs to stop. He stated that he is against this request, because his land receives all the water from these developments.

Planning Commission Questions – Mr. Vaughn confirmed that the Technical Committee had reviewed Line 7 on the final record plat. Mr. Tucker replied yes, and said that Engineering had provided him a copy of the plan that was submitted at the Technical Committee.

Petitioner's Rebuttal – Mr. Kahly said that this request is in the EAR-2 zone, and the Expansion Area Master Plan for Storm Water Management does note there are two watersheds; however, the Master Plan does not show a basin on the applicant's property, because there is no greenway or a regional basin being provided. He said that it is true that there is a reservoir down from the applicant's development. Mr. Kahly noted that the Storm Water Manual does speak to a regional storm water management plan; however, when using the data supplied by the CTI Engineers' studies, it does not show a basin on the applicant's property. He said that the Storm Water Manual, the Expansion Area Master Plan and the CTI study all conclude that the basin is to be provided offsite, and they believe they have done what has been required. Mr. Kahly noted that the applicant's request is to provide one single family house and a homeowners' association lot on this land.

Dennis Anderson, applicant, was present. He stated that the EAMP provides a storm water master plan; and if all of the incoming water was detained at the same time, then the water peak would reach its highest level at the same time. He said that when the water reaches the closest basin, it allows the water to flow on through to prevent that peaking from happening. Mr. Anderson then stated that originally this request was for 5 townhomes, which was then revised to a single family home; and with that revision, the amount of impervious surface has decreased. He said that the reason there is not a long term detention basin on site is because if the water is detained, it would result in a higher peak. He noted that there is a temporary detention basin on the property, but it is only there to prevent the silt from entering the watershed.

Citizen Rebuttal – Mr. Tucker commented that the water pollutants from these developments are entering the reservoir, which is Lexington's water reserves.

Planning Commission Comments and Questions – Ms. Roche-Phillips asked if there are limitations to using impervious surfaces within the EAR zone. Mr. King said that there is a required open space component and when the master water shed study was conducted by CTI Engineers, a discussion took place about the mandatory retention basin for every project. He said that a master regional detention system was incorporated into part of the exaction program, and this is the storm water plan that has been implemented for this area.

Mr. King noted that the CTI firm had used runoff coefficients that were based upon estimates of what could happen, and a certain amount of open space is required; but he is not sure if that is what drove the runoff coefficient used by the CTI Engineering.

Ms. Roche-Phillips asked if paved surfaces are accounted for when calculating the open space requirement. Mr. King replied that they are not. Ms. Roche-Phillips clarified that items such as driveway surfaces or a patio area would not be considered open space. Mr. King said that perhaps a deck could be, and noted again that there is a 25% open space requirement in all developments, no matter if it is a residential area in the Expansion Area.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson and carried 10-0 (Penn absent) to approve PLAN 2008-115F, subject to the conditions listed by the staff.

- i. PLAN 2008-117F: BRUCE PROPERTIES (11/13/08)* - located at 3401 McFarland Lane.
(Council District 6) **(Vision Engineering)**

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Denote pedestrian access easement to Todds Road.
8. Denote no vehicular access to McFarland Lane and Todds Road.
9. Correct plan title.
10. Denote physical private street/public street transition (pavement materials, etc.).
11. Addition of Homeowner's Association (HOA) responsibility note for the common areas.
12. Addition of tree protection area (TPA) to plan.
13. Remove side yard and rear yard building lines and/or clarify private drainage easement proposed.
14. Denote no parking on south side of street.
15. Resolve lotting for 11, 12 and 13 by combining into one Homeowner's Association lot.
16. Improvements and/or right-of-way of Todds Road to the approval of Kentucky Transportation Cabinet.
17. Denote the 50' right-of-way dedication of Todds Road.
18. Resolve note number 7.
19. Resolve location of proposed 30' utility easement in tree protection area.
20. Discuss design condition on preliminary plan per note number 8.

Staff Presentation – Mr. Taylor directed the Commission's attention to the proposed record plat, and said that this property is located at 3401 McFarland Lane. He said that McFarland Lane is accessed off of Todds Road through the Brighton East Subdivision. He noted that the Brighton East Subdivision is located at the intersection of Kavanaugh Lane and Sanibel Drive. He then noted that the subject site is off Sanibel Drive, which connects to Corinthian Court, which will be a private street. He then said that the applicants are proposing to subdivide one lot into ten lots, and one of the ten lots will be a homeowner's association lot.

In conclusion, Mr. Taylor stated that the Subdivision Committee had recommended approval of the applicant's request, subject to the conditions listed on the agenda. He said that the staff recommends that condition number 20 be changed to read: "Denote design condition on preliminary plan per note number 8." He said that note number 8 relates to information concerning the dedication, design and infrastructure of Todds Road, and it should be provided at the time the final record plat is submitted.

Petitioner's Presentation – Matt Carter, Vision Engineering, was present. He said that the applicant was in agreement with the staff's recommendation for condition numbers 1 through 19, and requested further clarification for condition number 20. He said that the property along Todds Road will not be dedicated until the State widens Todds Road. The property owners have set that land to the side as a non-buildable area and will incorporate it into the homeowner's association area.

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

Staff Rebuttal – Mr. Taylor stated that the property owners adjacent to the subject site have already dedicated their land. He said that at the Subdivision Committee meeting, it was noted that it would be preferred that this right-of-way be dedicated at the final record plat stage.

Planning Commission Comments and Questions – Ms. Roche-Phillips asked why Corinthian Court will be a private street and not a public street. Mr. Carter said that he was not involved with this request at the time the Commission had originally approved the preliminary subdivision plan. He said that the Commission had approved the plan with the road being private. Ms. Roche-Phillips then asked if the road will be built to standard regulations, to which Mr. Carter responded that it would. In response to a second question, Mr. Carter replied that it would be gated. Ms. Roche-Phillips then asked if the lots will face McFarland Lane and Corinthian Court. Mr. Taylor said that there is a timing issue with McFarland Lane and its closure. Mr. Carter said that McFarland Lane will be closed in the future, and the land will revert to the 10 property owners. At that time, the developer will remove the road and fill in the area with dirt and grass.

Mr. Holmes asked if the addressing will be Corinthian Court. Mr. Carter replied that was correct.

Mr. Day asked for explanation to condition number 20. Mr. Taylor said that the staff is requesting that note number 8 be carried over from the preliminary plan to the final record plat. At this time, he presented the note to the Commission for review. Mr. Day confirmed that note number 8 will be carried forward. Mr. Martin said that this information is necessary and must be provided prior to the recordation of the final record plat. He said that the staff felt it was necessary for this note to be carried over, which will inform the next person that the information must be submitted and approved prior to the recordation of the plat. Mr. Day asked if condition number 20 will remain as a discussion issue. Mr. Martin said that it could be changed to "Denote."

Action - A motion was made by Mr. Day, seconded by Ms. Richardson and carried 10-0 (Penn absent) to approve PLAN 2008-117F, subject to the conditions listed by the staff, changing condition number 20 to read: "Denote design condition on preliminary plan per note number 8."

- j. PLAN 2008-118F: SAND LAKE & ESTES PROPERTY (11/13/08)* - located at 3200 & 3294 Richmond Road and 101 South Eagle Creek. (Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding note number 10 that was reflected on a previous development plan (DP 2007-134), and the timing of pavement removal adjacent to Beale Street and Richmond Road.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers (including grease trap information).
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
6. Denote: This property shall be developed in accordance with the approved final development plan.
7. Correct conditional zoning restrictions.
8. Correct 20' building line along Man O' War Boulevard and adjacent to private access easement.
9. Correct cul-de-sac right-of-way detail unless Planning Commission grants a waiver to Article 6-8 of the Land Subdivision Regulations.
10. Label "pedestrian" access easement from Lake Wales Drive.
11. Include a notation of a public passageway easement adjacent to the right-of-way, detailing the primacy of the LFUCG over utility easements in this area.
12. Addition of drainage easement per note number 14 on the approved development plan.
13. Denote access allowed for fill per note number 14 on the approved development plan.
14. Addition of Private Access Easement note per the Land Subdivision Regulations.
15. Provided the Planning Commission grants a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations.
16. Resolve note number 10.
17. Resolve timing of pavement removal adjacent to Beale Street and Richmond Road.
18. Resolve Richmond Road Landscaping Ordinance planting areas.
19. Resolve transition of cul-de-sac right-of-way with existing right-of-way for Lake Wales Drive.

Staff Presentation – Mr. Martin directed the Commission's attention to PLAN 2008-118F, and briefly oriented them to the surrounding street systems, which included Man O' War Boulevard, South Eagle Creek, Richmond Road and Lake Wales Drive, which is where the cul-de-sac is located toward the rear of the property. He explained the history of this land, noting that there had been several requests approved by the Commission, and some of these did include

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

waivers, including the cul-de-sac at the rear of the property. He then said that there was a proposal for a public street off of South Eagle Creek Drive that would connect to the access easement, and this connection also required a waiver that had been granted by the Commission. He noted that the pavement between the intersection of Sand Lake Drive and South Eagle Creek Drive toward the Richmond Road right-of-way will be removed.

Mr. Martin stated that Subdivision Committee had recommended referral to the full Commission, subject to the 19 conditions listed on the agenda. He said that in reviewing the proposed plat, the staff wants to designate a pedestrian access easement (condition number 10) along the cul-de-sac for Lake Wales Drive, with primacy of the LFUCG being over utility easements in this area (condition number 11). He then said that at the front of this development is the Gentry-Marcum site, and condition numbers 12 and 13 allow the additional drainage easement to be added, along with permitting the proper fill back to the subject site.

In conclusion, Mr. Martin noted that the applicant has requested a waiver to Article 4-7 (d)(1) of the Land Subdivision Regulations for substantial completion of Sand Lake Drive (Beale Street).

Findings for Petition for Waiver of Land Subdivision Regulations Presentation – Mr. Sallee directed the Commission's attention to the staff's waiver report, and noted that the applicant is requesting a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations, as part of their request for approval of this plat.

Mr. Sallee stated that the waiver request is for a portion of Sand Lake Drive, immediately adjacent to Richmond Road. He said that there have been several post Planning Commission discussions regarding the development plan and the reworking of the Richmond Road Traffic and Safety Ordinance in this area. He then said that the staff would like additional time to confer with the Law Department to insure that the approval of this waiver would not contradict any requirements of the Richmond Road Traffic and Safety Ordinance. He said that the applicant's justification only claimed a hardship due to the utility relocations.

Mr. Sallee then stated that the waiver is intended to allow the recording of some of these lots prior to the recordation of the public street. He said that during the site visit, it appeared that the utilities in question were parallel to Richmond Road, and not along the length of the proposed street. Thus, the waiver, as it is stated in the letter of application, is a request to not record the entire length of Beale Street. Mr. Sallee said that the staff understands the hardship concerning these utilities, but there is already a portion of the street constructed with pavement; therefore, that portion could be recorded with the proposed lots.

In conclusion, Mr. Sallee said that the staff is recommending postponement of the requested waiver, subject to the reasons provided by staff. He said that the Commission can approve the plat itself without the waiver being attached, noting that this issue can then be addressed at a later date.

Planning Commission Comments – Mr. Vaughn confirmed that the requested waiver is noted as condition number 15 under the Subdivision recommendations. Mr. Sallee agreed.

Petitioner's Presentation – Rena Wiseman, attorney, was present representing the applicant. She said that at the time this application was presented to the Subdivision Committee, there had been opposition to this proposal from the adjacent properties; however, since that time, those issues have been resolved by adding notes to the plat.

With regards to the waiver request, Ms. Wiseman said that Sand Lake Drive (formally known as Beale Street) is completed up to just 30' short of the Richmond Road right-of-way. She said that the service road is not depicted on the plat, but it does extend along the Richmond Road right-of-way. She then said that the section of Sand Lake Drive connecting to the service road is the area that is not completed, and this is the reason for the waiver request. They are not requesting a waiver for the entire length of Sand Lake Drive, only for the portion that is not completed. The reason for the hardship is due to the remaining portion of Sand Lake Drive that cannot be completed until the fiber optic cable is relocated; and according to the telephone company, this cannot be done until the end of October. She said that with the telephone company's delay, it is creating a significant hardship in the recording of this plat. Ms. Wiseman stated that they do have a tenant for Lot 4; and without this plat being recorded, it prevents them from obtaining the necessary financing, which is resulting in an undue hardship. She said that with the approval of the waiver request, it would allow the applicant to record these lots, particularly Lot 4. This would also allow the telephone company to relocate the cables, and then the applicant can complete that street.

