Minutes
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

January 15, 2009

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

Planning Commission Members Present – Randall Vaughn Chair; Neill Day; Carolyn Richardson; Lynn Roche-Phillips; Marie Copeland; Mike Owens; Joan Whitman; Ed Holmes and Patrick Brewer. Mike Cravens and Frank Penn were absent.

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

II. **APPROVAL OF MINUTES** – A motion was made by Mr. Day, seconded by Ms. Richardson and carried 9-0 (Cravens and Penn absent) to approve the minutes of October 9, 2008 and November 13, 2008.

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

a. PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (1/15/09)* - located at 4574 Harrodsburg Road (a portion of). (Council District 10) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-71P to the February 12, 2009, Planning Commission meeting.

Action - A motion was made by Ms. Whitman, seconded by Mr. Owens, and carried 9-0 (Cravens and Penn absent) to postpone PLAN 2008-71P to the February 12, 2009, Planning Commission meeting.

b. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (1/15/09)* - located at 5846 Old Richmond Road. (Council District 12) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-76F to the February 12, 2009, Planning Commission meeting.

Action - A motion was made by Mr. Owens, seconded by Ms. Whitman, and carried 9-0 (Cravens and Penn absent) to postpone PLAN 2008-76F to the February 12, 2009, Planning Commission meeting.

Note: The next two items were heard simultaneously.

c. PLAN 2007-239F: GESS PROPERTY, UNIT 6-A (3/22/09)* - located on William Way (a portion of). (Council District 7) **(EA Partners)**

d. PLAN 2007-241F: GESS PROPERTY, UNIT 6-C (3/22/09)* - located on William Way (a portion of). (Council District 7) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2007-239F and PLAN 2007-241F to the February 12, 2009, Planning Commission meeting.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to postpone PLAN 2007-239F and PLAN 2007-241F to the February 12, 2009, Planning Commission meeting.

e. PLAN 2008-117F: BRUCE PROPERTIES (3/28/09)* - located at 3401 McFarland Lane. (Council District 6) **(Vision Engineering)**

Representation – Matt Carter, Vision Engineering, was present representing the applicant. He stated that they would like to withdraw the waiver request for PLAN 2008-117F.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to accept the withdraw the waiver request for PLAN 2008-117F.

f. DP 2008-137: MOHAMMAD SERAJI PROPERTY (AMD.) (1/15/09)* - located at 432 South Broadway. (Council District 3) **(Mohammad Seraji)**

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

Staff Comments – Mr. Martin stated that the staff had received an email correspondence from the applicant, requesting an indefinite postponement of DP 2008-137.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to indefinitely postpone DP 2008-137.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, January 8, 2009, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Mike Cravens, Marie Copeland, Mike Owens and Carolyn Richardson. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Denice Bullock, Chris Taylor, Cheryl Gallt, Tom Martin, Traci Wade, and Frank Boateng, as well as Rochelle Boland, Department of Law; Capt. Charles Bowen and Capt. Allen Case, Division of Fire & Emergency Services; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.
1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

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

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

Requests can be made to remove items from the Consent Agenda:
(1) due to prior postponements and withdrawals,
(2) from the Planning Commission,
(3) from the audience, and
(4) from Petitioners and their representatives.

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

1. Page 2, Item b. PLAN 2009-01F: MARSHALL PROPERTY, UNIT 2-I (3/5/09)* - located at 3000 Leestown Road and McConnell Trace. (Council District 2) **(EA Partners)**

   The Subdivision Committee Recommended: Approval, subject to the following requirements:
   1. Urban County Engineer’s acceptance of drainage, storm, and sanitary sewers.
   2. Urban County Traffic Engineer’s approval of street cross-sections and access.
   3. Building Inspection’s approval of landscaping and required street tree information.
   4. Addressing Office’s approval of street names and addresses.
   5. Urban Forester’s approval of tree protection areas.
   6. Department of Environmental Quality’s approval of environmentally sensitive areas.
   7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
   8. Denote: This property shall be developed in accordance with the approved final development plan.
   9. Addition of access easement cross-sections.
   10. Label building lines.

