

MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS
November 13, 2025

- I. **CALL TO ORDER** – Chair Zach Davis called the meeting to order at 1:31 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.
- II. **ATTENDANCE** – Planning Commission members present were Zach Davis, Ivy Barksdale, Bruce Nicol, Larry Forester, William Wilson, Mike Owens, Johnathon Davis, Frank Penn, and Molly Davis. Planning staff members present were Jim Duncan, Traci Wade, Daniel Crum, Chris Chaney, Cheryl Gallt, and Paula Owens. Other staff present were Brittany Smith, Department of Law; David Filiatreau, Division of Traffic Engineering; Vaughan Adkins, Division of Engineering; and Firefighter Embry Beatty, Division of Fire and Emergency Services. Amelia Armstrong and Barry Dennis were also present from the Historic Preservation Office.
- III. **APPROVAL OF MINUTES** – Mr. Forester made a motion, seconded by Mr. Wilson, and carried 8-0 (Owens abstained; Michler, J. Davis, and Worth absent) to approve the October 9, 2025 minutes as presented.
- IV. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – Mr. Forester made a motion, seconded by Mr. Penn, and carried 8-0 (Michler, J. Davis, and Worth absent), to approve the performance bonds and letters of credit as presented.

V. **POSTPONEMENTS AND WITHDRAWALS**

- A. **PLN-WAV-25-00001: LEXMARK INTERNATIONAL INC. LOT 9 (GERBER COLLISION) (AMD)** - requests a waiver of landscape buffer for double frontage lot. (ZO Art. 18-3(a)(1)), in association with PLN-MJDP-25-00058, for property at 985 Freight Boulevard.

Council District: 1

Project Contact: MDM Services, Inc.

Staff Comments - Ms. Gallt informed the Planning Commission that the applicant had requested to withdraw this application via email.

Action - Mr. Owens made a motion, seconded by Ms. M. Davis, and carried 8-0 (Michler, J. Davis, and Worth absent), to withdraw **PLN-WAV-25-00001: LEXMARK INTERNATIONAL INC. LOT 9 (GERBER COLLISION) (AMD)**.

- IV. **LAND SUBDIVISION ITEMS** – The Subdivision Committee met on Thursday, October 2, 2025 at 8:30 a.m. The meeting was attended by Commission members Ivy Barksdale, Judy Worth, and Frank Penn. Other Committee members present were Vaughan Adkins, Division of Engineering; and David Filiatreau, Division of Traffic Engineering. Staff members in attendance were Daniel Crum, Chris Chaney, Cheryl Gallt, Paula Owens; Embry Beatty, Division of Fire and Emergency Services; and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

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

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

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

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

- 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.

- 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** - None at this time.

2. **Preliminary Subdivision Plans**

- a. **PLN-MJSUB-25-00004: COX PROPERTY (REVERE RUN, UNIT 2) (JACOBS FARM)** (12/1/25)* – located at 2449 LIBERTY ROAD, LEXINGTON, KY
Council District: 6
Project Contact: EA Partners

Note: The purpose of the plan is to reflect development of 15 single-family lots and public street.

Requirements Not Met:

1. Depict internal pedestrian walkways to connect to all adjacent rights-of-way. (ZO Art. 16-6(a)(3)) (Traffic)
2. Depict ungated pedestrian access from Liberty Road. (Traffic)
3. Remove vehicular access to Liberty Road. (LSR 6-8(q)(2) (Planning)
4. Denote arterial landscape easement for double frontage lots. (ZO Art. 18-3(b)) (Planning)

Waiver(s) Necessary:

1. **PLN-WAV-25-00004:** Waiver for street cross-sections. (LSR Art. 6-8 & Exhibit 6-3)

Design Considerations:

1. Kentucky Utilities requests utility easement along 20-foot building line in Lots 14-16.

Plan Questions or Concerns:

1. Depict proposed cross-section for Liberty Road. (Traffic)
2. Pedestrian access from Liberty Road should meet the location for the new multi-use path that will be on that side of the street. (Traffic)
3. Discuss location of second access easement location. (Traffic & Planning)
4. Discuss lotting pattern that requires access easement. (Engineering)
5. Discuss stormwater management plan including location, ownership, and maintenance. (DWQ Storm)

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6. Is sanitary sewer tap available to each proposed lot, and where will it connect to the existing sewer? (DWQ-Sanitary)
7. Discuss connecting to Gerardi Road. (Planning)

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Provided the Planning Commission grants a waiver for LSR 6-4(c), LSR 6-8(m), and LSR 6-8(b).
9. Correct all noted deficiencies listed as "requirements not met" herein.