Ms. Wiseman then said that the staff had cited that "the construction has taken place adjacent to the street in question, albeit temporary construction, contrary to the adopted Richmond Road Traffic and Safety Ordinance." Referring to the plat, she demonstrated the area where the Council had voted to remove a portion of the service road in front of the Gentry-Marcum property. She said that this decision allowed the connection of Sand Lake Drive and Richmond Road. She then said that while this area was being developed, a small portion of the service road was being used for the construction entrance; but this caused a problem with tracking debris onto the main

road, which this resulted in several violations with the Division of Engineering. As part of a solution, the applicant's contractor had provided pavement and curbing on the service road to help divert the debris down Sand Lake Drive. Ms. Wiseman said that they informed the State of this issue, and the State had determined that once this connection of Sand Lake Drive and Richmond Road is made, the service road needs to be removed, noting that the applicant has agreed to their request.

Ms. Wiseman stated that as far as the Richmond Road Traffic and Safety Ordinance, this is only temporary construction and it will be removed later. She said that the Ordinance only refers to the design of Richmond Road, not the timing or phasing of Richmond Road. She then said that if the utilities were to be relocated in a quicker fashion, then the applicant would be able to complete that connection. They have never kept the entrance a secret; rather, the Division of Engineering had requested that area to be paved. They have not violated the Richmond Road Traffic and Safety Ordinance because this is merely a temporary situation. She said that they believe they are entitled to the waiver request because it is a hardship to hold up the approval of the plat.

Ms. Wiseman then stated that they have been in contact with Mr. Simpson and his clients, and they have come to an agreement to add the following notes to the plat:

1. Developer shall provide a drainage easement from the retaining wall to the 3270 and 3292 Richmond Road properties. Access to the wall shall also be provided to permit the placement of fill material on 3270 and 3292 Richmond Road, to the acceptance of the Division of Engineering.
2. Developer shall provide a vehicular and pedestrian easement, if necessary, for the property at 3292 Richmond Road to have access to the portion of Sand Lake Drive (aka Beale Street), which adjoins the eastern boundary of 3292 Richmond Road.

Ms. Wiseman said that there was a concern that there would be a gap between the right-of-way and the Gentry property line. She then said that there is a specific regulation that would not allow the gap to occur. To ease that concern, the applicant has agreed to add note number 2, which would then allow the access to come over the Gentry property.

Referring to note number 3, Ms. Wiseman said that if at some point in the future a drive or sidewalk were to be proposed for the back access drive, then there is a lifetime easement that runs with the property.

3. The properties located at 3292 and 3270 Richmond Road are hereby granted easements over the private access easement shown herein for vehicular and pedestrian access, and for access to utilities, sanitary sewer, storm sewers, which easements shall run with the land for the benefit of the properties located at 3292 and 3270 Richmond Road.

Lastly, Ms. Wiseman said that note number 4 addresses the waiver request. She said that they wanted some assurance that the last 30' of Sand lake Drive (Beale Street) would be connected, so they have agreed that there shall be no Certificate of Occupancy for any lot on the plat until Sand Lake Drive is connected to Richmond Road.

4. There shall be no Certificate of Occupancy for any lot on the plat until Sand Lake Drive is completed to Richmond Road, except for the final surface course, sidewalks, and miscellaneous punch list items which are bondable pursuant to Section 4-7 of the Subdivision Regulations.

In conclusion, Ms. Wiseman requested that the Planning Commission approve the applicant's request, as well as granting the requested waiver due to the hardship that the delay will cause. In reference to condition number 18, she said that with the Richmond Road Traffic and Safety Ordinance not being clear on the landscaping and required street tree information, they agree to work with Building Inspection regarding this issue, and requested that condition numbers 3 and 18 be combined. She noted that they are in agreement with the remaining conditions listed by the staff.

Citizen Comments – Bruce Simpson, attorney, was present on behalf of the Marcum-Gentry property. He said that they have worked out an agreement with the applicant, and they are no longer in opposition to this request.

Planning Commission Comments and Questions – Mr. Vaughn asked if the staff had reviewed the notes that were presented by Ms. Wiseman. Ms. Wiseman said that the note numbers 1 and 3 were discussed at the Subdivision Committee meeting, and note numbers 2 and 4 were not.

Mr. Holmes said that the staff needs to review those notes at some point in time, considering how substantial they are, and then report back with their findings.

Mr. Vaughn said that in reviewing the waiver request, the staff had recommended postponement. Mr. Martin said that the letter of justification from the applicant only requested a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations; it lacked specific information as to why the waiver was being requested.

Mr. Vaughn asked the staff's position on the waiver request. Mr. Sallee said that the information that Ms. Wiseman had discussed does address condition number 2 on the staff report; but, as far as condition number 1, the staff has not had sufficient time to review this issue with the Law Department. He then said that if the Commission is inclined to adopt the waiver, as it has been presented, then the staff suggests additional time to confer with the Law Department on the Richmond Road Traffic and Safety Ordinance prior to this request being certified. If at any time the staff believes there to be a problem, then this item would be re-docketed for further consideration by the Commission.

Mr. Holmes asked if this would allow additional time for the staff to review the Richmond Road Traffic and Safety Ordinance. Mr. Sallee replied yes, and said that the staff will review this issue prior to it being certified.

Mr. Vaughn asked if the applicant is in agreement. Ms. Wiseman indicated that they were.

Ms. Whitman asked if condition number 15 should be changed. Ms. Boland said that if the waiver is granted then condition number 15 could be deleted, unless a condition is added to state that the Law Department must review this item to ensure compliance with the Richmond Road Traffic and Safety Ordinance. Ms. Wiseman said that if the determination reflects that no violation of the Richmond Road Traffic and Safety Ordinance has been determined, then a waiver could be granted and the applicant will not need to appear in front of the Commission. Ms. Boland suggested that condition number 15 be re-worded to read: "Provided the condition to the granting of the waiver is found to be satisfied and approved by the Law Department." Ms. Wiseman clarified that this would not require the Commission to take further action. Ms. Boland noted that it would be equivalent to a sign-off. Mr. Sallee said that the waiver could be granted, subject to a condition stating that the Richmond Road Traffic and Safety Ordinance shall be complied with.

Mr. Vaughn stated that it has been suggested to modify condition number 15; and as for condition numbers 3 and 18, it has been requested to combine these two items. Mr. Martin said that the staff had spoken with Building Inspection, and they are agreeable with combining conditions numbers 3 and 18. He said that condition number 3 would need to be changed to reflect the appropriate language.

Action - A motion was made by Mr. Brewer to approve PLAN 2008-118F, subject to the 18 conditions as amended today. This motion includes incorporating condition numbers 3 and 18, and amending condition number 15 to read: "Provided the Planning Commission grants of a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations," and it is found to be in compliance with the Richmond Road Traffic and Safety Ordinance.

Discussion of motion - Ms. Wiseman noted that an additional 19th condition should be added to reflect the addition of the notes to the plan that she previously discussed. Mr. Brewer confirmed that the staff was agreeable to that request.

Amended motion - An amended motion was made by Mr. Brewer, to approve PLAN 2008-118F, subject to the 18 conditions; adding a 19th condition to require the following four notes to be added to the plan:

1. Developer shall provide a drainage easement from the retaining wall to the 3270 and 3292 Richmond Road properties. Access to the wall shall also be provided to permit the placement of fill material on 3270 and 3292 Richmond Road, to the acceptance of the Division of Engineering.
2. Developer shall provide a vehicular and pedestrian easement, if necessary, for the property at 3292 Richmond Road to have access to the portion of Sand Lake Drive (aka Beale Street), which adjoins the eastern boundary of 3292 Richmond Road.
3. The properties located at 3292 and 3270 Richmond Road are hereby granted easements over the private access easement shown herein for vehicular and pedestrian access, and for access to utilities, sanitary sewer, storm sewers, which easements shall run with the land for the benefit of the properties located at 3292 and 3270 Richmond Road.
4. There shall be no Certificate of Occupancy for any lot on the plat until Sand Lake Drive is completed to Richmond Road, except for the final surface course, sidewalks, and miscellaneous punch list items which are bondable pursuant to Section 4-7 of the Subdivision Regulations.

Mr. Day seconded the motion.
The motion carried 10-0 (Penn absent).

Action - A motion was made by Mr. Brewer, seconded by Ms. Richardson and carried 10-0 (Penn absent) to grant the waiver to Article 4-7(d)(1) of the Land Subdivision Regulations, based upon the following finding:

1. Granting the waiver would avoid a severe hardship, and proceeding with the development of Beale Street (aka Sand Lake Drive) cannot be completed as required until the utilities are relocated in that area. The pavement in place is strictly temporary for construction purposes. This approval is subject to compliance with the Richmond Road Traffic and Safety Ordinance.
- I. PLAN 2007-177F: SHARKEY PROPERTY, UNIT 4 (11/10/07)* - located on Louie Place and Hatter Lane.
(Council District 2) **(EA Partners)**

Note: The Planning Commission originally approved this plan on September 13, 2007, subject to the following 11 conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and street light easement(s) as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of adjoining property information.
8. Denote zone-to-zone screening.
9. Denote: Property shall be developed in accordance with the approved final development plan.
10. Resolve compliance with approved preliminary development plan concerning street lotting and access.
11. Resolve compliance with Subdivision Regulations concerning street terminus (cul-de-sac).

Note: The applicant now requests approval of an extension.

The Staff Recommended: Approval of the extension, subject to the previous 11 conditions.

Staff Presentation – Ms. Gallt directed the Commission's attention to the final record plat, and said that this property is located at Louie Place and Hatter Lane. She noted that this proposal will create three individual lots. She explained the overall street system, as well as the surrounding neighborhoods and shopping centers. She then said that this was originally approved by the Commission on September 13, 2007, subject to the conditions listed on the agenda, and now the applicant is requesting an extension of that approval. The staff is recommending approval of the applicant's request, subject to those previous conditions.

Petitioner's Presentation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with condition numbers 1 through 11, and asked if they meet condition number 10 if Lot 1 has been recorded. Mr. Sallee noted that that condition referred to the small lot in the southern portion of the property. Mr. Kahly said that when the Commission had originally approved this request, there was a development plan for a single use on the subject site. He said that as the plan was being certified, the applicant needed "a lot to stand on;" therefore, they had submitted the plat at the same time. As this plat was going through the process of approval, they had worked with the staff and resolved how they complied with the development plan that is shown on the zone change. Mr. Kahly said that condition number 11 relates to the termination of Louie Place and through the process that issue was resolved. He said that condition number 10 was completed once Lot 1 was recorded and certified. Mr. Sallee stated that if that is true, then the condition could remain since it will not affect the proposed plat. In conclusion, Mr. Kahly stated that they are in agreement with the staff's recommendations.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Richardson and carried 10-0 (Penn absent) to approve the extension of PLAN 2007-177F, subject to the previous conditions listed by the staff.

Note: The next three items were heard simultaneously.

- m. PLAN 2005-166F: CLARK PROPERTY UNIT 1-B (12/2/08)* - located at 1551 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 14, 2005, subject to the following 7 conditions:

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

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

7. Addition of exaction information.

Note: The applicant now requests reapproval of this plan.

The Staff Recommended: Reapproval, subject to the previous 7 conditions.

- n. PLAN 2005-169F: CLARK PROPERTY UNIT 1-E (12/2/08)* - located at 1551 Deer Haven Lane (a portion of).
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 14, 2005, subject to the following 9 conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
3. Building Inspection's approval of landscaping.
4. Addition of utility and street light easements by the utility companies and the Urban County Traffic Engineer.
5. Urban Forester's approval of tree preservation plan.
6. Approval of street names and addresses by e911 staff.
7. Addition of exaction information.
8. Greenspace Planner's approval of the treatment of greenway, bike trails, and pedestrian movement, including the greenway access location.
9. Remove lot 262.