2. Page 3, Item e. PLAN 2005-196F: SHARKEY PROPERTY UNIT 2-B (3/22/09)* - located at 1700 Leestown Road (a portion of). (Council District 2) **(EA Partners)**

   Note: The Planning Commission originally approved this plan on August 11, 2005, and reapproved this plan on August 10, 2006, and November 8, 2007, 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 parking, circulation, access, and street cross-sections.
   3. Building Inspection's approval of landscaping.

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

4. Urban Forester's approval of tree inventory map/tree preservation plan.
5. Approval of street addresses by e911 staff.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Provided that all appropriate rights-of-way are dedicated, either through the recordation of Unit 2-A, or by adding the streets to this plat.

Note: The applicant has requested reapproval of this plan.

The Subdivision Committee Recommended: Reapproval, subject to the previous conditions listed on the agenda, deleting condition number 7.

3. Page 5, Item k. PLAN 2006-240F: NEWMARKET, PHASE I, UNIT 1-E (4/6/09)* – located at 1201 Deer Haven Lane (a portion of). (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on November 9, 2006, 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. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street addressing by e911 staff.
5. Urban Forester's approval of tree preservation areas.
6. Label Tree Protection Area (TPA) per conditional zoning restrictions.

Note: The applicant has requested reapproval of the plan.

The Staff Recommended: Reapproval, subject to the previous six conditions listed on the agenda.

4. Page 7, Item c. DP 2009-02: BERRY CREST, PHASE II (AMD.) (3/5/09)* - located at 2385 Huguenard Drive and 223 Pasadena Drive. (Council District 10) **(Foster – Roland)**

Note: The purpose of this amendment is to add buildable area.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Solid Waste's approval of refuse collection.
7. Addressing Office's approval of street names and addresses.
8. Denote cross-section or dimensions associated with access easement.
9. Remove zone-to-zone screening note.
10. Remove zone change information adjacent to addition.
11. Correct Planning Commission certification (replace date of prior approval).
12. Denote parking required and provided in site statistics.
13. Clarify area adjacent to addition and all easement information.
14. Denote 12' side yard setback per P-1 zone requirement.
15. Denote square footage of playground area.
16. Denote lot coverage per P-1 zone requirements.

5. Page 7, Item d. DP 2009-03: BUTCHCO PROPERTY (AMD.) (3/5/09)* - located at 1621 & 1637 Jaggie Fox Way. (Council District 2) **(MLH Civil)**

Note: The purpose of this amendment is to add 7,200 square feet of buildable area and to relocate the detention basin.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Solid Waste's approval of refuse collection.
7. Addressing Office's approval of street names and addresses.

8. Addition of building envelopes graphically and remove note #10.
9. Addition of purpose of amendment note.
10. Correct Planning Commission certification.
11. Denote access point dimensions.
12. Clarify parking area and access as shown.
13. Resolve building/storm sewer and/or easement conflict.
14. Addition of building dimensions on existing buildings.
15. Resolve temporary access to Jaggie Fox Way to the approval of the Divisions of Traffic Engineering and Planning.

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

Commission Comments - There were none.

Audience Comments – There were none.

Action - A motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to approve the items listed on the consent agenda.

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

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

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

1. Final Subdivision Plans

a. PLAN 2008-137F: HAMBURG PLACE OFFICE PARK, LOT 3 (AMD.) (3/28/09)* - located at 1748 Alysheba Way. (Council District 6) **(Vision Engineering)**

Note: The Planning Commission originally approved this plan on November 13, 2008, 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. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Include remainder of lot 3.
10. Denote 5' landscaping easement adjacent to southern property boundary.
11. Place site statistics in a box.
12. Add reciprocal parking note.
13. Addition of adjacent property owner and zoning information.
14. Correct street cross-section.
15. Remove access easement from plan.
16. Add lot 2D and/or dedicate greenway trail easement.
17. Clarify vicinity map and adjacent property information to the south.
18. Resolve building/property line conflict per approved Final Development Plan.

Note: The applicant requests a waiver of Article 4-7(d)(1) of the Land Subdivision Regulations regarding the bonding for a portion of the sanitary sewer that is not constructed.

Staff Presentation – Mr. Martin stated that the Planning Commission originally approved this plan on November 13, 2008. He said that the applicant is now requesting a waiver to Articles 4-7(d)(1) and 4-8 of the Land Subdivision Regulations so that there can be bonding for a portion of the sanitary sewer that is not yet constructed.