Staff Presentation - Mr. Chaney oriented the Commission to the preliminary subdivision plan that would create lots for more economical starter homes. He explained the following revised requirements and conditions for the revised plan that was submitted.

Requirements Not Met:

1. Denote arterial landscape easement for double frontage lots. (ZO Art. 18-3(b)) (Planning)
2. Denote: Construction of the sidewalk connection from Marblehead Drive to Liberty Road on Lot 14 shall occur at the same time as home construction. Owner of Lot 14 shall be responsible for the perpetual maintenance of the sidewalk. (Planning)
3. Resolve driveway access to Lot 13 prior to certification. (Engineering)
4. Depict utility strips at last 5.5' in width. (Planning)
5. Provide turnaround detail. (Engineering)

Waiver(s) Necessary:

1. PLN-WAV-25-00004: Waiver for street cross-sections. (LSR 6-8 and Exhibit 6-3)

Design Considerations:

1. Kentucky Utilities requests utility easement along 20-foot building line in Lots 14-16.

Plan Questions or Concerns:

1. Discuss stormwater management plan including location, ownership, and maintenance. (DWQ Storm)
2. Is sanitary sewer tap available to each proposed lot, and where will it connect to the existing sewer? (DWQ-Sanitary)

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Landscape Examiner's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Provided the Planning Commission grants a waiver for LSR 6-8(a), 6-8(f), and Exhibits 6-3 and 6-7.
9. Correct all noted deficiencies listed as "requirements not met" herein.

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

PLN-WAV-25-00004: COX PROPERTY (REVERE RUN, UNIT 2) (JACOBS FARM) - waiver for street cross-sections. (LSR 6-8(a), 6-8(f), and Exhibits 6-3 & 6-7).

Staff Presentation - Mr. Chaney continued his presentation and explained the waiver request that had been filed. He described the unique size and shape of the lot that made it difficult to provide a proper street cross-section. The applicant had originally requested a private street along with an access easement to serve the last three lots. After discussion with staff, the applicant re-designed the road to be a public road to eliminate the need for an HOA. He added that this cross-section allowed for the future development of the adjoining property to the south. Mr. Chaney stated that staff recommended approval of the waiver request for the following reasons:

1. Granting the requested waiver for the termination of a public street will not adversely affect public health, safety, and welfare in compliance with the intent of the Land Subdivision Regulations. The applicant is providing an alternate turnaround to allow the safe movement of vehicles and emergency services.
2. Granting the waiver is consistent with the intent of Article 1-5(a) of the Land Subdivision Regulations for Exceptional Hardship due to the size and shape of the site.

Conditions of Approval:

- a. No parking signs shall be posted along both sides of Marblehead Drive and within the turnaround. This shall be noted on the cross-section as well.
- b. Final dimensions and detail of the turnaround must be approved by Divisions of Fire & Emergency Services, Traffic Engineering, and Engineering prior to certification of the Final Record Plat. Turnaround shall include utility strip and sidewalk on both sides.
- c. All utility strips shall be a minimum of 5.5' in width to accommodate street trees and all underground utilities.

Applicant Presentation - Rory Kahly, EA Partners, was present to represent the applicant. He stated that they were in agreement with the staff recommendations and requested approval. He did request that Note #2 under "Requirements Not Met", Lot 14 be changed to Lot #15 because of the revision that was made to the plan.

Action - Mr. Forester made a motion, seconded by Mr. Penn, and carried 8-0 (Michler, J. Davis, and Worth absent), to approve PLN-MJSUB-25-00004: COX PROPERTY (REVERE RUN, UNIT 2) (JACOBS FARM), with the revised conditions as presented, and changing Lot 14 to Lot 15 in Requirements Not Met, #2, and changing Design Considerations #1 to read Lots 13-15.

Mr. Forester made a motion, seconded by Mr. Penn, and carried 8-0 (Michler, J. Davis, and Worth absent), to approve PLN-WAV-25-00004: COX PROPERTY (REVERE RUN, UNIT 2) (JACOBS FARM), as presented by staff and subject to the three conditions.

3. Development Plans

- a. PLN-WAV-25-00003: PHELPS PROPERTY - requests waivers of VUA in the corner lot (ZO Art. 16-6(a)(1)), front yard parking in the CC zone for Lot 2 (ZO Art. 16-6(a)(2)), and front yard parking for Lot 2 (ZO Art. 23A-9(k)(4)), in association with PLN-MJDP-25-00042, for property at 4075 Old Richmond Road.