Note: The applicant now requests reapproval of this plan.

The Staff Recommended: Reapproval, subject to the previous 9 conditions.

- o. PLAN 2007-156F: CLARK PROPERTY, UNIT 1-M (12/2/08)* - located at Polo Club Boulevard and Ice House Way.
(Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on August 8, 2007, subject to the following 8 conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Verification of exaction information by Division of Planning.

Note: The applicant now requests reapproval of this plan.

The Staff Recommended: Reapproval, subject to the previous 8 conditions.

Staff Presentation – Mr. Martin directed the Commission's attention to the final record plats for the Clark Property, Units 1-B, 1-E and 1-M. He oriented the Commission to the surrounding street system, and stated that part of Unit 1-B has been recorded and the applicant is now requesting the extension of that in order to record Section 2. He noted that there are 8 lots on this development that have yet to be recorded, and the staff has made no revisions to those conditions associated with this request.

Referring to Unit 1-E, he said that the staff has revised the previous recommendations, by changing condition number 9 from "remove lot 262" to read: "Addition of street dedication and right-of-way in from of lot 262." He then said that when this request was originally in front of the Commission, Lot 262 was included; and as part of the staff's recommendations, the applicant was to remove Lot 262 because there was no preliminary plan approved for this area, noting that there was no frontage either. Since that time, the applicant has revised the plan and now this lot can be recorded as part of this unit.

Mr. Martin then stated that Unit 1-M is a small section along Polo Club Boulevard that intersects with Ice House Way. He said that the lots for this portion of the development have not been recorded, which is the reason why this request needs to be reapproved. He noted that there are no revised conditions associated with this request.

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

Petitioner's Presentation – Rory Kahly, EA Partners, was present, and stated that the applicant is in agreement with the staff's recommendation, including the revised recommendation for Unit 1-E, and requested approval.

Citizen Comments – David Booth, residing at 1940 Deer Haven Lane, was present. He said that he has been involved in the Expansion Area Master Plan prior to the area being designated the Expansion Area and the adoption of the EAMP. He said that these requests continue to add development onto the Clark Property, while there is still an inappropriate street connection at Todds Road and Deer Haven Lane. He then said that the very first development plan had noted that the street access from Todds Road would only be temporary. The street access at this location is not in compliance, and it was strictly temporary to allow these developments to move forward. He said that in reviewing Polo Club Boulevard, the road dead-ends at a barricade and crosses over to Deer Haven Lane, which then runs through a neighborhood toward a half built cul-de-sac. He said that 9 years ago it was stated on the first plan that this access was only temporary; and as more and more development occurs this area is becoming increasingly dangerous. Mr. Booth noted that he has been constantly communicating with the Division of Planning regarding this problem. He said that Deer Haven Lane is a very unique road and it's only one of four that has been designated in the EAMP as a Scenic Resource Area. He then said that he is not objecting to the plans, only to the fact that what was agreed upon is not being met. In conclusion, he said that the Commission should not continue to approve requests until the problem is fixed, especially the traffic issue.

Chris Dotson, and his wife, Tabitha, residing at 1996 Deer Haven Lane, were present. He agreed with Mr. Booth, and said that his primary concern is the pedestrian and bike safety along Deer Haven Lane. He said that this area is beautiful, but the problem with Deer Haven Lane is that it is narrow and hilly, and it's the only access to his property. He then said that when two vehicles are traveling in opposite directions, while there are bicyclists on the road, it's a matter of time before there will be an accident. Mr. Dotson said that his family has lived in this area since 1994, and the pedestrian and bike traffic continues to increase on Deer Haven Lane. He said that the increased numbers of pedestrians and cyclists stems from the developments in this area, as well as from the increasing outside activities. In conclusion, Mr. Dotson said that they would like to see a pedestrian/bike path on the north side of Deer Haven Lane.

Tabitha Dotson stated that if a vehicle is traveling under the speed limit, it is still not safe, especially when there are three mothers who are walking with strollers side by side. She said that if a person does not live in the area, then they do not know how dangerous it can be. She then said that the more area that is being developed, the more dangerous this will be become for pedestrian and bike traffic. It is essential that a trail be placed on Polo Club Boulevard and Kings Mill property.

Petitioner's Rebuttal – Mr. Murphy stated that they are aware of the concern in this area, and they have worked with the city in providing the much needed connection from Polo Club Boulevard to Todds Road. He said that his client was fully willing to construct the connection, and they had met with the staff to discuss this issue; but the Council had not included funding for the connection. He said that since that time, they have given up on that issue, and they assumed that the connection would not be made, so they took other action. He then said that this was the only access into and out of their development, so his clients had borrowed and funded two million dollars to connect from Polo Club Boulevard to Man O' War Boulevard, which has provided a second access to their development. He said that the preliminary plans have already been approved for this area, and this allowed the infrastructure to be built, which now allows those lots to be sold. In addition, his clients have gone over and above in providing the expense to provide access into and out of this area.

Planning Commission Questions – Mr. Day asked why the temporary access would still be located on Todds Road if the connection from Polo Club Boulevard to Man O' War Boulevard had been made. Mr. King said that that access is a public street and it would take Council action to close off that temporary access, noting that the Council has not funded that construction.

Ms. Roche-Phillips asked if Mr. and Mrs. Dotson have spoken with Kenzie Gleason, who is the Bike and Pedestrian coordinator within the Division of Planning. Mrs. Dotson said that she had spoken with someone at the Rails-to-Trails meeting, as well as to Keith Lovan. She said that a few years back it was mentioned that the builders would improve this area, but to this day there is no response. She then said that they wanted to come before the Commission to express their concerns regarding the danger of this area. Ms. Roche-Phillips said that she understood Ms. Dotson's comments, and appreciated her response; but the road is dedicated as a public street, and an individual has the right to subdivide their property. She said that it seems there is still opportunity for improvements to this area, and suggested that the Dotson's speak with Ms. Gleason. Mr. Dotson said that Deer Haven Lane is a public street and pedestrians have the right to use the road. He asked that if this is not the proper body to discuss the safety issue due to growth, if Ms. Gleason or someone else is the proper person. Ms. Roche-Phillips suggested speaking with Ms. Gleason. Mr. King said that the staff members can help advise the Dotson's, as to where to go or who to speak with.

Action - A motion was made by Mr. Cravens, seconded by Ms. Richardson and carried 10-0 (Penn absent) to reapprove PLAN 2005-166F, subject to the previous conditions listed by the staff; PLAN 2005-169, subject to previous conditions listed by the staff, revising condition number 9 to read: "Addition of street dedication and right-of-way in from of lot 262;" and PLAN 2007-156F, subject to previous conditions listed by the staff.

A recess was declared at 3:35 p.m. and the meeting re-convened at 3:44 p.m.

3. Development Plans

- a. DP 2008-79: CARDINAL HILL HOSPITAL (AMD.) (9/11/08)* - located at 1826, 1832 and 2050 Versailles Road.
(Council District 11) **(Carman & Associates)**

Note: The Planning Commission postponed this plan at its June 12, 2008; July 10, 2008; and August 14, 2008, meetings. The purpose of this amendment is to add a 220,000 square-foot hospital addition, to add a parking garage, and to revise the off-street parking and circulation.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Department of Environmental Quality's approval of environmentally sensitive areas (bio-hazardous material, and steep slopes).
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Approval of street names and addresses per e911 staff.
10. Improve plan clarity.
11. Addition of dimensions for all access points and drive aisles.
12. Addition of tree preservation information in floodplain area.
13. Complete dimensions for proposed and existing buildings.
14. Addition of property boundary information (bearings and distances).
15. Addition of adjoining property information.
16. Correct note number 7.
17. Provided the Board of Adjustment grants the conditional use permit and dimensional variances prior to certification.
18. Denote on plan all proposed areas for detention per Article 21.
19. Discuss access road improvements and proposed canopy building features.
20. Discuss note number 10 (building permit as opposed to plan certification).
21. Discuss release of easement in area of the parking garage prior to the issuance of any building permits.

Staff Presentation – Mr. Martin directed the Commission's attention to the development plan for property located at 1826, 1832 and 2050 Versailles Road. He oriented the Commission to the surrounding street system, and stated that the subject site is at the corner of Versailles Road and Mason Headley Road. He noted the location of the existing buildings and parking, and said that there are two access points on Mason Hedley and two access points on Versailles Road that enter the subject site.

Mr. Martin said that the applicant had originally submitted a plan with the parking garage over the existing easement that leads to the substation, near the wooded area; however, with the amended plan, the parking garage has been relocated to the corner of Versailles Road and Mason Headley Road. He then said that they are also proposing to construct a 220,000 square-foot hospital addition, with 720 parking spaces in the parking garage. He said that the Board of Adjustment has reviewed the applicant's request and granted dimensional variances, as well as a conditional use permit, for the expansion of the hospital addition into the A-U zone.

Mr. Martin stated that, since the original submission, the staff has revised the previous conditions to read as follows:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Department of Environmental Quality's approval of environmentally sensitive areas (bio-hazardous material and steep slopes).
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.

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

9. Approval of street names and addresses per e911 staff.
10. Improve plan clarity.
11. Addition of dimensions for all access points and drive aisles.
12. Addition of tree preservation information in floodplain area.
13. Complete dimensions for proposed and existing buildings.
14. Addition of property boundary information (bearings and distances).
15. Addition of adjoining property information.
16. Correct note number 7.
17. ~~Provide~~ Denote the Board of Adjustment ~~grants~~ approval of the conditional use permit and dimensional variances prior to certification.
18. Denote on plan all proposed areas for detention per Article 21.
19. ~~Discuss access road improvements and proposed canopy building features.~~ Resolve improvements to Mason Headley Road.
20. ~~Discuss note number 10 (building permit as opposed to plan certification).~~ Revise note number 10 to state that a consolidation plat shall be recorded prior to issuance of a building permit.
21. ~~Discuss release of easement in area of the parking garage prior to the issuance of any building permits.~~ KYDOT approval of right turn lane on Versailles Road.
22. Addition of existing gas and water easements adjacent to Mason Headley Road.

Mr. Martin said that there were concerns with what type of impact there would be to Mason Headley Road, as well as the impact with the traffic movement once the parking garage is relocated. He then said that they have spoken with the applicant and suggested the expansion of Mason Headley Road to provide both a right turn lane, which would allow more stacking into the property, and a left turn lane (condition number 19). Mr. Martin then said that they have also spoken with the applicant concerning the improvements to Versailles Road by providing a right turn lane into the access easement to the approval of KYDOT (condition number 21). He said that there have been issues as to who owns the access easement and it's the staff's understanding that the applicant is working on those concerns. In conclusion, Mr. Martin noted that the staff has requested a consolidation plat to be filed and approved prior to a building permit being issued (condition number 20).

Planning Commission Questions – Mr. Vaughn asked if a condition was listed to cover the deceleration lane on Versailles Road. Mr. Martin said that condition number 21 resolves the right turn lane off of Versailles Road.

Petitioner's Presentation – Bruce Simpson, attorney, was present representing the applicant. He noted that Kerry Gilliam, President and CEO of Cardinal Hill Hospital; and Chris Howard, Carman & Associates, were also present.

Mr. Simpson said that this application had been postponed several times due to the issues surrounding the access road on Versailles Road. He said that there were concerns with the right to expand those uses along that service road back toward the Hodges property. He then said that since that time, their differences have been resolved through an agreement and there is no further conflict at this time. He noted that the applicant is now allowed to use the access road, as depicted on the plan, for parking, pedestrian and staff uses. He noted that the Board of Adjustment had granted approval of the conditional use permit and the dimensional variances at their August 2008, meeting.

Mr. Simpson then said that there is an urgent need for the hospital to be constructed due to the demand of patient care that is currently on the waiting list. He said that Lexington has observed the growth of the hospital; and, in fact, the improvement of the view shed has evolved in terms of its architecture. He then said that this new addition, along with the parking feature, will enhance the look of Cardinal Hill Hospital, which is important to Mr. Gilliam and the Board.

