

MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS
September 12, 2024

I. **CALL TO ORDER** –Chair Larry Forester called the meeting to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

II. **ATTENDANCE** – Planning Commission members present were Larry Forester, Zach Davis, Judy Worth, William Wilson, Robin Michler, Ivy Barksdale, Graham Pohl, Bruce Nicol, Johnathon Davis, and Mike Owens. Planning staff members present were Jim Duncan, Traci Wade, Daniel Crum, Cheryl Gallt, and Paula Schumacher. Other staff present were Tracy Jones, Department of Law; David Filiatreau, Division of Traffic Engineering; Vaughan Adkins, Division of Engineering; and Greg Lengal, Division of Fire and Emergency Services.

III. **POSTPONEMENTS AND WITHDRAWALS**

A. **PLN-MJDP-24-00056: RED MILE MIXED-USE DEVELOPMENT (AMD) (9/28/24)*** - located at 1101 WINBAK WAY, LEXINGTON, KY
Council District: 11
Project Contact: Vision Engineering

Note: The purpose of this amendment is to depict a new hotel and entertainment building and revise parking circulation.

The Subdivision Committee Recommended: **Postponement.** There are questions and concerns regarding the removal of significant trees from tree protection plan on previous plan, compliance with Article 28-6 and adherence to conditional zoning restrictions.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Dimension driveways, walkways, parking spaces, drive aisles, and ingress/egress.
14. Addition of height of Building 36 in feet.
15. Label trees in tree protection areas per Article 26 of the Zoning Ordinance.
16. Addition of any proposed or existing easements.
17. Clarify proposed "entertainment" land use for Building 36.
18. Clarify site statistics totals and purpose of amendment.
19. Remove drive aisle from required landscape buffer per conditional zoning restrictions.
20. Discuss the removal of tree protection areas from previous plan.
21. Discuss compliance with Article 28-6 of the Zoning Ordinance for building features.
22. Discuss compliance with Article 28-6 for location of provided off-street parking.

Applicant Representation – Matt Carter, Vision Engineering, was present to represent the applicant. He asked for a two-week postponement.

Action – Mr. Pohl made a motion, seconded by Ms. Worth, and carried 10-0 to postpone **PLN-MJDP-24-00056: RED MILE MIXED-USE DEVELOPMENT (AMD)** to the September 26, 2024 meeting.

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

- B. PLN-MJDP-24-00049: COLLINS, ORRELL, & WIGGENS (DON FRANKLIN AUTO MALL) (AMD) (9/28/24)* - located at 3390 RICHMOND ROAD, LEXINGTON, KY
Council District: 7
Project Contact: EA Partners

Note: The purpose of this amendment is to reflect a new dealership building in Phase 3, add a car wash, and revise parking and dumpster location in Phase 1.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Discuss helipad.

Applicant Representation – Rory Kahly, EA Partners, was present to represent the applicant. He requested a two-week postponement.

Action – Ms. Barksdale made a motion, seconded by Mr. J. Davis, and carried 10-0, to postpone PLN-MJDP-24-00049: COLLINS, ORRELL, & WIGGENS (DON FRANKLIN AUTO MALL) (AMD) to the September 26, 2024 meeting.

- C. PLN-MJDP-23-00050: WOLF RUN INDUSTRIAL PARK, BLOCK A, LOT 1 (FRANKFORT COURT STORAGE FACILITY) (AMD) (9/12/24)* - located at 2262 FRANKFORT COURT, LEXINGTON, KY
Council District: 11
Project Contact: RMJE

Note: The revised purpose of this amendment is to depict an RV and boat storage facility.

The Subdivision Committee Recommended: **Postponement**. The applicant revised the development plan, which was reviewed by the committee on June 26, 2024. The applicant requested additional time to address the revised list of conditions.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.

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

9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote use of property in site statistics.
14. Correct plan title to match staff report.
15. Remove gravel shading. Parking areas will need to be paved per Article 16-3 of the Zoning Ordinance.
16. Addition of adjacent property information.
17. Denote farm entrance from Old Frankfort Pike to be removed.
18. Addition of Notes #6, 11, 12, & 15 (updating floodplain information) from previous plan.
19. Correct Note #19 to include the Old Frankfort Pike Landscape Ordinance (Ord. 134-89).
20. Document useable, vegetated, and open space area for the property.
21. Discuss Old Frankfort Pike Landscape Ordinance vs. break for natural scenic view.
22. Discuss how to resolve conflict between parking space and retention easement.
23. Discuss proposed use and correct purpose of amendment note accordingly.

Applicant Representation – Burgess Carey, Carey Group, was present to represent the applicant. He requested a one-month postponement.

Action – Mr. Wilson made a motion, seconded by Mr. J. Davis, and carried 10-0 to postpone PLN-MJDP-23-00050: WOLF RUN INDUSTRIAL PARK, BLOCK A, LOT 1 (FRANKFORT COURT STORAGE FACILITY) (AMD) to the October 10, 2024 meeting.

- D. PLN-MJDP-24-00046: GIVENS PROPERTY, LOT 5 (CITY BBQ) (AMD) (9/28/24)* - located at 2210 GEORGETOWN ROAD, LEXINGTON, KY
Council District: 2
Project Contact: CESO, Inc.