Council District: 12

Project Contact: Barrett Partners, Inc.

The Subdivision Committee recommended: **Approval.**

Note: The Technical Review Committee voted to postpone PLN-MJDP-25-00042: PHELPS PROPERTY on August 27, 2025. A revised plan should be submitted to the Technical Review Committee for final approval.

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

* - 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Open Space Planner's approval of open space areas.
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. United States Postal Service Office's approval of kiosk locations or easement.
12. Kentucky Transportation Cabinet's approval of access to Athens Boonsboro Road.
13. Correct all noted deficiencies listed as "requirements not met" herein.
14. Provided the Planning Commission grants the requested waivers.

Staff Presentation - Ms. Gallt oriented the Commission to the development plan that corresponded with the waiver request. She explained the unique shape of the property and the improvements that were underway on Aphids Way and Richmond Road. She identified the corner lots on the property that were the subject of the waiver requests. Ms. Gallt explained that the Staff was recommending approval of the requested waivers for the following reasons:

1. The waiver will not compromise public health, safety, and welfare and will have minimal adverse impacts due to the VUA in the front yards as the applicant has designed the development to be pedestrian friendly and has incorporated traffic calming features into the layout. Additional landscaping along the Athens Boonesboro frontage will mitigate the aesthetic appearance of the VUA in the front yards.
2. The extent of the waiver of the regulation is the minimum necessary to reasonably afford relief to the applicant due to the applicant's desire to provide better internal pedestrian connectivity.
3. A strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant due to the topography and configuration of the parcel.

This recommendation is made subject to the following additional requirement(s):

- a. Provide landscape buffer for all vehicular use areas facing Athens Boonesboro Road a minimum 10' in width per Article 18-3(a)(1)(4) of the Zoning Ordinance.
- b. Provide a landscape buffer for all vehicular use areas for Lot 1 facing the private streets a minimum of 10' in width (rear and side yards) per Article 18-3(a)(1)(4) of the Zoning Ordinance in order to provide a buffer to the residential use across the private street. The front yard facing Aphids Way will meet the minimum requirements for vehicle use screening per Article 18-3(a)(2) of the Zoning Ordinance.
- c. Complete sidewalk connections between all structures and the public and private streets per Article 23A-9(k)(5) of the Zoning Ordinance.

Commission Questions - Mr. Penn asked if the development plan had been revised. Ms. Gallt explained that the applicant had submitted a revised plan, and it would be heard by the Technical Review Committee, at their next meeting.

Applicant Representation - Tony Barrett, Barrett Partners, Inc., was present to represent the applicant. He told the Planning Commission that he had submitted a revised plan and felt that it had addressed all of the concerns. He stated that they were in agreement with the Staff's recommendation and asked for approval.

Staff Comments - Ms. Wade reminded the Commission that they would not see the revised plan because the Technical Review Committee would review it and make the decision.

Commission Questions - Ms. M. Davis asked Mr. Barrett about the tree canopy. Mr. Barrett stated that most of the existing trees had to be removed because of the significant grading that had to take place. He added that the Urban Forester was comfortable with the amount of proposed new trees.

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Citizen Comments - Tania Whitfield asked what the benefits of this plan was to the community.

Commission Question - Mr. Nicol replied and said that this development would be adding multi-family unit to an undeveloped piece of property.

Action - Mr. Wilson made a motion, seconded by Mr. Forester, and carried 8-0 (Michler, J. Davis, and Worth absent), to approve PLN-WAV-25-00003: PHELPS PROPERTY for the reasons presented by staff.

- b. PLN-WAV-25-00006: ENSIMINGER & MARTHA PROPERTY and SHAH PROPERTY (AMD) - requests a waiver of internal sidewalk requirement. (ZO Art. 16-6(a)(3)(a)), in association with PLN-MJDP-25-00060, for property at 425 Race Street.
Council District: 1
Project Contact: Barrett Partners, Inc.

The Subdivision Committee recommended: Approval.