In conclusion, Mr. Simpson stated that the applicant is in agreement with the revised conditions. He noted that they have done considerable amounts of work with the sanitary sewer system, and Barry Brock with the Division of Engineering has stated that they meet the storm water capacity and they are in compliance at this phase. He said that they will continue to stay in compliance and they will work with the staff to obtain the appropriate sign-offs with the different divisions. He then said that they had met with the staff prior to this meeting, and a question was raised for the first time as to whether or not there will be an impact with the traffic flow along Mason Headley and Versailles Roads. After consulting with the Board, they pledge to work with the staff to provide the necessary improvements to allow vehicles the ability to travel smoothly throughout the property, as well as on Mason Headley Road and Versailles Road.

Action - A motion was made by Ms. Richardson, seconded by Ms. Whitman and carried 10-0 (Penn absent) to approve DP 2008-79, subject to the revised conditions listed by the staff.

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

Note: The Planning Commission postponed this plan at its July 10, 2008 and August 14, 2008, meetings.

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

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

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

Staff Presentation – Mr. Martin directed the Commission's attention to the development plan for property located at 3100 Beaumont Centre Circle. He oriented the Commission to the surrounding street system, to include Monarch Street, Midnight Pass, Lakecrest Circle and Beaumont Centre Circle. He stated that the applicant is proposing a 19,000 sq-ft office building that has the potential for a future expansion toward Midnight Pass. He then said that there is also associated parking along Monarch Street; and there are three proposed access points into the site off of Beaumont Centre Circle, across from Wall Street, Monarch Street and Midnight Pass. In reviewing the overall site, he pointed out the surrounding neighborhoods, retail areas, and major roadways, such as Harrodsburg Road.

Mr. Martin said that this item was postponed from the August 14th meeting, due to the issue of the access point across from Wall Street. He said that the staff believes this access point would create an unnecessary conflict point, even though it would not violate any subdivision regulations requirements. He then said that Beaumont Centre Circle is a collector street that carries a heavy amount of traffic. He said that they have worked with the applicant over the years to create a system that flows smoothly around the main circle without any cut-through traffic. The design of Beaumont Centre Circle functions well with the high traffic volume, and the applicant needs to be congratulated on the design; however, in reviewing the design of the streets, Beaumont Centre Circle connects to a smaller supporting system within the area. With the applicant's proposal, it is out of character with the existing design of the layout. It will create an unnecessary conflict for pedestrians, bicyclists and vehicular traffic flow. Mr. Martin stated that even though this site will be a professional office, and it may not generate a heavy traffic flow, the staff believes this access point will hinder the overall design and function of the area.

In conclusion, Mr. Martin said that if the Commission chooses to approve the applicant's request, the staff suggests doing so without the access point onto Beaumont Centre Circle.

Petitioner Presentation – Rory Kahly, EA Partners, was present representing the applicant. He said that this item was originally postponed in July due to a tie vote by the Commission concerning the access point onto Beaumont Centre Circle. He then said that the staff is correct in saying that their proposal does meet the requirements of the Land Subdivision Regulations. He noted that they are not trying to set a precedent with this design; and they believe that with the alignment across from Wall Street, it will make this intersection a unique situation. He said that during the time this item was postponed, a traffic study was conducted; they had met with the staff; and it was determined that the access point would not have any adverse effect on the safety of the area.

Mr. Kahly noted that their client (Auto Owners' Insurance) was present at the meeting and said that they had purchased 5 lots, and only 5.1 acres will be used. He then said that this site was purchased two years ago; and since that time, their client has been trying to decide what could be done on the site. They have shown each phase on the plan, and they are requesting to have the front door oriented to Beaumont Centre Circle.

Mr. Kahly stated that if the access point were to be granted, they have agreed to provide a left turn into the subject site off Beaumont Centre Circle, which will be directly across from Wall Street. He said that Beaumont Centre Circle currently has one lane for bicyclists, one lane for traffic and left turning lanes to help maneuver traffic. If the access is granted, they do not believe it will hinder traffic movement or create an unsafe situation.

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

In conclusion, Mr. Kahly requested that the Commission approve the applicant's request with the access point off of Beaumont Centre Circle.

Planning Commission Comments and Questions – Mr. Brewer asked if the current proposal includes the access on Beaumont Centre Circle. Mr. Vaughn replied that it does. Mr. Kahly said that condition numbers 10 and 11 relate to the access to Beaumont Centre Circle, as well as future development; and depending on how the Commission votes, it will affect these conditions.

Staff Rebuttal – In reference to the previous question, Mr. Martin pointed out the location of the proposed access point on Beaumont Centre Circle, which is in reference to condition numbers 11 and 12.

Mr. Vaughn asked how the access would be noted in condition number 10, reviewing the development plan with the staff's position on this issue. Mr. Martin said that the staff suggests changing condition number 10 to read: "Delete the proposed access to Beaumont Centre Circle," and condition number 11 could be removed from the recommendations.

Planning Commission Comments and Questions – Mr. Owens asked if there are other locations along Beaumont Centre Circle that would allow the same type of connection in the future. Mr. Martin said that, as this area develops, there could be more connections with the interior of Beaumont Centre Circle. If the access point were to be allowed, the staff's concern is what type of role it would play in supporting similar access points along the interior portion of Beaumont Centre Circle.

Mr. Owens asked if there is a street next to the Liquor Barn. Mr. Martin said that that is a parking area that connects to the service road leading to Wall Street. Mr. Owens then asked, if this access point were to be allowed, if it would be possible for another person to request a connection directly across from the service road. Mr. Martin replied that it is possible for a request to come to the Commission for additional access. Mr. Owens asked for comments regarding the traffic situation in this area. Mr. Martin said that the staff believes this access point will create an unnecessary conflict. He said that the traffic study may not depict the actual numbers for this area, but Beaumont Centre Circle is a highly used collector street.

Mr. Cravens asked how the adjacent property is connected to the streets. Mr. Martin said that that property connects to interior streets (Monarch Street and Governors Lane), and not to Beaumont Centre Circle. Mr. Cravens then asked if the staff believed another connection could be possible. Mr. Martin said that there is the potential for another request to come in front of the Commission. Mr. Cravens confirmed that the only area for a street to be connected directly across from an existing street is on this property. Mr. Martin replied yes.

Mr. Brewer said that there has been a traffic study completed for this area, which shows that there will be no traffic or safety impact to this area. He asked why staff was concerned about a conflict if there are no violations to the regulations, and experts are saying there is not a safety issue. Mr. Martin said that the access point does meet the Land Subdivisions Regulation; however, this is not a subdivision - it is a development plan. He then said that with the context of the overall design, the staff believes this access point is not needed, and it is a safety hazard. Even though there is a traffic study, the numbers may not show what is actually happening in the area.

Mr. Holmes asked if it would exacerbate the problem if the connection of Wall Street and Beaumont Centre Circle creates a conflict, and if the access point is granted. Mr. Martin said that the staff believes it will exacerbate future problems that may occur. He then said that even though the connection will be aligned with Wall Street, the staff believes it to be unnecessary.

Mr. Day said that it was stated that the applicant had combined several lots to make one lot. Mr. Martin said that it is the staff's understanding that the applicant owns the entire area. Mr. Day asked how many more cuts could be made on the adjacent lot, if this access were to be granted. Mr. Martin said that if a request were to be made, then the staff would review that request in comparison to the standards. Mr. Day asked how many lots are on the adjacent land. Mr. Martin replied that there are three lots. Mr. Day then asked if there could be three potential entrances on Beaumont Centre Circle. Mr. Martin replied that there could be. Mr. Day commented that Beaumont Centre Circle is one of the streets in Lexington that works, and he would hate to see access granted directly onto Beaumont Centre Circle. He said that he uses this area for many things and right now the street design works. He believes that it would be unwise to grant this access point for one business.

Ms. Copeland asked for the motivation behind the applicant's request. Mr. Kahly said that the applicant want the identification for the business to be on Beaumont Centre Circle, as well as having the front door facing the circle, rather than the other streets.

Ms. Copeland then asked about the speed limit on Beaumont Centre Circle. Mr. Neal, Traffic Engineering, said that currently the speed limit is 35 mph. Ms. Copeland then asked if the traffic moves faster than 35 mph, to which

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

Mr. Neal responded that, prior to the striping of the street, the traffic was moving faster. Ms. Copeland asked where the bike lanes were located. Mr. Neal replied that the bike lanes are located on both sides of Beaumont Centre Circle. Ms. Copeland then asked what the cone of vision is at 35 mph. Mr. Neal said that that is unknown. Ms. Copeland said that as the speed increases, the cone of vision narrows. She asked if it is safe to say that on the inside radius of a limited access on a roundabout, the cone of vision would be shorter, which Mr. Neal verified. Ms. Copeland then asked if a vehicle were traveling from the rear of the circle on the interior side of Beaumont Centre Circle, would there be less vision of anything coming out of that access versus the Wall Street side. Mr. Neal said that there is less vision for oncoming vehicles, and the driver would need to be more aware of their surroundings.

Ms. Copeland asked what would keep vehicles from using Monarch Street versus using the subject site as a new cut-through. Mr. Neal said that if a vehicle is traveling on Monarch Street, it would be unlikely for them to enter the parking lot to gain access to Beaumont Centre Circle. Ms. Copeland replied that it could happen when traffic is backed up on Monarch Street. Mr. Neal replied that is true.

Ms. Copeland asked if it would be more likely for a bicyclist to use the interior or the outer portion of Beaumont Centre Circle. Mr. Neal said that it would depend on the way they were traveling. Ms. Copeland commented that pedestrian and bike movement would likely use the interior portion, which would create more of a risk. Mr. Neal suggested that Mr. Kahly come forward to answer any questions, since EA Partners' office is located on Wall Street. Ms. Copeland said that the data is based on present time. Since the land is not fully developed, these questions pertain to the future use. She added that this land has provided the possibility of constructing a street (circle) around a significant design that works for this area. She believes that this request should not be allowed, and the design of this area should be preserved.

Mr. Vaughn recapped the hearing, noting that if the Commission should decide that the access point is appropriate and acceptable, a motion could be made, subject to the revised conditions listed by staff, deleting condition numbers 10 and 11; however, if it determined that the access point is not appropriate, a motion could be made, subject to the revised conditions listed by staff, deleting condition number 11 and changing condition number 10 to read: "Delete the proposed access to Beaumont Centre Circle."

Action - A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips and carried 7-3 (Richardson, Whitman, and Cravens opposed; Penn absent) to approve DP 2008-88, subject to the revised conditions listed by the staff, deleting condition number 11 and changing condition number 10 to read: "Delete the proposed access to Beaumont Centre Circle."

- d. DP 2008-104: RED MILE SQUARE, TRACT D, PARCEL 3 (10/9/08)* - located at 1151 Unity Drive.
(Council District 11) **(Midwest Engineers)**

Note: The Planning Commission postponed this plan at its August 14, 2008, meeting.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffer.
4. Urban Forester's approval of tree preservation plan.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant location.
8. Division of Waste Management's approval of refuse collection.
9. Addressing Office's approval of street names and/or addresses.
10. Verify correct cross-section for Unity Drive.
11. Complete easement dimensions.
12. Revise perimeter setback per Article 9 of the Zoning Ordinance.
13. Correct the purpose of amendment note.
14. Denote the adjacent property zoning information.
15. Discuss the need for additional screening next to the single family homes.
16. Discuss the required parking relative to the proposed parking.
17. Discuss the detention area location.
18. Discuss compliance with the open space requirements per Article 9 of the Zoning Ordinance.

Staff Presentation – Mr. Taylor directed the Commission's attention to the proposed final development plan for property located at 1151 Unity Drive, which is just to the south of Red Mile Road, and is adjacent to the parking lot for the Red Mile Race Track.