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

Mr. Martin oriented the Commission to the surrounding area, and noted that the subject property is located on the south side of Alysheba Way, which is between Vendor Way and Pink Pigeon Parkway. He said that there are several office buildings (townhouses) in the general vicinity, as well as a large detention basin. He then said that the waiver request pertains to the sanitary sewer line that would serve this property, noting that there is a sewer line easement directly across Alysheba Way, which could serve Lot 3-A via a manhole. He stated that before the subdivision of this lot is completed, the existing sewer line was more than adequate; however, with the subdivision of this property, the applicant is now required to run an 8" line to a new manhole that would serve Lot 3A. An 8" diameter sewer line is required because of the distance to the property is over 150 feet, which exceeds the maximum limits for a lateral connection. He noted that the applicant would also need the approval of the Kentucky Division of Water for this connection. He stated that the proposed development is for a child care center, and the applicant wants to place the building back toward the rear of the lot. According to the applicant, there is a large elevation drop at the back of the property; and their concern is that it would require a substantial amount of fill to meet the finished floor elevation that is required by the Land Subdivision Regulations. He said that the Subdivision Regulations require the finished floor elevation to be at least 1' above the nearest downstream manhole; and if this manhole is constructed before the building, it could possibly reduce a considerable amount of fill on the site to meet the required elevation. The applicant is requesting that the sewer line extension be bonded until the construction of the child care center commences.

In conclusion, Mr. Martin stated that the staff is recommending approval of the requested waiver, for the following reasons:

1. Granting the waiver will not negatively impact public health and safety, as construction of the sewer line and manhole will be coordinated with the construction of the child care center and development of the lot.
2. Denial of the waiver would constitute a hardship for the applicant, due to the need for significant fill in order to comply with the F.F.E requirements relative to the pre-constructed manhole elevation.

This recommendation is made subject to the following additional requirements:

a. Denote: No Certificate of Occupancy shall be issued until the sewer line extension and manhole are constructed in compliance with the Engineering Manuals and accepted by the Division of Engineering.

Planning Commission Questions – Ms. Roche-Phillips asked if this request is more like a postponement rather than a waiver request because normally, the sewer line construction is not bonded. Mr. Martin agreed that typically sewer line extensions are not bonded. Ms. Roche-Phillips then asked if this is a waiver to the prohibition against bonding. Mr. Martin said that this is a waiver to the bonding limitations as stated in the Land Subdivision Regulations, as well as a waiver for the "substantial completion" requirement. He said that the infrastructure is required to be constructed prior to the plat being certified. Ms. Roche-Phillips confirmed that the waiver request is two-fold: the first part being the promise that this physical work will be done, and the second part is to waive requirements for substantial completion; both will be done prior to Engineering certifying the plan. Mr. Martin agreed, and noted that this would allow the applicant to record the plat.

Mr. Owens clarified that their preference would be to have the sewer construction; but in this case, the fill and the construction would need to come first. Mr. Martin said that if the sewer line was constructed first and the elevation of the manhole is set, it could require excess fill to meet the requirements for the finished floor elevation of the building. He then said that the applicant would like to coordinate these two items and minimize the amount of fill needed.

Petitioner's Presentation – Matt Carter, Vision Engineering, was present representing the applicant. He said that they have reviewed the conditions listed by the staff, as well as the note that was suggested, and they are in agreement. He request approval.

Planning Commission Questions – Ms. Copeland asked if the floor elevation needs to be higher than the manhole. Mr. Carter said that the floor elevation must be 1' higher than the manhole rim. He then said that they would prefer to allow the developer to determine that height, as well as the location of the manhole. Ms. Copeland then asked if there is plenty of distance between the manhole rim and the pipe. Mr. Carter agreed, and said that the manhole that they are connecting to is approximately 8' to 9' deep. He said that there is plenty of room in the area; they just want to minimize the amount of fill used. The applicant would still need to bring a development plan to the Commission for approval. Ms. Copeland asked if it is normal to work the elevation to the manhole rim. Mr. Carter said that normally the developer would work with what is on the lot; whereas, choosing the elevation of the manhole would provide a benefit to the developer. He said that since no one else will be using this sewer line, they felt it would be appropriate for this developer to make this decision.