Note: The purpose of this amendment is to depict development of Outlot 5 for a restaurant.

Note: The Planning Commission postponed this item at the August 8, 2024 meeting.

The Subdivision Committee Recommended: Postponement. There are questions regarding lack of required information and compliance with updated B-3 minimum lot coverage.

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Correct plan title to match staff report.
14. Denote property boundaries in solid dark lines.
15. Delete Note #14.
16. Addition of all notes from most recent certified development plan for Givens Property.
17. Remove extra site statistics box for Lot 5.
18. Addition of site information and statistics for Lots 3 and 4.

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

19. Correct date in Planning Commission certification.
20. Dimension existing buildings.
21. Denote building height in feet.
22. Clarify site statistics information for FAR (no maximum or minimum in the B-3 zone).
23. Clarify perimeter Vehicular Use Area (VUA) landscape area.
24. Denote required landscape island separating drive-thru lanes from drive aisle.
25. Addition of street cross-sections and depict location on plan face.
26. Remove proposed restaurant sign off plan face and miscellaneous notes on Lots 4 & 6.
27. Addition of dimensions for egress, drive lanes, and parking spaces.
28. Increase text size of bearing and distance and other notes for legibility.
29. Addition of zoning information on adjacent properties.
30. Addition of contour elevations.
31. Correct type of plan to "Amended Final Development Plan".
32. Clarify lot coverage in site statistics box (Minimum of 0.3).
33. Discuss compliance with B-3 zone minimum lot coverage (30%).

Staff Comments – Ms. Gallt informed the Commission that the applicant had requested a one-month postponement via email.

Action – Mr. Zach Davis made a motion, seconded by Ms. Barksdale, and carried 10-0, to postpone PLN-MJDP-24-00046: GIVENS PROPERTY, LOT 5 (CITY BBQ) (AMD) to the October 10, 2024 meeting.

IV. PERFORMANCE BONDS AND LETTERS OF CREDIT – Mr. Z. Davis made a motion, seconded by Ms. Barksdale, and carried 10-0 to approve the performance bonds and letters of credit as presented.

V. LAND SUBDIVISION ITEMS – The Subdivision Committee met on Thursday, September 5, 2024 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Mike Owens, and Judy Worth. Other Committee members present were Vaughan Adkins, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were: Traci Wade, Hal Baillie, Daniel Crum, Cheryl Gallt, Paula Schumacher, Eve Miller, Boyd Sewe; Greg Lengal and Embry Beaty; Division of Fire and Emergency Services; and Tracy Jones and Will Razor, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

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

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

Ms. Wade read the Consent Agenda.

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

1. PLN-FRP-24-00026: SKY VIEW FARMS PROPERTY (A PORTION OF) (FORMERLY RAVEN RIDGE ESTATES) (AMD) (9/28/24)* – located at 5421 JACKS CREEK PIKE, LEXINGTON, KY
Council District: 12
Project Contact: Grid2Ground, LLC

Note: The purpose of this amendment is to subdivide an 80-acre lot into two 40-acre lots.

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

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Addition of utility easements as required by the utility companies.
5. Denote front yard setback on Lot 2.
6. Denote non-buildable area.
7. Provided the Planning Commission makes a finding for an access easement.
8. Delete Note #2.
9. Denote floodplain and required setback adjacent to Kentucky River.
10. Delete 25-foot side and rear yard setback notation.
11. Correct plan title to match staff report.
12. Denote private utility providers per Article 5-4(e).
13. Addition of Urban County Engineer Certification.

Note: The applicant presented adequate documentation of the required sign posting.

2. PLN-MJDP-24-00052: NDC PROPERTY, UNIT 3, LOT 3 (ASHLAND AVENUE BAPTIST CHURCH) (AMD) (9/28/24)* - located at 483 W. REYNOLDS ROAD, LEXINGTON, KY
Council District: 9
Project Contact: Denham Blythe

Note: The purpose of this plan is to expand the existing church and revise adjacent parking areas.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Department of Environmental Quality's approval of environmentally sensitive areas.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Greenspace planner's approval of the treatment of greenways and greenspace.
8. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
11. Revise plan to meet Article 16 parking requirements.
12. Delete private utility providers information.
13. Denote property inclusion in agreed judgement.
14. Delete P-1 zoning requirements and add open space to site statistics.
15. Addition of pedestrian connection to Wellington Way.
16. ~~Provided the Planning Commission grants the requested tree canopy waiver per Article 26-5(f) of the Zoning Ordinance.~~
17. Lighten or remove gray shading for improved legibility.
18. Denote purpose of amendment.

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

19. Resolve potential conflict with stormwater facilities for east side addition.
20. Resolve timing of construction and dedication of public street to replace access easement.

Staff Comment – Ms. Wade informed the Planning Commission that the applicant had withdrawn their request for a tree canopy waiver, so Condition #16 could be removed.