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

Mr. Taylor said that the applicant's proposal consists of 17 townhouses and 61 parking spaces. He said that when this request was originally submitted, the plan only showed Lot 3, and the staff had concern, as to whether or not the development would comply with Article 9 of the Zoning Ordinance. Since that time, the applicant has submitted a revised plan that incorporates Lot 2; in turn, this showed compliance with the setback requirements, as required in Article 9.

Mr. Taylor said that the open space requirement for group residential was also provided, noting that there is a closed contour on the site, which could be a sinkhole. He said that the Subdivision Committee did review the revised submission, and recommended approval, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffer.
4. Urban Forester's approval of tree preservation plan.
5. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant location.
8. Division of Waste Management's approval of refuse collection.
9. Addressing Office's approval of street names and/or addresses.
10. Verify correct cross-section for Unity Drive.
11. Complete easement dimensions.
12. Revise perimeter setback per Article 9 of the Zoning Ordinance.
13. Correct the purpose of amendment note.
14. Denote the adjacent property zoning information.
15. ~~Discuss~~ **Denote**: The privacy fence near the southern boundary of the property shall be maintained to meet the need for additional screening next to the single family homes.
16. ~~Discuss the required parking relative to the proposed parking.~~ **Provide pedestrian access between lots 2 and 3.**
17. ~~Discuss~~ Denote the detention area location.
18. ~~Discuss~~ Denote compliance with the open space requirements per Article 9 of the Zoning Ordinance.
19. **Denote existing sinkhole (or closed contour topographic) information on Lot 2.**
20. **Remove Preliminary Subdivision Plan from plan title.**
21. **Remove lotting information from townhouse area.**

Mr. Taylor said that the staff is requesting that additional information be provided on the existing sinkholes on Lot 2 (condition number 19). He noted that there is a fence at the southernmost portion of the property, and the staff is suggesting that a privacy fence be maintained for the additional screening, with which the applicant has agreed.

Petitioner's Presentation – Andy Holmes, Midwest Engineers, was present, and stated that the applicant is in agreement with the staff's revised recommendation, and requested approval. He noted that his firm had completed the previous phase for the townhouse development, and at that time the closed contour did not present any sinkhole issues. He said that he did not believe it had changed since then.

Action - A motion was made by Mr. Brewer, seconded by Ms. Richardson and carried 10-0 (Penn absent) to approve DP 2008-104, subject to revised conditions listed by the staff.

- c. DP 2008-114: MITCHELL PROPERTY (A PORTION OF COPE, MITCHELL, COOPER) (10/29/08)* - located at 1290 & 1340 Deer Haven Lane. (Council District 12) **(Sherman/Carter/Barnhart)**

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

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Approval of street names and addresses per the street addressing office.
7. Correct note number 5.
8. Denote a temporary turnaround on the end of the stub street.
9. Complete 100' USA boundary setback and denote required USA landscaping.
10. Revise note numbers 11 and 13.
11. Correct FEMA floodplain information and identify stormwater basin location(s) proposed.
12. Identify driveway locations or access concept from street.

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

13. Denote: The property at 1340 Deer Haven Lane shall be required to connect to the sanitary sewer system at the time 1290 Deer Haven Lane develops.
14. Remove buildable areas from environmentally sensitive areas and identify required 25' vegetative buffer from floodplain areas.
15. Denote allowable density transfers (D.T.Rs) on plan face.
16. Identify exaction information.
17. Denote one dwelling unit per buildable area on plan face.
18. Denote whether or not 1340 Deer Haven Lane will have driveway access to new street in the future.
19. Resolve street cross-section proposed (50'/31').
20. Resolve buildable areas and required (80%) open space areas.
21. Resolve proposed construction in identified wetland areas.

Staff Presentation – Mr. Sallee presented the final development plan to the Commission. He said that the subject property is located on Deer Haven Lane, is in between Polo Club Boulevard and the interdiction that previously allowed the connection to Walnut Hill and Chilesburg Road. He then said that the subject property consists of a 5-acre lot (1340 Deer Haven Lane) that is vacant and a 10-acre lot (1290 Deer Haven Lane) that accommodates one single family residence. The development plans proposes a total of 8 dwelling units with a new street connection to Deer Haven Lane, as well as a new driveway for the unit at 1340 Deer Haven Lane.

Mr. Sallee stated that the subject property is located within an EAR-1 zone, and this zone does allow up to three units per acre. He said that this property is also within a Scenic Resource Area; and, according to the Zoning Ordinance, developments within this area are restricted to a maximum of 3 units per every 5 acres. He then said that there is a provision for the difference in the densities to be exported to other areas within the Expansion Area; however, that information has not been noted on the applicant's submittal (condition number 15).

Mr. Sallee then stated that the Technical Committee did review the applicant's proposal and recommended approval; however, shortly after that meeting, the staff discovered that the floodplain information on the submittal was incorrect. In reviewing the submittal, the northern portion of the property is identified as a floodplain area; but in comparison to the pending FEMA maps, the center portion of the property is where the floodplain is actually located. As a result of this error, more conditions were needed for the applicant's submittal. He said that in reviewing the buildable areas with the updated FEMA information, those areas in question are within the defined environmentally sensitive areas, and there is a requirement to have at least 25' of buffering between the buildable areas and the floodplain area (condition number 14).

In reference to the above conditions, Mr. Sallee stated that the first seven conditions, and condition number 10, are fairly standard. He noted that condition numbers 11 and 14 are related to the floodplain information, as well as the need to resolve the buildable areas to account for the true floodplain areas. He said that during the Technical Committee Review, the Committee had suggested that a temporary turnaround be constructed, which would then allow the larger vehicles access to Deer Haven Lane (condition number 8). As for condition number 9, a small portion of the property is within the Rural Service Area, and there is a requirement to have a 100' setback provided, in addition to the landscaping requirement. He noted that the applicant needs to add that requirement to the plan. He then stated that condition number 12 relates to the fact that there is no buildable area being proposed along the right-of-way; therefore, the applicant needs to account for the driveway access into the property.

Mr. Sallee noted that condition number 13 is in reference to the property located 1340 Deer Haven Lane. He said that only one dwelling unit is being proposed for that location, and the main thrust of this plan is to capture the two units that would otherwise be allowed on the 10-acre tract. He said that when the development of the 5-acre tract starts, it would need to tie into the sanitary sewer system at the time 1290 Deer Haven Lane is being developed.

Mr. Sallee then stated that the staff would like the applicant to denote the density transfer of the lots (condition number 15), as well as to identify exaction information (condition number 16). He said that exactions are required for each of the buildable areas, and the applicant needs to show this for each of the units. As for condition number 17, it is the staff's understanding that there will only be one dwelling unit per buildable area, and that needs to be clearly denoted on the plan face. In addition, they also need to denote on the plan whether or not the unit located at 1340 Deer Haven Lane will have a driveway access to the new street.

Mr. Sallee stated that there is a provision in the Land Subdivision Regulations that allows a street to be as narrow as 23' within a 30' right-of-way. He said that this provision is allowable since each buildable area has a proposed the minimum of 100' in lot width (condition number 19). He said that as part of the Expansion Area, at least 80 percent of the land is to remain as open space (condition number 20); and according to the site statistics, this has not been calculated. He then explained that as the right-of-way of the street becomes narrow, it will create more land for the open space requirements; however, this will mean that the buildable areas will also need to decrease in size to insure that the 80 percent requirement has been met.

Lastly, there is a wetland area that has been identified at the southern edge of the 10-acre tract. He said that the applicant's proposal shows buildable area in this area, which will require: 1) an amended submittal, or 2) the appropriate 401 and 404 Permits that must be acquired and documented (condition number 21).

In conclusion, Mr. Sallee stated that the Subdivision Committee had recommended approval of the applicant's request, subject to the conditions previously mentioned. He said that there is also an EAMP Compliance report to be presented to the Commission.

EAMP Compliance Report Presentation – Mr. Martin stated that an EAMP Compliance Report is required by Article 23B-5(c) of the Zoning Ordinance. He said that when the staff reviews an applicant's request, they review the information to ensure that their proposal is in compliance with the Expansion Area Master Plan. He then said that one thing that is reviewed is the Land Use Element; and as it was previously pointed out, the residential density for this site it is in compliance.

Mr. Martin then stated that the Community Design Element is another factor considering when reviewing a submittal; and during that review, the Scenic Overlay and the rural streets were looked at. He said that in reviewing the applicant's plan, they had identified the required setback, as well as the floodplain area; however, that information is inaccurate. In fact, there is information missing. He noted that this plan is not fully in compliance with the Community Design Element for the Expansion Area Master Plan.

Mr. Martin then said that the Infrastructure Element is another important factor, and this includes such items as the collector streets, drainage system and the sewer system. He said that the applicant's proposal does not require a trunk line or a major street; and, in that regard, the applicant's submittal is compliant with the EAMP. The drainage study, however, shows the required regional detention basin that needs to be located on the site, which has not been done at this time. He said that there is enough area to provide the detention basin. The applicant is aware of this concern, but they have not yet addressed that issue with the staff. At this time they have stated that the detention basin will be on the property, but they have not indicated its location on the development plan.

In conclusion, Mr. Martin said that the applicant's proposal only partially complies with the EAMP Compliance Report, and this stems from the lack of information that was submitted. He said that, based upon that lack of information, the following findings are given:

1. The Land Use Element is in compliance.
2. The floodplain and wetland information is inaccurate or missing.
3. The regional detention basin is not indicated on the submitted plan, but can be accommodated with the proposed street connection.

He said that the staff recommends the following changes to the final development plan to ensure compliance with the EAMP and 2007 Comprehensive Plan:

1. Correct the floodplain information and add the wetlands information.
2. Revise the buildable areas and local street to remove conflicts with the floodplain and wetland area; or document that the proper State and Federal Permits have been obtained, including the mitigation requirements to allow construction in the floodplain and wetland area.
3. Denote on the plan the area for the required regional detention basin.
4. Indicate a temporary turnaround area on the proposed local street where it stubs into the adjoining property.

Planning Commission Comments and Questions – Mr. Vaughn asked if the regional detention basin should be noted on the staff recommendations, as well. Mr. Martin said that under the Subdivision Committee recommendations, condition number 1 (Urban County Engineer's acceptance of drainage, storm, and sanitary sewers) and condition number 11 (Correct FEMA floodplain information and identify stormwater basin locations(s) proposed) will be sufficient. He noted that the same conditions are listed on the Subdivision Committee recommendations, as well as the EAMP Compliance Report recommendations.

Ms. Copeland understood that the floodplain information had changed, and asked if the area had increased. Mr. Sallee said that the floodplain area shown on the plan is from the FEMA map, which would be effective the next week.

Mr. Holmes asked if the two units in the floodplain area will be removed. Mr. Sallee said yes that it is one of the recommended requirements.

Ms. Copeland asked for clarification of the land area adjacent to the new proposed local street. Mr. Sallee said that that land is a possible wetland, area according to the Regional Storm Water Study.

Ms. Roche-Phillips asked if the possible wetland area had been flagged or mapped by a consultant. Mr. Sallee stated that the wetland areas have been mapped by the city's original consultant, but he was doubtful that that has been flagged the field.

Petitioners Presentation – Fred Eastridge, Sherman/Carter/Barnhart, was present, along with Mark Mitchell, who is the property owner. He gave a brief history of the land and said that his client and the neighbors had their property rezoned to EAR-1. He then said that this property does have a Scenic Overlay zone, resulting in the density of the units being limited to 3 units per 5 acres. Since that time, an individual had made Mr. Mitchell an offer to purchase the 5-acre tract for a single family residence. He said that his client believes that transferring the remaining 1.5 units from the 5-acre tract to the 10-acre tract would be more valuable. He further said that, as of this meeting, his proposal is accurate with regards to the current adopted floodplain. The new floodplain information is not effective until September 17, 2008.

Mr. Eastridge stated that in the Expansion Area Master Plan, there is a Storm Water Management Plan that was prepared by a local consultant. He said that they had reviewed the area and determined the location of the proposed detention basin. He directed the Commission's attention to where the bridge would be located, as well as the location of the detention basin. He noted that it would be within the boundary of the floodplain area and would utilize the existing contours of the land, as well as the natural vegetation of the area.