Note: The Technical Review Committee voted to approve PLN-MJDP-25-00060: ENSIMINGER & MARTHA PROPERTY and SHAH PROPERTY (AMD) on October 29, 2025. The plan was approved with 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Open Space Planner's approval of open space areas.
8. Division of Fire, Water control Office's approval of the locations of fire hydrants, fire department connections, and fire service features.
9. Division of Waste Management's approval of refuse collection locations.
10. United States Postal Service Office's approval of kiosk locations or easement.
11. Provided the Planning Commission approves the requested waiver of Art. 16-6(a)(3)(a).
12. Correct all noted deficiencies listed as "requirements not met" herein.

Staff Presentation - Mr. Chaney oriented the Commission to the development plan that corresponded to the waiver request. He explained that the applicant was asking for a waiver to the requirement for a direct pedestrian connection to Conley Street in the back of the property. He stated that there had been litigation between the applicant, a funeral home, and the neighbor, a daycare center. He explained that the development plan, the waiver that they were looking at, and a variance request that was heard by the Board of Adjustment were all part of the applicant's attempt to solve the disagreements. He highlighted the area that would become a parking lot and connect to Conley Street. Mr. Chaney stated that the Staff was recommending approval of the waiver for the following reasons:

1. This waiver request does not compromise public health safety and welfare as the parking lot is small, with minimal traffic at slow speeds. Sidewalks are provided to Race Street and the proposed parking lot, but will not connect to Conley Street, a sub-standard street.
2. The extent of the waiver of this particular regulation is the minimum necessary to reasonably afford relief to the applicant due to the required dimensions for parking, access, and landscaping.
3. A strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant due to the size and configuration of the lot. If this waiver is not granted the applicant would have to reduce landscape buffering or the size of parking spaces or drive aisle in the parking lot, which would impact the utility of the parking lot.

Applicant Presentation - Tony Barrett, Barrett Partners, Inc., and Attorney Branden Gross were present to represent the applicant. Mr. Gross agreed with the conditions of approval and asked for approval.

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

Citizen Comments - Paul Gardner, neighboring daycare owner, stated that Mr. Chaney spoke incorrectly about their ongoing litigation with the funeral home. He said that he had had been opposed to the development plan because of safety concerns, and felt that his concerns had been ignored. He also stated that he had submitted a petition and letter opposing the development.

Commission Questions - Mr. Forester asked if the petition had been distributed to the Planning Commission. There was some discussion about citizen comments for the plan, and a copy of the petition was passed to the Commission members.

Ms. Barksdale stated that she thought that the proposed 6-foot fence that was discussed at the Subdivision Committee had allayed the safety concerns. Mr. Gardner said that the fence did nothing to address their safety concerns.

Mr. Z. Davis asked Mr. Gardner to list the safety concerns that they had. Mr. Gardner said they were listed on their letter and petition. Mr. Z. Davis asked staff to put the list of concerns on the petition on the overhead so that the Commission could see them, and they did so.

Applicant Comments - Mr. Gross stated that he had not seen the list of safety concerns, but would try to address them. He added there would be a complete separation between the two properties, as a part of the resolution to the litigation. He wanted to stay away from the issues that had been in litigation, and wanted to resolve the issues regarding the waiver.

Commission Questions - Mr. Z. Davis stated that they were only looking at the waiver request, and Mr. Gross reiterated that they wanted to forgo building a sidewalk in order to add more buffer between the two properties.

Mr. Nicol asked where Conley Street currently ended, and Mr. Gross identified the location on the map. Mr. Gross specified that the waiver was actually more limited than the added parking. They were only requesting permission to not build the required internal sidewalk. Mr. Gross added that if they were to construct the sidewalk it would go to Conley Street where there were no existing sidewalks.

Ms. M. Davis asked if the utility easement between the funeral home and the Dollar General was five or six feet. Mr. Barrett explained that the easement was 5 feet on the funeral home side and 1 foot on the other side for a total of 6 feet.

Citizen Comments - Cheryl Gardner, daycare owner, stated her concerns about the safety of the children in her daycare. She was also concerned about the safety of children playing on Conley Street.

Tania Whitfield also stated that she was concerned about the safety of the children in the neighborhood. She felt that the concerns of the residents were not considered.

Mr. Nicol asked for clarification about the safety concerns from the petition regarding Conley Street and the status of Conley Street. Ms. Wade described Conley Street and highlighted the current end of it on the map. Mr. Duncan interjected that Conley Street was not a closed public street, but an open public street that dead ends at that location. Ms. Wade added that there would be no vehicular movement from the daycare parking lot to the funeral home parking lot or Conley Street.

Legal Comments - Ms. Smith reminded the Planning Commission that the applicant already had permission to connect the parking lot to Conley Street and the only issue that is before them was the sidewalk waiver.