3. PLN-MJDP-24-00058: RAMSEY/SULLIVAN PROPERTY, LOT 1 (AMD) (9/28/24)* - located at 2671 KEARNEY RIDGE BOULEVARD, LEXINGTON, KY
Council District: 2
Project Contact: EA Partners

Note: The purpose of this amendment is to depict increase in size and layout of the club house.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
 2. Addressing Office's approval of street names and addresses.
 3. Urban Forester's approval of tree preservation plan.
 4. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
 5. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
 6. Addition of record plat information.
 7. Addition of dimensions for driveways and walkways.
 8. Addition of height of clubhouse in feet.
 9. Addition of tree preservation plan.
 10. Revise plan title to match staff report.
 11. Denote review by the Royal Springs Aquifer Committee.
4. PLN-MJDP-24-00059: PIPER PROPERTY, LOT 4 (ANIMAL EYE INSTITUTE OF LEXINGTON) (AMD) (11/3/24)* - located at 151 DENNIS DRIVE, LEXINGTON, KY
Council District: 10
Project Contact: Leesman Engineering & Associates

Note: The purpose of this amendment is to depict a layout of a building and parking for Lot 4.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
14. Remove cross hatch lines from building.

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

15. Correct plan title to match staff report.
16. Correct plan type to "Amended Final Development Plan".
17. Addition of existing topography information at 2' intervals and remove proposed contours.
18. Denote location for construction vehicle access.
19. Depict recorded easements and remove service lines.
20. Addition of all street cross-sections and locations on plan face.
21. Denote new site statistics box and complete information for Lot 4 for vegetated open space, required and provided.
22. Document account with Lynn Imaging (859-255-1021) to meet requirements of Article 21-7(b)(3) of the Zoning Ordinance.

5. PLN-MJDP-24-00066: TOWN BRANCH PARK (GATTON PARK ON TOWN BRANCH) (AMD) (11/3/24)* - located at 795 MANCHESTER STREET, LEXINGTON, KY
Council District: 10
Project Contact: Strand Associates

Note: The purpose of this amendment is to depict the relocation of Cox Street, addition of a building in the northwest corner of the site, and modify pedestrian access to Oliver Lewis Way.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Addressing Office's approval of street names and addresses.
4. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
5. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
6. Division of Waste Management's approval of refuse collection locations.
7. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
8. Correct plan title to match staff report.
9. Denote proposed use of new northwest building.
10. Resolve timing of Cox Street relocation.

Action – Ms. Worth made a motion, seconded by Mr. J. Davis, and carried 10-0, to approve the consent agenda as presented, including the access easement finding for PLN-FRP-24-00026.

Commission Comments – Mr. Wilson requested a motion of reconsideration regarding PLN-MJDP-23-00050: WOLF RUN INDUSTRIAL PARK, BLOCK A, LOT 1 (FRANKFORT COURT STORAGE FACILITY) (AMD). He voiced concern that the plan had been postponed for a year at this time. He asked for the reasoning behind another postponement request, but the applicant had already left the room. Mr. Wilson asked Ms. Jones how many times an applicant could postpone. Ms. Jones replied that they could postpone as many times as they would like to. Mr. Wilson withdrew his motion of reconsideration.

VI. COMMISSION ITEM – At this time, Chair Forester requested to move the following item up in the agenda.

- A. VACANT PLANNING COMMISSION POSITION** – Commissioner Keith Horn addressed the Planning Commission regarding the vacant position. He told the Commission that, if their intent was to discuss an individual for appointment, they should go into executive session.

Commission Discussion – Mr. Wilson asked if there had been any other applications submitted. Mr. Horn replied that there had been two submitted, but only one had been sent to the Commission prior to today's meeting. Mr. Horn said that the second application was ready to be distributed among the members.

Action - Mr. Wilson made a motion, seconded by Z. Davis, to go into executive session to discuss the applications for a possible Planning Commission appointment.

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

Further Commission Discussion – There was lengthy discussion among the Planning Commission, Law Department, and staff regarding the process of choosing a new member. Discussions included transparency, time requirements, and the process that would be utilized.

Action – The motion to go into executive session carried 8-2 (Barksdale and Nicol opposed).

The Planning Commission went into executive session at 2:12 p.m. and returned at 2:55 p.m.

Action – Mr. Michler made a motion, seconded by Ms. Worth to return from executive session.

Action - Mr. Pohl made a motion, seconded by Mr. J. Davis, and carried 10-0 to ask planning staff to seek applicants for the vacant position, and amend the schedule to add a hearing at the beginning of the Work Session scheduled in one week on September 19th, to choose a new member. Also, the application deadline would be midnight, Tuesday the 17th.

Ms. Worth asked Mr. Duncan to change the wording of a question on the application, and he replied that he would do so.

Note – The Planning Commission continued with the agenda at this time.

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

The procedure for these hearings is as follows:

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

1. Final Subdivision Plans

- a. PLN-FRP-24-00029: LEXMARK INTERNATIONAL INC., SECTION 1, LOT 7 (AMD) (11/3/24)* – located at 650 SETZER WAY, LEXINGTON, KY
Council District: 1
Project Contact: Abbie Jones Consulting

Note: The purpose of this amendment is to subdivide one lot into four lots and create an access easement.

The Subdivision Committee Recommended: **Postponement.** There are questions regarding missing information to meet the Land Subdivision Regulations.

Should this be approved, the following recommendations should be considered:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.