Mr. Eastridge then stated that as of right now there are no plans to develop this area. He said that there is a client who wants to purchase a piece of property from Mr. Mitchell. He said that once that happens, they can turn around and apply for a building permit for a single family residence. He then said that Mr. Mitchell only wants to transfer 1.5 units to his land prior to selling it. The concern with a second house being placed on the smaller lot is that the regulations will not allow a permit for another buildable area unless additional land is purchased to increase the size of the original lot.

Mr. Eastridge stated that Deer Haven Lane is designated as a Scenic Resource Corridor and there is a required 200' setback already in place, which helps protect the corridor and the land. He said that the improvements to Deer Haven Lane are not required because it would change the character of the area.

In conclusion, Mr. Eastridge stated that they are in agreement with the staff's recommendations, including the EAMP Compliance Report, and requested approval. As for the wetlands, it has not yet been determined that there are wetlands on the land, and they will try to keep the buildable area outside the suspected wetland areas. If at such time Mr. Mitchell decides to build in these areas then that determination will be made. He noted that they will submit an amended plan to the staff, noting those changes that had been discussed. He then noted that with regards to the statement about the driveway access, his client has stated that the new property owner is requesting to keep the access to Deer Haven Lane.

Planning Commission Questions – Ms. Roche-Phillips said that the proposed road will be located in the floodplain area, and noted that that area is absolutely a wetland area. She said that the required 401 and 404 Permits will be needed for this site. She asked if the driveway will have the same procedure. Mr. Eastridge said that the driveway will have to obtain a permit and they will need to apply to both the State and Army Corps. of Engineers. He noted that the buyers are aware of the issue and what needs to be done.

Citizen Opposition – David Booth, residing at 1940 Deer Haven Lane, was present. He said that he is concerned with this request being a final development plan. He said that as of now there are 8 buildable areas, 4 need to be relocated due to the wetland issue, pointing out which buildable areas are not in compliance due to the setback requirements or wetland issue. He said that there is no storm water retention basin shown, and there is no documentation of the required permitting. All of these issues are coupled with the fact that this development is in a Scenic Resource Area.

Mr. Booth said that the staff has stated that the applicant is only partially in compliance, and this should mean they need to submit another plan showing compliance. He said that he was the one who informed the staff that the setback requirement was not noted on the plan. He has been active in the progression of this development, and noted that he does not object to the plan itself, only to the concept of the plan. He believes this needs to be clarified for the future and placed on the record that there is a storm water retention basin, wetlands and the required setback on the property. He said that the only reason for this request to come forward is to sell this piece of land; and while the remaining land is not in compliance, he believes postponement is in order. He said that there are too many restrictions on a piece of land that is partially in compliance. He then said that for 8 lots the staff has listed 21 conditions on the agenda. He is concerned that the purchaser is not aware of the restrictions placed on this property.

In conclusion, Mr. Booth stated that the applicant needs to resubmit the plan showing the changes; otherwise, it should not be approved.

Petitioner's Rebuttal – Mr. Eastridge stated that the purchaser is aware of the restriction, and what can and cannot be done. He said that as of now the submitted plan is correct; however, after September 17, 2008, the floodplain area will be incorrect. He then said that at the time this plan was submitted, it was in compliance with the FEMA maps. They are in agreement to submit a plan after September 17th showing the adopted floodplain area.

Citizen Rebuttal – Mr. Booth stated that it was mentioned that the buyer is aware of the restrictions; however, that person has not purchased the land; therefore, that person may be aware of those restrictions. He said that he is trying to make everyone aware of this issue, and he believes the plan needs to be shown correctly in case the potential purchaser is not the current buyer. He said that if the applicant is in agreement to revise the plan, then it should be done correctly through a public meeting. He requested that the Planning Commission postpone this request.

Petitioner's Comments – Mr. Eastridge stated that he understands Mr. Booth's comments, and requested that this item be postponed for 2 weeks until the September 25, 2008, meeting. Ms. Boland said that this item would be docketed as a continued discussion item on September 25th since the hearing had already begun and evidence presented. Mr. Eastridge agreed, and said that they will submit the revised plan for the staff's review, and at the September 25th meeting the staff can report their findings.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Whitman, to continue DP 2008-114 to the September 25, 2008, Planning Commission meeting.

Discussion - Mr. Holmes asked if the FEMA maps will be available by the September 25th meeting. Mr. Sallee replied that the staff would be able to provide the Commission with copies at the meeting. Mr. Eastridge noted that the FEMA maps are available on the internet, as well.

The motion carried 10-0 (Penn absent).

- D. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 10-0 (Penn absent) to approve the release and call of bonds as detailed in the memorandum dated September 11, 2008, from Ron St. Clair, Division of Engineering.

- V. ZONING ITEMS - The Zoning Committee met on Thursday, September 4, 2008, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Frank Penn; Lynn Roche-Phillips; Joan Whitman; Patrick Brewer and Randall Vaughn. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUEST

1. ZOTA 2008-6: AMENDMENT TO ARTICLE 8 TO EXPAND THE ALLOWABLE USES INCLUDED IN THE ADAPTIVE REUSE OF BUILDINGS IN A B-4, I-1, OR I-2 ZONE - petition for a Zoning Ordinance text amendment to Article 8 to expand the allowable uses included in the adaptive reuse of buildings in a Wholesale & Warehouse Business (B-4), Light Industrial (I-1), or Heavy Industrial (I-2) zone.

INITIATED BY: Pepper Distillery, LLC

PROPOSED TEXT: Article 8-21(b) - Principal Permitted Uses in the B-4 zone

(Note: All of the proposed text would be an addition to the Zoning Ordinance. Copies of the entire text are available upon request)

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommends: Approval, for the following reasons:

1. The proposed text amendment will further several of the Goals and Objectives of the 2007 Comprehensive Plan, with specific examples:
 - a) Goal 5, Objective D - Encourage renovation, restoration development, and maintenance of historic residential and commercial structures.
 - b) Goal 5, Objective E - Encourage the retention, protection, and compatible adaptive reuse of historic resources, sites, and structures.
 - c) Goal 7, Objective I - Create balanced employment opportunities and higher intensity residential and non-residential uses that are compatible with existing developed areas.

- d) Goal 8, Objective B - Continue to review and revise the existing zoning ordinance and subdivision regulations on an ongoing basis to ensure they are conducive to infill and redevelopment, including streamlining the development review process.
 - e) Goal 8, Objective E - Encourage the rehabilitation and adaptive reuse of all existing underutilized buildings to the greatest extent feasible.
 - f) Goal 8, Objective N - Design and support programs aimed at converting vacant lots into residential housing.
 - g) Goal 11, Objective J - Encourage revitalization and/or reuse of underutilized employment centers.
 - h) Goal 12, Objective B - Build upon the strengths of existing businesses and solicit new uses and activities, including residential development that will improve the vitality of downtown for commerce, culture, entertainment, and neighborhoods.
 - i) Goal 12, Objective D - Encourage the creative adaptive reuse of downtown buildings to accommodate the needs of businesses and entrepreneurial enterprises.
 - j) Goal 12, Objective F - Promote and enhance downtown as a desirable housing center through the reuse of existing structures, mixed use development, and/or higher density development.
 - k) Goal 13, Objective G - Encourage the rehabilitation, reuse, and adaptive reuse of structures for residential purposes in existing neighborhoods, including underutilized public and commercial buildings.
2. The proposed text amendment will allow innovative and efficient redevelopment activities to occur. Adaptive reuse projects will help preserve existing industrial buildings, many of which are sturdy, well-built structures suitable for redevelopment and new life.

Staff Presentation – Mr. Emmons stated that this is an amendment to Article 8 of the Zoning Ordinance to expand the allowable uses included in the adaptive reuse of buildings in a Wholesale & Warehouse Business (B-4), Light Industrial (I-1), or Heavy Industrial (I-2) zone.

Mr. Emmons directed Commission's attention to the previously submitted packet, noting that it included a map of the possible areas; staff report, which includes the proposed text; as well as the staff's proposed revisions. He noted that the staff had received 3 letters of support for the proposed text amendment: one from the Blue Grass Trust for Historic Preservation; one from the Fayette Alliance; and one from Harold Tate, who is with the Downtown Development Authority. (A copy of these letters is attached as an appendix to these minutes).

Mr. Emmons said that the staff truly appreciated Barry McNeese (Pepper Distillery, LLC) and his development team, as they have shown extreme amount of cooperation in the development of this text amendment.

Mr. Emmons said that, in reviewing this text amendment, this ordinance will encourage redevelopment and adaptive reuse of the older structures within the Infill and Redevelopment Areas. He said that during the previous Planning Commission work session a question was raised as to whether or not there should be a definition for "adaptive reuse." The applicant has responded to that question by adding a new definition to Article 1 of the Zoning Ordinance. He noted that this new definition is similar to the definition other cities have used in their Ordinance. He said that, as this text amendment is proposed, an adaptive reuse project would be a special provision to the Wholesale & Warehouse Business (B-4), Light Industrial (I-1), or Heavy Industrial (I-2) zone. This text amendment will not be geared toward the older residential structures, but rather toward the older vacant industrial structures. He said that the main thrust of this text amendment is to allow additional uses, such as office, retail, entertainment and housing on a single lot or on several lots within a general area.

Mr. Emmons discussed some of the provisions of the text that will offer protection measures against potentially incompatible redevelopment. The most significant provision is the requirement for a development plan. He said that as this is drafted, it will be for areas within or adjacent to the Infill and Redevelopment Areas. Referring to the previously submitted map, he noted that the areas that will potentially benefit from this text amendment. He said that that does not mean that every property on the map can or will meet the criteria, it just means that there is that potential. He then said that it will be important to have at least one of the buildings within an adaptive reuse project set as the principal structure. This prevents a circumvention of the intent of the ordinance, such as someone using a storage building in the rear of the property to get a fast food restaurant in the front. He said that the applicant will need to provide justification as to why this project is appropriate; they must document that the project meets certain criteria, and they must show that the adaptive reuse project ties in with the Comprehensive Plan. Mr. Emmons noted that the Division of Planning is committed to review this text amendment, as a part of the ongoing review of the Infill and Redevelopment regulations as a whole.

While speaking of some of the site design review provisions, Mr. Emmons stated that the concept of the adaptive reuse will be primarily based upon the market forces that drive the redevelopment of these areas. He said that as part of the design criteria, the staff is recommending that at least one structure will be used as the adaptive reuse building with the maximum height of all structures to be 48 feet tall (4-story structure) or no more that 12 feet taller than the existing structures, whichever is greater. He said that the staff did not want buildings being adaptively reused to be overwhelmed by a new building. Required parking will be approximately ½ the otherwise required parking. He said that as part of this text amendment one of the conditional uses for the adaptive reuse project will be drive-through facilities.

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

Mr. Emmons noted presented a series of photographs of potential sites for an adaptive reuse projects.

Photograph 1 - a view of the Pepper Distillery, LLC on Manchester Street.

Photograph 2 – is another view of Manchester Street, where in the past the Planning Commission approved an industrial mixed use project.

Photograph 3 – is a closer view of the existing buildings along Manchester Street.

Photograph 4 – is a view if the intersection of Loudon Avenue and Bryan Avenue.

Photograph 5 – is another existing building near the intersection of Loudon Avenue and Bryan Avenue.

Photograph 6 – is a view of the area along National Avenue, which is off of Winchester Road.