Billie Mallory, East End Community Development Corporation, stated concerns about safety of the new parking lot, removing the fence and cars going through Conley Street. She said that they wanted both businesses to thrive and hoped the issues could be resolved.

Mr. Gardner stated that he felt the applicant did not want to have the sidewalk so they could create a larger parking lot.

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

Mr. Nicol asked Ms. Smith to restate what they were being asked to approve. Ms. Smith reiterated that the applicant was asking to waive the requirement to connect to the closet right-of-way, Conley Street.

Ms. M. Davis asked if there were any plans to improve Conley Street. Mr. Filiatreau, Division of Traffic Engineering, replied there were no such plans.

Action - Mr. Owens made a motion, seconded by Ms. M. Davis, and carried 8-0 (Michler, J. Davis, and Worth absent), to approve PLN-WAV-25-00006: ENSIMINGER & MARTHA PROPERTY and SHAH PROPERTY (AMD), as presented by staff.

Note - Mr. Forester left the meeting at 2:55 p.m.

- c. PLN-WAV-25-00005: JAMES P & CARITA W ARNOLD PROPERTY (AMD) - requests a waiver of vegetated and usable open space requirements. (ZO Art. 20-2(b)), in association with PLN-MJDP-25-00061, for property at 2551 Richmond Road.
Council District: 7
Project Contact: Barrett Partners, Inc.

The Subdivision Committee Recommended: **Approval.**

Staff will report at the meeting.

Note: The Technical Review Committee voted to approve PLN-MJDP-25-00061: JAMES P & CARITA W ARNOLD PROPERTY (AMD) on October 29, 2025. The plan was approved with 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. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Open Space Planner's approval of open space areas.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of Capacity Assurance Program requirements, prior to plan certification.
10. United States Postal Service Office's approval of kiosk locations or easement.
11. Provided the Planning Commission grants the requested waiver of Art. 20-2(b).
12. Correct all noted deficiencies listed as "requirements not met" herein.

Staff Presentation - Mr. Chaney provided an overview of the development plan that was associated with the waiver for open space requirements. He explained that the development had been completed prior to the current open space requirements, but they had proposed fewer parking spaces to create landscape islands. Mr. Chaney said that the Staff recommended approval of the waiver request for the following reasons:

1. This waiver request does not compromise public health safety and welfare and supports the intent of Article 20-2(b) as the applicant is providing more interior VUA and vegetated open areas than what exists currently.
2. The extent of the waiver of this particular regulation is the minimum necessary to reasonably afford relief to the applicant as this is an existing operational commercial site.
3. A strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant by preventing desirable modification to the long-standing center by adding 18 dwelling units and improving site circulation.

Applicant Representation - Tony Barrett, Barrett Partners Inc., was present to represent the applicant. He stated that he was in agreement with the findings of staff and asked for approval.

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

Action - Mr. Owens made a motion, seconded by Mr. Penn, and carried 7-0 (Michler, J. Davis, Worth, and Forester absent), to approve PLN-WAV-25-00005: JAMES P & CARITA W ARNOLD PROPERTY (AMD), as presented by staff.

Note: Mr. Owens left the meeting at 3:05 p.m.

VIII. COMMISSION ITEMS

- A. BOAR 2025-2: EAST MAIN STREET DEVELOPMENT, LLC** - An appeal of the Board of Architectural Review (BOAR) decision on July 23, 2025 with respect to the mechanical venting, schematic screening, and stucco over EIFS on the garage/kitchen at 509 E Main Street, in the Bell Court Historic District.

Staff Presentation - Mr. Crum presented the appeal to a decision of the Board of Architectural Review (BOAR). He briefly explained the procedure for the De Novo public hearing. The three items in question were the mechanical venting, schematic screening, and stucco over Exterior Installation Finish System (EIFS) on the garage/kitchen. He detailed the timeline of the request for a Certificate of Appropriateness from the BOAR and the communications between the BOAR and the applicant. He displayed photos that depicted modifications that were made to the building without a Certificate of Appropriateness. He further explained the appeal of the applicant who opined that their request had been approved by operation of law because they did not sign an extension form. The applicant contended that the work was necessary because the Division of Building Inspection required the size of the mechanical venting, and replacing these elements would be cost prohibitive. However, Mr. Crum explained that the Department of Law advised that the matter of the extension form was outside of the purview of the Planning Commission. He also noted that the Planning Commission was not hearing a due process argument, but whether the BOAR acted according to the rules and guidelines of the historic overlay. He said that after extensive review, the Staff found that the applicant did not provide sufficient screening for the mechanical venting system and the chosen EIFS was not consistent with the design guidelines. The staff recommended Disapproval of the appeal, and that the decision of the BOAR be upheld for the following reasons:

1. The disapproval of a Certificate of Appropriateness by the Board of Architectural Review is appropriate, as the proposal is not in agreement with the adopted Historic Preservation Guidelines.
2. Guideline 3.3 calls for mechanical facilities to be appropriately screened from view. Insufficient detail has been provided regarding the proposed metal screening.
3. Guidelines 1.20 and 2.B.1 call for continuity in materials and their application when making repairs to the exterior of existing structures. The application of the Exterior Insulation and Finish System (EIFS) is a new material that was not original to the structure or its later additions.

Commission Question - Mr. Wilson asked for clarification about the proposed screening. Mr. Crum replied that the applicant did not provide sufficient detail of the proposed screening to the BOAR for a decision to be made.

Note: Chair Davis called for a break at 3:24 p.m., and the meeting resumed at 3:35 p.m.

Historic Preservation Office Presentation - Amelia Armstrong explained the process that had led to the BOAR to deny the Certificate of Appropriateness. She presented a packet of information that described the process as well as the timeline. She pointed out the deficiencies between what was constructed and what was requested in the application. She stated that their office reviewed designs presented to them, but did not design concepts for the applicants. She asked the Planning Commission to follow the Staff's recommendation of disapproving the petitioner's appeal.

Applicant Representation - Attorney Andre Regard was present to represent the applicant. Hank Morris, property owner, was also present. He stated that the applicant had made the property beautiful and spent a large sum of money to renovate it. He told the Commission that he disagreed with Staff about the unsigned extension form. He opined that it was in their purview, and that after 60 days without a decision, the application would be deemed approved. He stated that there should be no evidence presented, because the extension form was not signed, so the application was approved in that way. He stated that the Planning Commission should not even be looking at this application.

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Law Department Comments - Ms. Smith explained that a De Novo hearing meant that the entire matter would be heard again. She stated while she believed the BOAR had acted appropriately, the applicant had asked for and received a new hearing via their appeal to the Planning Commission. She said that they now had the opportunity to explain how their request met with the guidelines. Mr. Wilson stated that he felt that they should take the advice of their legal counsel.

Applicant Representation - Mr. Regard continued his presentation. He reiterated the request for approval of the mechanical venting, schematic screening, and stucco over Exterior Installation Finish System (EIFS). He stated that the added elements were for safety and were appropriate for the historic overlay. He described each item and why they were in compliance with the guidelines. He said that the vent location had already been approved, but the inspector required a larger, code-compliant system. He said the screening was not visible from the neighbors, but was visible from the street. Mr. Regard added that the green screening that had been added will help to cover the vent, but it was not fully grown.

Mr. Regard said that the EIFS was used in place of Stucco, because Stucco itself was also an imitation system, and that the EIFS was undetectable, and necessary because of leaking issues that the building is facing. He said that the screening that had added was sufficient, but there was no way they could screen the property all the way around.

He asked the Planning Commission to reverse the findings of the BOAR.

Commission Question - Mr. Zack Davis asked if the larger venting system had been a request of a city official. Mr. Regard replied that it was. He said that his clients had proposed to add the screening that was shown in the photographs and/or paint the venting.

Ms. M. Davis asked what type of venting was originally approved, and Mr. Regard replied that Mr. Morris could better answer that question.

Staff Comments - Because the renderings of the original proposal was faint, Mr. Crum colored a rendering and displayed the initial proposal that was approved on the projector. Mr. Crum stated that the problems came after this approval, when the vent was modified.

Applicant Representation - Mr. Morris added some further details to the discussion. He said that the applicant was not trying to circumvent any rules or regulations. He said that their architects met with the Historic Preservation staff multiple times, and admitted that their drawings were not really clear. He said that it was only at the final inspection stage that the building inspector asked that the system get vented further away from the building for safety. He added that they did not want to have a large vent, and offered to paint and screen it for the neighbors.

Mr. Morris addressed the EIFS finish that they had to install after a heavy rainstorm. He opined that it looked exactly like the existing stucco. He said they were open to collaboration with the BOAR. He stated that the process had been unreasonable and felt that he no longer wanted to work on historical projects in Lexington.