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

8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Denote: This property shall be developed in accordance with the approved final development plan.
10. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
11. United States Postal Service Office's approval of kiosk locations or easement.
12. Addition of site statistics.
13. Addition of street cross-sections with location on plan face.
14. Addition of utility easement along Setzer Way for Windstream's fiber and copper facilities.
15. Addition of the name and address of the property owner.
16. Addition of the name and address of the developer.
17. Define "M.B.L.S".
18. Addition of private utilities list.
19. Correct owner's certification per Article 5-4(h)(1) of the Land Subdivision Regulations.
20. Addition of Engineer's Certification per Article 5-4(h)(2) of the Land Subdivision Regulations.
21. Addition of Urban County Engineer Certification per Article 5-4(h)(3) of the Land Subdivision Regulations.
22. Correct Planning Commission Certification per 5-4(h)(4) of the Land Subdivision Regulations.
23. Delete Note #1 (duplicate of purpose of amendment).
24. Addition of all notes from previous plan (R-471).
25. Remove lines for service line and indicate easement width.
26. Provided the Planning Commission approves a finding for the use of an access easement to lots 7C and 7D.
27. Addition of maintenance note for proposed access easement to lots 7C and 7D.
28. Delete draft notation on plan face.
29. Denote the property is in Royal Springs Aquifer protection area.
30. Clarify line work to distinguish limits of proposed access easement.
31. Establish front yard building line from limits of access easement, not property lines for Lot 7C and 7D.
32. Discuss dedication of Setzer Way as a public street.

Staff Presentation – Ms. Gallt oriented the Commission to the final record plat that would create 4 industrial lots. She pointed out the location of a proposed access easement and informed the Commission that a finding is necessary in order to allow an access easement be the sole access for lots 7C and 7D. Ms. Gallt stated that the Staff recommended approval of the finding for the following reasons.

Finding for appropriateness of access easements as sole access for the area of the development:

1. Allowing for the use of an access easement as sole vehicular access to this development is consistent with the intent of the Land Subdivision Regulations and will not negatively impact public health and safety. The site is constrained by utility easements, unusual lot shape, and bordered by a railroad right-of-way.

This recommendation is made subject to the following additional conditions:

- a. The applicant shall construct the shared access easement to the design requirements for an industrial local street in terms of geometry and depth of base and pavement per the adopted Engineering Manuals.
- b. The applicant shall construct the shared access easement from Setzer Way to Lot 7C to a width of 40 feet.

Ms. Gallt also explained that the Staff recommended approval of the plan subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.

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

8. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. United States Postal Service Office's approval of kiosk locations or easement.
11. Clarify addresses and length of street frontage in site statistics.
12. Addition of addresses on plan face.
13. Addition of utility easement along Setzer Way for Windstream's fiber and copper facilities.
14. Update private utilities list, removing public utilities (sanitary).
15. Provided the Planning Commission approves a finding for the use of an access easement to lots 7C and 7D.
16. Addition of signature line for maintenance note for proposed access easement to lots 7C and 7D.
17. Denote no vehicular access shall be allowed to Loudon Avenue.

Applicant Representation – Abbie Jones, Abbie Jones Consulting, was present to represent the applicant. She stated that they were in agreement with the conditions and asked for approval.

Action - Mr. Pohl made a motion, seconded by Ms. Barksdale, and carried 10-0, to approve PLN-FRP-24-00029: LEXMARK INTERNATIONAL INC., SECTION 1, LOT 7 (AMD) with the revised conditions presented by staff, as well as the access easement finding.

2. Final Development Plans

- a. PLN-MJDP-24-00037: NORTH PARKWAY ACRES (AMD) (9/12/24)* - located at 2275 N. BROADWAY, LEXINGTON, KY
Council District: 6
Project Contact: Geisler Domigan Engineering

Note: The purpose of this plan is to depict layout of buildings and parking for commercial use.

Note: The Planning Commission postponed this item at the July 11, 2024 and August 8, 2024 meetings.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Addition of location of street cross-sections on plan face.
14. Addition of conditional zoning restrictions and delete Note #17.
15. Addition of dimensions for buildings.
16. Addition of revised site statistics box.
17. Remove required parking and depict only proposed parking.
18. Remove extraneous lines across the site.
19. Discuss building fenestration and articulation along North Broadway.

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

Staff Presentation - Ms. Gallt directed the Planning Commission to the final development plan that had been postponed for some time due to a large sinkhole on the property. She explained that the previous zone change had been specifically requested to allow a car lot, and the site is now restricted by conditional zoning. The zoning restrictions allow for a maximum of only 20 cars on the lot, lighting no taller than 20 feet, and a list of unauthorized uses. She listed the clean-up conditions that were still required. Ms. Gallt displayed some renderings that had been submitted by the applicant to address the building fenestration and articulation along North Broadway.

Commission Questions - Mr. Davis asked if there should be a note regarding the Royal Springs Aquifer Committee. Ms. Gallt replied that she thought the note was already on the plan, but she would make sure that it was added if not.

Applicant Representation - Mary Domigan, Geisler Domigan Engineering, was present to represent the applicant. She told the Planning Commission that they had worked out the issues regarding the sinkhole and detention basin. She told the Commission that she was in agreement with the conditions and asked for approval.