Mr. Emmons stated that the staff is recommending approval of the proposed text amendment with the staff recommended changes; noting that the following Goals and Objectives of the 2007 Comprehensive Plan would be furthered:

- a) Goal 5, Objective D Encourage renovation, restoration development, and maintenance of historic residential and commercial structures.
- b) Goal 5, Objective E Encourage the retention, protection, and compatible adaptive reuse of historic resources, sites, and structures.
- c) Goal 7, Objective I Create balanced employment opportunities and higher intensity residential and non-residential uses that are compatible with existing developed areas.
- d) Goal 8, Objective B Continue to review and revise the existing zoning ordinance and subdivision regulations on an ongoing basis to ensure they are conducive to infill and redevelopment, including streamlining the development review process.
- e) Goal 8, Objective E Encourage the rehabilitation and adaptive reuse of all existing underutilized buildings to the greatest extent feasible.
- f) Goal 8, Objective N Design and support programs aimed at converting vacant lots into residential housing.
- g) Goal 11, Objective J Encourage revitalization and/or reuse of underutilized employment centers.
- h) Goal 12, Objective B Build upon the strengths of existing businesses and solicit new uses and activities, including residential development that will improve the vitality of downtown for commerce, culture, entertainment, and neighborhoods.
- i) Goal 12, Objective D Encourage the creative adaptive reuse of downtown buildings to accommodate the needs of businesses and entrepreneurial enterprises.
- j) Goal 12, Objective F Promote and enhance downtown as a desirable housing center through the reuse of existing structures, mixed use development, and/or higher density development.
- k) Goal 13, Objective G Encourage the rehabilitation, reuse, and adaptive reuse of structures for residential purposes in existing neighborhoods, including underutilized public and commercial buildings.

He then said that the proposed text amendment will allow innovative and efficient redevelopment activities to occur. Adaptive reuse projects will help preserve existing industrial buildings, many of which are sturdy, well-built structures suitable for redevelopment and new life.

Mr. Emmons directed the Commission's attention to the revised text amendment draft dated 9/4/08, and said that the Zoning Committee had recommended approval this text amendment. He noted that the staff has noted on the layout of the text amendment to show whether or not the language is an amendment to the Zoning Ordinance or an addition. He then said that Section 8-21(o)(4)(c) states that the applicant shall provide documentation demonstrating that the project meets at least three of the following criteria. At the Zoning Committee meeting, there was a discussion as to how many of the 8 criteria should be met, and the staff recommends at least three should be met, which would then allow more properties to potentially qualify for these provisions. Mr. Emmons stated that in meeting with the Historic Preservation staff, it was determined that the following items should be deleted from Section 8-21(o)(4)(c)(2).

"It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is ~~certified or preliminarily~~ determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; ~~is individually listed on a state inventory of historic places;~~ or is located within a Historic District (H-1) overlay zone."

However, the applicants are requesting that "is individually listed on a state inventory of historic places" to remain.

Mr. Emmons then directed the Commission's attention to page 3, Section 8-21(o)(4)(c)(8), and said that this criteria was presented to the Zoning Committee, and upon further discussion, it was recommended to replace "Significant public art is provided by the development" with "Public art is provided by the development that will be publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement." He noted that this condition would keep the area free and accessible for public use. He then noted that this condition will not allow a business logo or other type of advertisement to be counted as an art exhibit. Mr. Emmons stated that the staff is also recommending deleting Section 8-21(o)(4)(g)(2) from the text amendment in its entirety. He said that when reviewing the B-1 zone recommendations, it is mostly composed of the B-4 uses, which are specifically

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

permitted herein; therefore, this requirement is not needed. He then said that with the deletion of Section 8-21(o)(4)(g)(2), the only prohibited uses are all adult uses, as listed in Section 8-16(e), (14), (15), (16) and (17). He noted that the prohibited uses in the base zoning for B-4, I-1 and I-2 will not be allowed in the adaptive reuse project. For example, a slaughterhouse is not allowed in a B-4 zone; therefore, it will not be allowed in an adaptive reuse project in a B-4 zone.

Mr. Emmons concluded that the staff is recommending approval of the text amendment with the proposed changes previously discussed.

Planning Commission Comments and Questions – Ms. Richardson asked for further clarification to Section 8-21(o)(4)(c)(8), and asked if this would prohibit a corporation from donating a piece of art work with their name attached to it. Mr. Emmons said that the plaque would only state who donated that art work. Ms. Richardson said that if the person places their company name on the plaque then that is a form of advertising. Ms. Boland said that based upon the wording of the language and its intent, the logo itself cannot qualify as the public art. She said that as long as it is a plaque says “this piece of public art work” should be sufficient. Ms. Richardson noted that she did not want a donation from a corporation to be turned down due to that issue.

Mr. Vaughn thanked the staff for their work on this text amendment. Mr. Holmes added that he is glad to see the initiative to come up with a proposal for the adaptive reuse project. He said that even though it is needed within the community, certain areas should be restricted from this text amendment. He noted that the abandoned schools would also be a good adaptive reuse project as well. Mr. Emmons said that the staff hopes this text amendment will bring in and create good projects; which will teach the community how to apply those lessons to the other parts of the Ordinance in the future.

Petitioner Presentation – Chris Westover, attorney, was present presenting the applicants, Pepper Distillery, LLC. She thanked the staff for their help in finalizing the text amendment. She said that they believe this text amendment will facilitate the revitalization of the community, and as for the revised text, they are in agreement with the staffs’ recommendations; with the exception of the changes to Section 8-21(o)(4)(c)(2). She asked that “is individually listed on a state inventory of historic places” remain listed, as noted below.

“It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is ~~certified or preliminarily~~ determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; **is individually listed on a state inventory of historic places;** or is located within a Historic District (H-1) overlay zone.”

Ms. Westover said that not every historic property will be eligible for the national historic status.

Barry McNeese, applicant, was present. He said that the entire corridor of Manchester Street presents the community an opportunity to create something fantastic while charting new territory. He then said that it is their hope to establish a redevelopment pathway for an area that would have been more easily torn down for something new. It is their hope in establishing this criteria and expanding the uses will create an opportunity that is exciting to Lexington.

Ms. Westover requested approved of this text amendment, subject to the changes previously mentioned. She commented that this would allow the maximum flexibility to revitalize this community.

Planning Commission Comments and Questions – Mr. Brewer asked for further clarification as to what language is being requested to add back. Referencing the revised recommendations, Ms. Westover explained that they are requesting for “is individually listed on a state inventory of historic places” to be added back.

Mr. Holmes asked why the staff recommended deleting that phrase. Ms. Westover said that the Historic Preservation staff had requested that phrase be deleted. She said that there are two different historical lists, and that is why they want the phrase to remain.

Citizen Support – Dick Murphy, attorney, was present representing Walker Properties. He said that they are in support of the text amendment, and they believe it is a wonderful idea. They applauded Mr. McNeese on their work within the distillery district.

Mr. Murphy said that his clients have been doing adaptive reuse for the past few years now. He said that the Planning Commission had approved a B-1 zone change in 2007 for properties located on Midland Avenue, and that change has worked out very successfully. He directed the Commission attention to the overall map, and explained the location of the applicant's properties along National Avenue. He noted that the applicant now owns 90 percent of that block.

Mr. Murphy then directed the Commission's attention to a series of photographs of buildings that his clients have applied the adaptive reuse concept to.

Photograph 1 – is a view of the Willis Kline showroom, noting that they have kitchen and bathroom fixtures and hardware items.

Photograph 2 – is a view of the Henry Brown building, who design and makes artistic handbags.

Photograph 3 – is a view of Steven Hines Florist located on Midland Avenue.

Photograph 4 – is a view of Kentucky Mudd Works, who works with artistic potteries.

He said that there are several other businesses in the area to include a creative furniture shop. Even though not all of these shops are artistic there is an artistic community beginning in this area.

Mr. Murphy said that his clients came to him to discuss what type of zone would be appropriate for the property on National Avenue. In researching that issue, he happen to stumble across this text amendment. They believe this text amendment is a wonderful idea and they want to make sure it can apply to them, as well. Logically, artistic uses should be within in one general area to feed off of each other; but ideally to sell the product they would need a show room, which is limited by the current Zoning Ordinance. They were looking for an area that would allow the artistic side, retail uses and perhaps a restaurant, which would help revitalize the area and carry their vision forward.

At this time, Mr. Murphy submitted a proposed recommendation for additional criteria, and said that when a text amendment is written, it is often written for a particular use in mind. He said that they want to make sure they can use that text amendment to their advantage. In reviewing the criteria and the map, there is potential for the adaptive reuse ordinance to be used for the applicant's property; but under the current criteria it would make it very difficult for his client to reach the minimum of three criteria. Referring to the revised text amendment draft 09/04/08, pages 2 and 3, he said that the proposed text amendment list eight criteria, and at least 4 of those listed they will not be able to meet. For example Section 8-21(o)(4)(c)(2) mentions structures identified in historic district, he said that the buildings built in the 20's will need structural work, as well as interior work, and they do not believe they will be able to meet this criteria if the structures need to be updated. As for Section 8-21(o)(4)(c)(3), it mentions special financing; but the applicant has not applied for special financing; therefore, they should not be required to meet this criteria. He said that Section 8-21(o)(4)(c)(6) notes the Comprehensive Plan, and even though they meet the goals and objectives of the Comprehensive Plan, their property is not located within the area shown on the plan. Finally, Section 8-21(o)(4)(c)(7) does not apply to the applicant because they are not within a Brownfields recovery site. Those are 4 out of 8 criteria that the applicant cannot possibility be met for National Avenue.

Mr. Murphy noted that while the 4 previously mentioned criterion is impossible for his clients, the remaining list will be difficult to comply with. For example Section 8-21(o)(4)(c)(1) has incorporated the LEED Certification (Leadership in Energy and Environmental Design) into the criteria. He said that his clients have applied this concept to other buildings through the use of geothermal energy; however, the problem with a LEED certified building is the cost out weights what the tenant can pay. He then said that Section 8-21(o)(4)(c)(4) mentioned that at least 10 percent of the residential housing will be affordable. The applicant had not planned on creating a residential area because of the existing residential area behind their property; therefore, this criteria would not apply to his clients development. As for Section 8-21(o)(4)(c)(5), they had spoken with the staff, and simply providing bike racks on the property would not comply with the intent of innovative bike/pedestrian accommodations. Mr. Murphy said that National Avenue is an older area with narrow streets and sidewalks, and there is a limit as to what can be done to improve this area. Finally, Section 8-21(o)(4)(c)(8) states to provide significant public art, to which the applicant can comply with this section.

Mr. Murphy stated that out of the 8 criteria, the applicant would need to meet at least 3 listed. He said that as of now there are 4 that the applicant could not comply with, 3 would be extremely difficult to meet, and 1 that could be accomplished. He then said that the list needs more flexibility; therefore, they are proposing to change Section 8-21(o)(4)(c)(2) to read: "It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is certified or preliminarily determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; or is located within a Historic District (H-1) overlay zone; or include at least one building constructed prior to 1930." In addition, they are proposing to add the following new criteria:

9. It adjoins or is in close proximity to a residential area.
10. It contains 80,000 square feet or more of existing building space.
11. Use of a portion of the property for artist studios commenced prior to January 1, 2008.

They believe that in changing and adding the above sections would provide more flexibility for his client's properties

Mr. Murphy said that even though the focus has been on the success of the distillery district, adding these additional criteria would allow others to qualify for this text amendment. He said that this is the type of area that deserves to be included, and the Planning Commission should encourage the continuation of what the applicants have started. In conclusion, he said that this is an opportunity for his clients to get involved and participate in text amendment. He thanked the staff for their work over the past week, and congratulated Mr. McNeese on his proposal of this text amendment.

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

Planning Commission Comments and Questions – In reference to the proposed criteria number 9, Mr. Holmes asked how “in close proximity to residential area” would be defined. Mr. Murphy said that it would be the areas immediately adjacent to the structure. Mr. Holmes then asked what is the significance of the date listed on number 11. Mr. Murphy said that they were unaware of when this text amendment had begun, so they had listed January 1, 2008 as the starting point. He said that that date can be changed to the day the text amendment is passed by the Commission.

Referencing the proposed criteria number 10, Mr. Vaughn asked how was the square footage figured. Mr. Murphy said that 80,000 square feet is close to a two acre lot, which is a considerable amount of mass. He said that 80,000 square feet does not limit the buildings to a specific requirement, but rather to the criteria.

Mr. Brewer said that during the Zoning Committee meeting, and he was delighted of this concept and he was also thinking of additional criteria to add. He asked if the staff had any concerns with the addition of the proposed criteria suggested by Mr. Murphy. Mr. Emmons asked to defer his comments until later in the hearing.