Commission Question - Mr. Penn asked why the extension of the vent had to be so large. Mr. Morris replied that he was not sure why it had to be so large, but they had relied on their mechanical contractor to address the concerns. Ms. Armstrong opined that it had something to do with the BTU's of the commercial oven.

Ms. M. Davis asked about the architectural drawing of the proposed screening. Mr. Crum replied that the applicant did propose architectural designed screening and proposed it to the Historic Preservation Office after the BOAR appeal, and that was included in the information provided by the applicant.

Mr. Wilson appreciated the historic nature of the building. asked why the applicant could not take this request back to the BOAR to possibly come up with a compromise. Mr. Morris said that he would be happy to meet with them again, but added that the Historic Preservation staff did not give much constructive feedback about the original submission.

Mr. Nicol stated that the BOAR was not in a position to create mechanical drawings, but needed a clear proposal to look at and assess. He opined that there was still work that could have been done before the this appeal had been filed.

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Law Department Comments - Ms. Smith explained that if this appeal was denied, the applicant would have to wait one year to re-apply to the BOAR unless the applicant submitted new evidence such as new drawings. The BOAR would then have to decide if the new evidence was sufficient for a new hearing. Ms. Armstrong replied that the new design of the screening would have to be significantly different for a new hearing.

Mr. Z. Davis asked if the larger vent would be allowed if the screening was approved. Ms. Armstrong said it possibly would.

Applicant Comments - Mr. Regard stated that the screening should be the subject of discussion, rather than the vent that had been built. He was concerned that the applicant would still receive violation notices when they were trying to act in good faith to come up with an approvable plan, and asked if the Planning Commission could instruct the BOAR to re-hear the application. Ms. Smith informed the applicant that the Planning Commission could not force the BOAR to re-hear the case or stay the BOAR.

Commission Comments - Mr. Penn stated that he did not feel that they could do anything but support the Staff's recommendation, but he also felt it was unfair to have the applicant start the entire process again.

Applicant Presentation - Mr. Regard stated that it seemed like the Commission could approve the EFIS, because that did not seem to be a concern, and they could concentrate on the screening issue.

Commission Questions - Ms. M. Davis asked when the property was designated H-1. Mr. Crum replied 1990.

Historic Preservation Comments - Barry Dennis, Historic Preservation Office, said he had not wanted to make any comment because he owned property on Bell Court, but felt he needed to make some clarifications. He explained that all structures, old and new, need to follow the same guidelines. He stated that they had received a photograph of the screening, but they needed construction drawings and details to make a decision about the screening proposal. He stated that the BOAR was never asked to look at any of the venting that is present on site, only a rectangular hole in the wall. He stated that once another division had reviewed a plan, the applicant was required to bring any changes back to the BOAR. He said that the BOAR only reviewed what was presented, and they were not responsible for designing a project.

Commission Questions - Mr. Nicol asked Mr. Dennis if their office could issue citations or close the business while the screening question was heard by the BOAR. He replied that they had no authority to issue any type of citation, and further added that, as long as the proper construction documents were submitted, he opined that the BOAR would hear the case quickly.

Ms. Barksdale asked if the trim was replaced to match the original, would the EFIS be allowed to remain. Mr. Dennis indicated that the loss of detail was the main issue. Ms. Barksdale opined that the EFIS was only an issue because the trim was different. Mr. Dennis stated that the BOAR would have to make that final decision.

Ms. Barksdale asked where the screen would be attached. Mr. Dennis believed it could sit on a masonry wall that was below the vent. She further asked if the applicant could just make the masonry wall larger to cover the vent, but Mr. Dennis felt that it would not allow enough ventilation for the mechanical system. Mr. Morris informed the Commission that they did ask their contractor about extending the wall to cover the vent, but the contractor also said that it would not be feasible.

Ms. Barksdale asked if painting the vent would help the situation. Mr. Morris replied that they had made the suggestion to the BOAR, but they were denied.

Citizen Comments - Trish Smith, 212 E. Bell Street, stated that she supported the decision of the BOAR. She stated that she had worked with the Historic Preservation Office as she renovated property in the H-1 Overlay. She felt that allowing the applicant to use the EFIS set a bad precedent.

Marci Deaton, 116 Forest Avenue, displayed several photos of the property, which is next door to her home. She said that the venting system creates smoke, odor, and grease that comes into the property. She believed that the vent system needed to be redesigned, not just the screening. She stated that she has lost the use of her property due to the grease vapors.