Commission Questions - Mr. Michler asked about the 3-story tower depicted on the plan. Ms. Domigan responded that it was to address the fenestration of the property and make the building more visible from the road. Mr. Michler further asked if there was any purpose for the tower other than visibility. Ms. Domigan replied that she did not think so.

Citizen Comments - Patty Draus, 608 Allen Court, distributed a handout to the Planning Commission and addressed her concerns regarding the development plan. They included the height of the buildings, traffic, sinkhole safety, and the proximity to another lot that sold vehicles and farm equipment.

Amy Clark, 628 Kastle Road, also distributed a handout to the Commission and shared her concerns regarding the development. The concerns included no review by the Royal Springs Aquifer Committee prior to the Planning Commission meeting and the proximity to another auto sales lot.

Staff Rebuttal - Ms. Wade stated that the plan was received before the new spacing regulations for auto sale businesses, so this plan did not need to meet the distance requirements. She also told the Commission that there was a note on the plan that required the review of the Royal Springs Aquifer Committee. She added that Staff does encourage applicants to begin that process early, but that it was not a requirement for Planning Commission action.

Ms. Worth asked Mr. Filiatreau of the Division of Traffic Engineering if he could address the ingress/egress on Parkside Drive. He said they don't generally limit access to developments to right-in/right-out on local roadways.

Mr. Owens asked Mr. Filiatreau about the proximity of the property to the Speedway across Parkside Drive. Mr. Filiatreau replied that the location of the proposed access was the best possible location.

Citizen Rebuttal - Ms. Clark opined that review of a plan based on the regulations at the time of filing was convenient for the Staff and applicant, but not the citizens. She reiterated the concerns regarding the traffic on Parkside Drive.

Applicant Rebuttal - Ms. Domigan told the Planning Commission that they planned to only sell passenger cars, not heavy equipment or parts. She said that the business would only absorb existing traffic rather than create new traffic.

Commission Questions - Mr. Z. Davis requested clarification on the type of vehicles being sold, and Ms. Domigan replied that it would just be passenger cars, SUV's, etc.

Mr. Davis asked about vehicle delivery trucks and the drop-off location. He stated that he was concerned about proximity to residential areas. Ms. Domigan replied that she had not been involved in the preliminary development plan, so she was unaware of any discussions regarding the delivery of cars. She told the Planning Commission that she would be glad to supply those details before the plan was certified.

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

Mr. Pohl asked staff to reply to the concerns of the neighbors regarding proximity to the Peterbilt lot. Ms. Wade replied that the applicant filed the plan prior to the adoption of the new regulations.

Action – Mr. Michler made a motion, seconded by Mr. Wilson, and carried 10-0, to approve PLN-MJDP-24-00037: NORTH PARKWAY ACRES (AMD) deleting Condition 19 and adding a new condition that the plan be presented to the Royal Springs Aquifer Committee for review.

- b. PLN-MJDP-24-00060: HI-ACRES SHOPPING CENTER, TRACT 1 (AMD) (11/3/24)* - located at 1824 BRYAN STATION ROAD, LEXINGTON, KY
Council District: 6
Project Contact: Palmer Engineering

Note: The purpose of this amendment is to depict additional building square footage and to bring development into compliance with current regulations.

The Subdivision Committee Recommended: Postponement. There are questions regarding the boundaries of amendments, the use of Lot 3, and meeting the requirements of Articles 16, 18, and 20 the Zoning Ordinance.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Delete Note #10.
14. Depict location of street cross-section on plan face.
15. Addition of zone-to-zone landscape screening and buffer per Article 18 of the Zoning Ordinance.
16. Addition of total column in site statistics box.
17. Discuss requirements of Articles 16, 18, & 20 of the Zoning Ordinance and potential variances.
18. Discuss location of proposed building on Lot 3.
19. Discuss proposed drive-thru on Lot 3.

Staff Presentation – Ms. Gallt shared the development plan with the Commission. She said that the amendment added building square footage and open space to Tract 1. She also said the applicant had removed a proposed building from Lot 3, and staff had advised the applicant to amend their purpose of amendment note to reflect that change.

Applicant Presentation – Chris Mischel, Palmer Engineering, was present to represent the applicant. He was agreeable to the conditions of approval, and thanked Staff for their help with the plan.

Action – Mr. Wilson made a motion, seconded by Mr. Owens, and carried 10-0, to approve PLN-MJDP-24-00060: HI-ACRES SHOPPING CENTER, TRACT 1 (AMD) with the following revised conditions:

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Clarify purpose of amendment to address changes to Lot 2, Lot 3, and Tract 1.

- c. PLN-MJDP-24-00064: HAMBURG PLACE FARM, PLAUDIT PLACE DEVELOPMENT, LOT 3 (CHICK-FIL-A) (AMD) (11/3/24)* - located at 1863 PLAUDIT PLACE, LEXINGTON, KY
Council District: 6
Project Contact: Interplan, LLC

Note: The purpose of this amendment is to depict re-development of building and parking on Lot 3.