Ms. Copeland asked why the year 1930 was selected. Mr. Murphy replied that it could be changed to reflect “50 years” instead. Ms. Copeland then asked if there is a high demand for artist studios. Mr. Murphy said that, for this area, it seems to be a trend that is developing. He then said that for the Distillery District, it could be envisioned for entertainment and dine-in restaurant uses with a few artist studios present. He noted that each area will emphasize a different theme, but that doesn't mean the area will not branch out.

Rob McGoodwin stated that he has been developing adaptive reuse projects in Lexington since 1985, and he supports this text amendment. He said that it's a shame that so much of the building stock in Lexington had been lost before this opportunity was created. He congratulated Mr. McNeese and the Pepper Distillery with the initiation of this text amendment, and requested approval.

Staff Closing Comments – Mr. Emmons commented that Ms. Westover's proposal to leave in “is individually listed on a state inventory of historic places” is acceptable with the staff; but as far as Mr. Murphy's comments, the staff is not agreeable. He said that this proposal did not come into the office until very late; therefore, the staff could not completely review the language. In reference to the change of Section 8-21(o)(4)(c)(2), he said that he is not an expert on this issue, and he is unsure if adding the additional language into the provision would or wouldn't hurt the intent. As for the new proposed criteria, Mr. Emmons said that the staff does not believe number 9 to be appropriate. As for number 10, he did understand the logic behind the request. He said that 80,000 square feet is a critical mass no matter if it is under one building or a combination of several smaller buildings within an area. He thought that if there had been more time to review number 10, then there may have been a similar criterion being added. He said that it's understandable why number 10 was proposed, and it is at the discretion of the Planning Commission to add it as it is or modify the proposed language to decrease the square footage. Finally, as for number 11, the staff had a concern if this language were to be added because the effects had not been studied.

Director's Comments - Chris King stated that the staff is in support of the Walker's development; however, with these new ideas coming at a late time this does not allow the staff to fully review what the possible implications could be at this time. For example, he said that if the year 1930 were to be added in Section 8-21(o)(4)(c)(2), then what happens in the years after that - does the date change with each coming year. As for the proposed “size of the building” criteria (number 10), the staff has not had sufficient amount of time to research this issue to see what that means, what does that include, or what will the exclusions should be. He said that these ideas may be validated; but without the opportunity to review and discuss these proposals, an 80,000 square foot tin storage building that was built 2 years ago adjacent to a residential area could qualify. He said that these types of examples need to be discussed. Therefore, the question remains does this text amendment need to be postponed for further review or move the text amendment forward. In conclusion, Mr. King said that the staff felt comfortable with moving this item forward, and as for the National Avenue area, there could be ways that they qualify under the current proposed text amendment. He said that it is understandable that Mr. Murphy is trying to make the criteria clearer, but there is a concern with expanding this text amendment without a full review.

Planning Commission Questions – Mr. Brewer said that he understands the staff's concerns; but he would hate to see a development be placed on hold until there is a further discussion. He asked what is the procedure and time frame to add additional criteria to the text amendment at a later date. He said that he believes this is a good idea and it should be passed now, and if possible address the new criteria in order for them to be added now. Mr. Emmons said that if this text amendment was approved by the Planning Commission without the addition of the new criteria, then it will then be placed on the Council agenda. He said that this being a legislative matter, the Council can either 1) accept the Planning Commission recommendations of approval and make the text amendment law; 2) hold a public hearing on the text amendment; or 3) place the text amendment within a Committee for further review. Whether or not an additional criterion is added none of these procedures will change. He said that if this text amendment goes through to the Council and it is made into law, then the Planning Commission, citizen or private entity can submit a Zoning Ordinance text amendment request to add the additional criteria at a later date.

Mr. Holmes asked if the Council can add additional criteria. Mr. Emmons replied that they can, and being a legislative matter they can decide to change the text amendment add the additional criteria should they wish.

Ms. Roche-Phillips noted that the Zoning Committee had discussed the issue of moving the text amendment along or waiting to further discuss the issue with developers. She asked what criteria would Turfland Mall or Lexington Mall need to meet the text amendment if those were to be redeveloped. She said that it seems that if they did not meet the green infrastructure, then they would not comply with this text amendment. She then said that the Zoning Ordinance should be in a position to provide intensives to go forward. Ms. Roche-Phillips expressed that she is in support of the text amendment and said that there needs to be a starting point; but she questions if there should be a required number of criteria. She understands that they are providing some relief from other ordinance criteria if it meets the adaptive reuse criteria.

Mr. Holmes said that having to meet the 3 out of 8 criteria should be sufficient. He said that this will encourage people to bring creativity to their adaptive reuse design.

Mr. Day asked if the Planning Commission chose to add one or more of the proposed criteria would that become part of the text amendment. Mr. Emmons said that whatever the Planning Commission decides, those recommendations will be noted on the final report, and then sent to Council. Mr. Day commented that he is in agreement with the proposed change to Section 8-21(o)(4)(c)(2), and number 11 that is noted in the previous handout. Mr. Emmons said that if the Planning Commission chooses to amend Section 8-21(o)(4)(c)(2), then the staff recommends using years old rather than an actual year.

Mr. Vaughn noted that the Planning Commission can either approve the text amendment as is or approve the text amendment with the changes to Section 8-21(o)(4)(c)(2), as noted below.

"It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is ~~certified or preliminarily~~ determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; or is located within a Historic District (H-1) overlay zone."

Mr. Vaughn then said that another option would be to add the following language to Section 8-21(o)(4)(c)(2) to read: "It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is certified or preliminarily determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; or is located within a Historic District (H-1) overlay zone; or include at least one building constructed prior to 1930."

He added that the following have been proposed:

9. It adjoins or is in close proximity to a residential area.
10. It contains 80,000 square feet or more of existing building space.
11. Use of a portion of the property for artist studios commenced prior to January 1, 2008.

He noted that when this text amendment goes before the Council, they can either approve it as recommended by the Commission and it becomes law, or they can decide to hold a hearing for further testimony. He said that the Planning Commission could consider giving the staff more review time due to the implications of the proposed changes and add-on. He said that he would defer to the staff about what has been presented and allow the Planning Commission the opportunity to have faith in the staffs review over the past few months and move forward.

Petitioner's Closing Comments – Ms. Westover requested that the Planning Commission take action on the text amendment. She said that her client has submitted information to the TIF Committee and it is important to keep this moving along. She then said that they don't necessarily disagree with Mr. Murphy's proposals; but they agree there has not been an opportunity to study their proposal. Mr. Murphy's client or any other citizen has the power to initiate a text amendment. She said that if their version of the text amendment is approved by the Urban County Council, then a subsequent text amendment can be initiated to clean it up, which is not uncommon. She noted that this text amendment has been studied and discussed for several months by the staff, and the community.

Director's Closing Comments – Mr. King added that the staff is more than willing to continue this conversation with Mr. Murphy and his client. He said that if they can establish a satisfying language prior to the Council hearing, then the staff can approach the Council with that submittal.

Citizen Closing Comments – Mr. Murphy thanked the Commission for taking the time in considering their concerns. He said that they understand their submittal was late in the game; but they were not made aware of the text amendment until recently. He then said that they fully support the text amendment and they are willing to work with the staff prior to the text amendment being heard by Council. They are not set with having all three proposed provisions added to the text amendment. They do agree with the modification to Section 8-21(o)(4)(c)(2) to note 50 years rather than a specific

year. In conclusion, Mr. Murphy requested that the Planning Commission change Section 8-21(o)(4)(c)(2) to denote 50 years rather than a specific year, as well as adding one of the three new criteria. He said that if the Planning Commission chooses not to change or add the new criteria, then they will work with the staff prior to this text amendment being submitted to the Council. He then said that if the proposed criteria number 10 were to be added that does not mean a building below 80,000 square feet could not use this text amendment. He further added that the Planning Commission will have the say as to whether or not a development plan meets the listed criteria.

Planning Commission Comments – In the interest of compromising, Mr. Brewer suggested the following changes to Section 8-21(o)(4)(c)(2) to read: "It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is certified or preliminarily determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; or is located within a Historic District (H-1) overlay zone; or include at least one building constructed prior to 50 years."

And adding the following:

Section 8-21(o)(4)(c)(11) to read: "Use of a portion of the property for artist studios commenced prior to January 1, 2008."

Law Department – Ms. Boland said that there is some concern with number 11 in terms of the land use. She asked if number 11 means the studio was start at that location prior to January 1, 2008 or does it mean the studio already existed at another location and now it will be relocating to an adaptive reuse property. She then said that number 11 is not specific enough to show what the intent will be.

Planning Commission Comments - Mr. Holmes stated that in response to the staffs concern, he believes the proposed criteria should be further review by staff.

Action - A motion was made by Mr. Holmes, seconded by Mr. Day, and carried 10-0 (Penn absent) to approve ZOTA 2008-6, subject to the reasons provided by the staff, changing Section 8-21(o)(4)(c) to read: "The applicant shall provide documentation demonstrating that the project meets at least three of the following criteria;" revising Section 8-21(o)(4)(c)(2) to read: "It will include a structure individually listed on the National Register of Historic Places or is determined to be eligible for such listing; is determined to contribute to the significance of a National Register Historic District or is in an area that meets the requirements of a National Historic District; is individually listed on a state inventory of historic places; or is located within a Historic District (H-1) overlay zone;" replacing Section 8-21(o)(4)(c)(8) to read: "Public art is provided by the development that will be publicly displayed in an accessible unpaid area and is visible from the adjacent street level. This is not to include a business logo or other type of advertisement;" and deleting Section 8-21(o)(4)(g)(2) in its entirety.

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

- A. RESOLUTION FOR FORMER PLANNING COMMISSION MEMBER** - Mr. Vaughn stated that, at this time, the Commission and the staff would like to take an opportunity to honor James Mahan for his dedication and service to the Planning Commission and the Lexington-Fayette County community. Mr. Mahan joined the other Commission members at the podium, and Mr. Vaughn read Mr. Mahan resolutions into the record. (A copy of this resolution is attached as an appendix to these minutes).

Mr. Mahan thanked the Commissioner members and the staff. He said that it has been a pleasure to work with a talented and excellent group of people. He recognized his family was present with him today, and concluded by saying that he has enjoyed working with the Planning Commission and it has been a great experience.

- B. CANCELLATION OF SPECIAL MEETING ON SEPTEMBER 18, 2008 FOR COURTHOUSE AREA APPEAL** – The Chair will announce that, given the withdrawals of the two appeals to the Courthouse Area Design Review Board's decision about the CentrePointe project, there is no longer a need for a special meeting to consider those appeals. The Planning Commission may consider canceling the special meeting previously scheduled at this time.

Mr. Vaughn stated that the staff had received two letters from the appellants to withdraw their request for an appeal to the Courthouse Area Design Review Boards decision about the CentrePointe project. Mr. King said that was correct. Mr. Vaughn noted that a special meeting had been scheduled for September 18, 2008, and said that since those appeals have been withdrawn, the Commission must take action to remove that meeting from the docket. Mr. King said that the Commission had previously amended the 2008 filing schedule to have the special meeting on September 18, 2008, and now the staff recommends the Commission to take action to amend the 2008 filing schedule canceling the Special meeting. He noted that the staff will continue the public notice that goes along with that motion. He then said that the Commission could add a work session meeting back to the 2008 filing schedule or not schedule any meeting that day. He noted that there is not any pressing item that needs the Commission's attention at this time.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, to amend the 2008 filing schedule to cancel the Special Meeting - Courthouse Area Appeal, Thursday, September 18, 2008.

Mr. King asked if the motion includes canceling of the work session, to which Ms. Whitman agreed.

The motion carried 10-0 (Penn absent).

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

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

VIII. **NEXT MEETING DATES** -

Special Meeting - Courthouse Area Appeal , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 18, 2008
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 21, 2008
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 24, 2008
Zoning Items Public Hearing ,	September 25, 2008
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 2, 2008
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	October 2, 2008
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	October 9, 2008

X. **ADJOURNMENT** - There being no further business, the meeting was adjourned at 6:27 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

CT/CG/TM/JE/BR/BS/DB