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Mike Smith, 212 E. Bell Street, said that he has had no problem working with the Historic Preservation Office and the BOAR.

Applicant Rebuttal - Mr. Regard stated that the applicant had already committed to providing more details and better renderings of the proposed screening, as well as fixing the details of the trimline. He reiterated that they were concerned about the stop work orders and asked for assurances that they would be able to continue their construction while they reached a compromise with the BOAR.

Commission Question - Ms. Barksdale asked the applicant how they proposed to protect the neighbor from the smoke of the vent. Mr. Regard said he did not have a proposal for that, because it was not part of the appeal. Mr. Morris added that they would ask their mechanical team to look at ways to redirect the smoke, but they needed the commercial kitchen as part of their business plan.

Citizen Rebuttal - Ms. Deaton reminded the Commission that the venting system, as built, had never been approved. She felt approval of the screening should be secondary to the approval of the venting system itself.

Commission Question - Mr. Z. Davis asked Historic Preservation staff if they had acted on the vent system. Ms. Armstrong replied that it had been part of their denial, because the applicant had to change their design after their inspection by the Division of Building Inspection.

Historic Preservation Office Rebuttal - Ms. Armstrong explained that the two stop work orders that were sent referred to exterior work, not the business operations.

Staff Rebuttal - Mr. Crum stated that the BOAR did not have purview over the size or type of venting system, but the applicant should have gone back to the BOAR after they were told that the system needed to be larger to ensure compliance with the historic guidelines. He added that while the noise and smells were valid concerns, the aesthetics of this location and their compliance with the guidelines were the matter at hand. The Staff felt that the location of the vent did meet the historic guidelines, but the screening needed to be added. Mr. Crum stated that the BOAR had requested screening details, but the applicant stopped communication.

Mr. Crum stated that the Staff opined that the EIFS is not consistent with the historic guidelines, regardless of the trim.

Commission Questions - Mr. Z. Davis asked if it was fair to say that that the location of the venting system was adequate, but the screening was not. Mr. Crum agreed.

Mr. Wilson said that their decision was to either approve or disapprove the request. He concluded that the Commission should support the Staff recommendation, and allow the applicants to work on their part.

Mr. Nicol stated that he did not want the business to be closed while the decisions were being made, but what he had heard made him feel comfortable that that would not take place.

Mr. Z. Davis asked Ms. Armstrong to clarify her position on the vent and the screening, because the Staff felt the vent was a practical necessity. Ms. Armstrong replied that as long as there was appropriate screening that met the guidelines and had finished architectural details, the BOAR would potentially be in agreement. She said that they were in agreement with staff that there had to be a kitchen, and the location would meet the particular historical guidelines.

Mr. Z. Davis stated that he wanted to make sure that the BOAR understood that the vent was necessary. Ms. Armstrong understood his point.

Mr. Penn stated that he would support the Staff, but hoped that the applicant would work with the neighbor to try to mitigate the nuisances.

Mr. Z. Davis stated that he had sympathy for both the applicant and the neighbor.

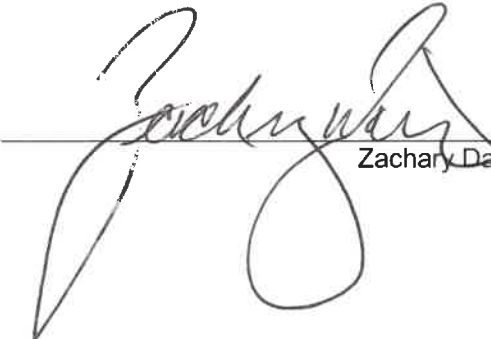
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Action - Ms. M. Davis made a motion, seconded by Mr. Wilson, and carried 6-0 (Michler, J. Davis, Worth, Owens, and Forester absent), to support the staff recommendation to disapprove the appeal and that the original decision of the BOAR be upheld for the reasons stated in the staff report.

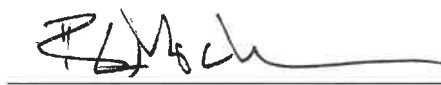
Commission Items Continued

Director Comments - Mr. Duncan reminded the Planning Commission of their upcoming Zoning meeting that would be held in one week, due to the holiday schedule.

IX. ADJOURNMENT – Chair Davis adjourned the meeting at 5:32 p.m.



Zachary Davis, chair



Robin Michler, secretary

TW/DC/CC/CG/PO

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