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

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
12. Improve plan legibility (Plan should be 36" on one side).
13. Addition of property metes and bounds.
14. Addition of topography information at 2' contours.
15. Addition of dimensions for driveways, walkways, access points, and buildings.
16. Denote location of construction vehicle access.
17. Addition of proposed and existing easements.
18. Addition of tree inventory map per Article 21-6(a)(11) of the Zoning Ordinance.
19. Correct Commissioner's Certification per Article 21-6(a)(16) of the Zoning Ordinance.
20. Complete information in site statistics for Lot 3.
21. Provided the Board of Adjustment grants approval of variances for landscape buffer and maximum parking.
22. Verify totals in site statistics box.
23. Discuss width of drive lanes and access to Plaudit Place.

Note - Mr. Z. Davis left the meeting at 3:45, during this presentation.

Staff Presentation – Ms. Gallt oriented the Commission to the amended final development plan that would redevelop a lot for a Chick-fil-a restaurant. She said there had been much discussion about the proposed three

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

access points onto Plaudit Place. She informed the Commission that the applicant had already been before the Board of Adjustment for the landscape and parking variances.

Mr. Owens stated that he was disappointed that the applicant had submitted this revision late. Ms. Gallt agreed, and then pointed to the one change on the new plan, which was narrowing one of the drive aisles.

Mr. Michler asked why the Staff was recommending approval, when there several parts of the plan, including the three access points and location of parking, that were undesirable. Ms. Wade replied that the applicant was moving all the parking to the rear of the property with the building fronting on Man O War Boulevard. She added that the applicant would also be adding open space access to Man O War Boulevard.

Mr. Michler asked if they could maintain only two access points. Ms. Gallt said that the Division of Traffic Engineering did have concerns with three access points. Mr. Filiatreau told the Planning Commission that the applicant had originally presented a plan to him with only two access points, and that he had been agreeable to that. He added that, statutorily, they were allowed to have three points of access as long as they had 150 feet of frontage. This property had 151 feet. He said that he had encouraged the applicant to proceed with two accesses, but they felt that they needed three.

Applicant Presentation – Sheyanna Day, Interplan, LLC, was present to represent the applicant. She told the Planning Commission that their original design that only had two access points presented more conflict to pedestrians within the site. She said the landscape buffer variance was requested due to an existing retaining wall.

Mr. Michler asked how adding another access point would improve safety. Ms. Day replied that having the drive-through access completely separate eliminated the need for pedestrians to walk across the drive-through lanes at all.

Ms. Barksdale said that as the development currently existed, there were multiple points of conflict with pedestrians and vehicles. She felt the new plan was much better.

Mr. Michler opined that the applicant was attempting to put too much in one space. He suggested a continuance to give the applicant time to decrease access points down to two, or increase their landscape buffer rather than applying to the Board of Adjustment. Ms. Wade said that the Board of Adjustment had already granted the landscape variance request.

Mr. Michler made a motion, seconded by Mr. J. Davis, and carried 7-2, (Z. Davis absent, Forester and Nicol opposed) to continue PLN-MJDP-24-00064: HAMBURG PLACE FARM, PLAUDIT PLACE DEVELOPMENT, LOT 3 (CHICK-FIL-A) (AMD) to the September 26, 2024 Planning Commission to give the applicant time to redesign the plan with only two access points.

- d. PLN-MJDP-24-00067: LEXMARK INTERNATIONAL INC., SECTION 1, LOT 7 (AMD) (11/3/24)* - located at 650 SETZER WAY, LEXINGTON, KY
Council District: 1
Project Contact: Abbie Jones Consulting

Note: The purpose of this amendment is to depict building and parking on Lot 7.

The Subdivision Committee Recommended: Postponement. There are concerns regarding compliance with Articles 8, 16, 18, 20, 21 & 26 of the Zoning Ordinance.

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

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

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

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.
14. Correct scale on plan face to 1"=100' for all of the property and removing match line.
15. Correct plan type to "Amended Final Development Plan/Preliminary Subdivision Plan".
16. Addition of name and address of developer.
17. Lighten contour lines for legibility.
18. Remove darker line around 791 Freight Boulevard.
19. Clarify street names in vicinity map.
20. Depict location of street cross-section C-C on plan face.
21. Dimension driveways, walkways, parking spaces, points of ingress & egress, and all buildings.
22. Remove the gravel hatching.
23. Remove utility line, and only depict boundaries of easement.
24. Addition of tree inventory map per Article 26 of the Zoning Ordinance.
25. Correct owner's certification to read as per Article 21-6 (a)(15) of the Zoning Ordinance.
26. Correct Planning Commission certification to need as per 21-6(a)(16) of the Zoning Ordinance.
27. Addition of new site statistics box, completing information for Lot 7.
28. Denote review by Royal Springs Aquifer Committee.
29. Addition of maintenance note for the access easement across Lots 7A, 7C, and 7D.
30. Correct purpose of amendment note.
31. Adjust building setback lines to be 20' from access easement not property line.
32. Denote gas easement through Lots 7A and 7C.
33. Discuss conflicts between structure on Lot 7B and easements.
34. Discuss compliance with Articles 16, 18, & 20 of the Zoning Ordinance.
35. Discuss proposed use of new structures.

Staff Presentation – Ms. Gallt oriented the Commission to the amended development plan that depicted proposed buildings on two of the 4 lots. She shared the following revised conditions:

1. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping and landscaping buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
12. United States Postal Service Office's approval of kiosk locations or easement.
13. Denote: All buildings, paving, signs, fences, walls, and retaining walls that are depicted, described, or required on this development plan shall require a separate review and building permit from the Division of Building Inspection prior to construction.

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

14. Lighten contour lines for legibility.
15. Remove darker line around 791 Freight Boulevard.
16. Clarify street names in vicinity map.
17. Remove utility and sewer lines, and only depict boundaries of easements.
18. Addition of new site statistics box, completing information for Lot 7.
19. Addition of maintenance note for the access easement across Lots 7A, 7C, and 7D.
20. Adjust building setback lines to be 20' from access easement not property line.
21. Denote gas easement through Lots 7A and 7C.
22. Denote Planning Commission approval for use of access easement.
23. Denote outdoor storage shall be constructed and maintained in compliance with Articles 8 & 17 of the Zoning Ordinance.
24. Remove proposed contour (grading plan) lines for legibility.
25. Denote compliance with Article 18 of the Zoning Ordinance for interior of island in parking areas.
26. Correct use of Lot 7.

Commission Questions – Mr. Wilson asked why they did not hear both the development and the record plat at the same time. Ms. Wade replied that they just present the items in the order of the agenda, but the Planning Commission can ask for that to be done in the future.

Applicant Presentation – Abbie Jones, Abbie Jones Consulting, was present to represent the applicant. She said that the development was challenging because there were 17 easements on the property. She agreed with the revised conditions and asked for approval.

Action – Mr. Wilson made a motion, seconded by Ms. Worth, and carried 9-0 (Z. Davis absent) to approve PLN-MJDP-24-00067: LEXMARK INTERNATIONAL INC., SECTION 1, LOT 7 (AMD)

VII. COMMISSION ITEMS

- A. PLN-CELL-24-00001: BAPTIST COLLEGE WIRELESS COMMUNICATION FACILITY** – an application for a 106-foot monopine cellular tower (tower camouflaged as a tree) with a 5-foot lightning arrestor at the top, for a total height of 111 feet, plus related ground facilities, for property at 3440 Versailles Road.

Note – Commissioners Forester and J. Davis left the meeting during this presentation.

Staff Presentation - Ms. Wade presented the application for a new wireless communication facility. She described the vicinity features, and neighboring properties. She stated that the applicant had noted a service gap in that area. Ms. Wade described how the cell tower location agreed with both of the Comprehensive Plan and the Zoning Ordinance.

She stated that the cell tower would not be visible from Versailles Road, but visible to the neighborhood, but staff believed that the applicant's chosen location was the best possible site. Ms. Wade added that applicants are encouraged to first try to locate cell towers on public property, but both the public park and water tower in the area had both declined the use of their property. Staff recommended approval with the following conditions:

1. That the stealth monopine tower be located as shown on the site layout and constructed as noted in the elevation drawings.
2. That the proposed tower meets all requirements of Article 25.
3. That any applicable permits (e.g., grading, building and/or occupancy) be obtained prior to construction from the appropriate divisions of the Urban County Government.

Commission Questions – Mr. Owens asked why the Division of Parks and Recreation had denied the application at the park site. Ms. Wade replied that she did not know the reason.

Mr. Owens asked if the applicant had to pave the access road to the tower site. Ms. Wade replied that they only had to pave the area or extension that they were creating.

Applicant Representation – Keith Brown, Stephen Lentz, and Aaron Roof, Pike Legal Group, as well as Sherri Lewis, AT&T, and Glenn Katz, were present to represent the applicant. They presented the Planning Commission members with an exhibit binder of information. Mr. Brown made a presentation of the proposed cellular tower. He reiterated much of what Ms. Wade had presented and informed the Planning Commission that the proposed cell tower was in compliance with all state and local requirements. He displayed site plans, and several maps that identified the need for cellular coverage in this area and why the location was ideal. Mr. Brown also displayed several simulated pictures to depict what people would see from different locations around the tower. He listed other potential properties that were also considered as a location, and why each location could not be used. He said the tower would be unobtrusive and opined that it would not decrease property values. He added that the tower would include FirstNet, which would assist first responders to have sufficient coverage in an emergency situation. He asked for approval by the Planning Commission.

Commission Question – Ms. Worth, addressing a citizen letter, asked about the potential for plastic pollution from the tower, and if the industry recognized that as a problem. Mr. Brown objected to the letter because they were not there to cross-examine. He said that the tower complied with all building code, and the broad policy of plastic pollution was not in the jurisdiction of the Planning Commission. Ms. Worth clarified that she wanted to know where the industry was regarding the potential for plastic pollution. Mr. Brown replied that he has never seen any hesitation of approval based on this this concern.

Mr. Owens asked the applicant if they knew why the Division of Parks and Recreation had denied the tower at the park. Mr. Brown said he did not know.

Mr. Owens informed Mr. Brown that the Planning Commission did consider the emailed comments from citizens that could not be present at the meeting.

Citizen Comments – Clay Hall, 4137 Plantagenet Drive, opined that there was a problem with plastic pollution from the monopine style cell tower. He was concerned that the tower would destroy his home's value.

David McCullough, 1617 Kensington Way, was also concerned about the value of his home and noise pollution. He did not want a cell tower in his backyard.

Mary Harkins, 1573 Wellesley Drive, thanked the Planning Commission for their time. Her main concern was the micro-plastic pollution. She passed around an article regarding this pollution and the threats to the ecosystem.

Dan Harkins, 1573 Wellesley Drive, told the Planning Commission that the proposed cell tower could destroy the iconic viewshed of Versailles Road.

Steve Seng, 1585 Wellesley Drive, said that the perception of pollution from a cell tower would decrease their home values because potential home buyers would overlook houses that were adjacent to cell towers.

Paul Natof, Wellesley Heights Neighborhood Association president, shared concerns that he and other neighbors had regarding the proposed cell tower. He thanked the Planning Commission for their time. He felt that the applicant had not submitted the neighborhood notifications in the proper time. He was concerned about the view of the tower from Versailles Road and the plastic pollution affecting the horses at Calumet Farm. He felt that there were other suitable locations including an address on Parkers Mill Road. He was frustrated that the park was not the location that had been chosen, because seven other parks in Lexington do have a cell tower. He asked the Planning Commission to postpone the plan until there were more conversations with the Division of Parks and Recreation.

Applicant Rebuttal – Mr. Brown said the citizens were wrong in their arguments. He said that the articles they quoted from were not actual evidence for a telecommunications application. He added that there was no evidence to prove that cell towers lowered home values. He reiterated that the concern of the plastic pollution was not in the jurisdiction of the Planning Commission. He restated the arguments that he made for approval, and asked the Planning Commission to approve the application.

Citizen Rebuttal – Mr. Natof still believed that the notification letters were not mailed in the required time. He added that the simulated pictures were taken in places that the tower would be seen the least. He reiterated his previous concerns and asked the Planning Commission to deny the application.

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

Commission Questions – Mr. Michler asked Ms. Wade to speak to the neighborhood notifications. Ms. Wade replied that the applicant had submitted evidence that they had mailed a notification in July and then again once the hearing date had been set.

Mr. Nicol requested that the Pike Legal Group submit their application materials electronically rather than the large binder that had been distributed, especially since the Planning Commission really had no choice in their vote. He felt that it was very wasteful.

Mr. Wilson asked someone on staff to explain to the citizens how they have to make this decision. Ms. Jones explained that this type of application was different as there was also federal law that had to be followed. She said that the applicant was required by law and the Zoning Ordinance to supply all of the required documentation to the Planning Commission. If the applicant has submitted all of the necessary documentation, the Planning Commission was limited in what they could do. She added that denying these types of applications was difficult. Mr. Wilson told the citizens that the Commission's hands were basically tied.

Mr. Michler asked if there was a meeting with the neighborhood, especially regarding the type of tower. Mr. Brown replied that they did not have a neighborhood meeting because there was nothing that required a neighborhood meeting. He said that they only worked with staff regarding the type of tower, but was willing to build a regular tower if requested. Mr. Michler said that it was a missed opportunity not to engage with the neighbors.

Mr. Pohl said he wanted to know if the neighborhood would prefer a regular tower over the monopine tower because of their concern over the plastic waste. He also asked if the applicant would consider more plantings for a visual barrier. Mr. Brown said that they had submitted a planting plan and fence, but nearer to the houses was outside their area of lease agreement.

Mr. Pohl told Mr. Brown that his legal arguments are dismissive of the real concerns of the citizens. He felt that there should be more collaboration and respect for the neighbors. Mr. Brown said they were trying to at least compromise on the type of tower, but the neighbors were adversarial.

Ms. Worth asked to hear from the college representative.

Steve Fisher, Commonwealth Baptist College, said he respected their neighbors. He said that there was already a tree line between the college property and the neighbors, because they wanted to keep a good relationship with them. He said that they would never want to put something on their property that would hurt the students there or the people living nearby.

Mr. Pohl asked if the college would be willing to work with the neighbors regarding augmentation of the buffer between them. Mr. Fisher replied that they were more than happy to discuss any reasonable changes.

Mr. Owens said that he agreed with the citizens' concerns, the need for better cellular service, and their limited ability in this decision. He felt that the stealth tower was a good option.

Action – Mr. Owens made a motion, seconded by Mr. Wilson, and carried 7-0 (Forester, J. Davis, and Z. Davis absent) to approve PLN-CELL-24-00001: BAPTIST COLLEGE WIRELESS COMMUNICATION FACILITY as presented by staff.

Mr. Michler said that it did not look well on the applicant that they did not communicate more with the neighbors, and he wished the Planning Commission had more discretion regarding this matter.

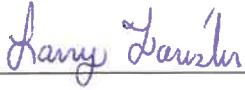
B. URBAN GROWTH MASTER PLAN PUBLIC HEARINGS – Staff requested that the Planning Commission schedule public hearings for the Urban Growth Master Plan.

Action – Ms. Worth made a motion, seconded by Mr. Pohl, and carried 7-0 (Forester, J. Davis, and Z. Davis absent) to schedule public hearings for the Urban Growth Master Plan on October 17, 2024 for presentations and public comment, and October 31, 2024 for Planning Commission deliberation and action.

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

Mr. Duncan reminded the Planning Commission of their upcoming works session and meeting to choose a new member.

IIX. ADJOURNMENT – Acting Chair Michler adjourned the meeting at 5:54 p.m.



Larry Forester



Robin Michler

TW/CG/PS