Ms. Roche-Phillips asked if the waiver would avoid or allow the posting of the bond. Mr. Martin said that the waiver would allow the posting of a bond for this sewer construction. He said that the LFUCG would hold the bond; and if and when necessary, it could be called.

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

Action - A motion was made by Mr. Brewer, seconded by Mr. Day, and carried 9-0 (Cravens and Penn absent) to approve PLAN 2008-137F, granting the waiver for the following reasons:

1. Granting the waiver will not negatively impact public health and safety, as construction of the sewer line and manhole will be coordinated with the construction of the child care center and development of the lot.
2. Denial of the waiver would constitute a hardship for the applicant, due to the need for significant fill in order to comply with the F.F.E requirements relative to the pre-constructed manhole elevation.

This recommendation is made subject to the following additional requirement:

a. Denote: No Certificate of Occupancy shall be issued until the sewer line extension and manhole are constructed in compliance with the Engineering Manuals and accepted by the Division of Engineering.

Note: The next two items were heard simultaneously.

b. PLAN 2009-02F: SUNNY SLOPE FARM, AREA D (3/30/09)* - located at 4050 Silver Bell Trace. (Council District 9) **(Hall - Harmon)**

The Subdivision Committee Recommended: Postponement. There were questions regarding the compliance with Article 4-5(b) of the Land Subdivision Regulations.

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. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Denote 25' setback from floodplain.
9. Document compliance with Article 4-5 (b) of the Land Subdivision Regulations.
10. Review by Technical Committee prior to certification.
11. Delete 5' tree planting easement.
12. Resolve easement conflict with building envelope as shown on the approved development plan.

i. PLAN 2009-03F: SUNNY SLOPE FARM, UNIT 3, PHASE 2 (3/30/09)* - located at Silver Bell Trace and Kellie Rose Way. (Council District 9) **(Hall - Harmon)**

The Subdivision Committee Recommended: Postponement. There were questions regarding the compliance with Article 4-5(b) of the Land Subdivision Regulations.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Document compliance with Article 4-5 (b) of the Land Subdivision Regulations.
8. Remove easements from the right-of-way.
9. Review by Technical Committee prior to certification.
10. Delete 5' tree planting easement.
11. Clarify 25' utility easement on lot 102.

Staff Presentation – Ms. Gallt oriented the Commission to the rendered plats, and used them to identify the surrounding street system. She noted that the subject properties are located south of Waveland Museum Lane, west of the railroad tracks. This subdivision is north of the Jessamine-Fayette County line.

Ms. Gallt stated that the Subdivision Committee had reviewed these two plats, and recommended postponement due to their noncompliance with the requirements of Article 4-5(b) of the Land Subdivision Regulations. She said that since the Subdivision Committee meeting, the applicant has submitted the 30% Infrastructure Report for each request; therefore, the staff is now recommending approval, of each deleting the condition requiring compliance with the Subdivision Regulations (Article 4-5(b)) and leaving all other conditions intact.

Planning Commission Questions – Mr. Vaughn asked for clarification to condition number 9 (PLAN 2009-02F) and condition number 7 (PLAN 2009-03F). Ms. Gallt said that Article 4-5 (b) of the Land Subdivision Regulations requires the applicant to submit a 30% Infrastructure Completion Report to the Commission. She said that since these reports were not submitted to the staff prior to the Subdivision Committee meeting, this resulted in a recommendation for postponement.

Ms. Roche-Phillips asked for clarification to condition number 12 (PLAN 2009-02F). Ms. Gallt said that it is the staff's understanding that the building footprints have been staked on the site, and the staff wants the applicant to confirm that there is no encroachment into the existing sanitary sewer easement.

Mr. Vaughn clarified that the 30% Infrastructure Report that was submitted to the Commission documents the applicant's compliance. Ms. Gallt agreed.

Petitioner's Presentation – Kitty Hall-Harmon, Hall-Harmon Engineers, was present representing the applicant. She said that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2009-02F and PLAN 2009-03F.

Action - A motion was made by Ms. Copeland, seconded by Ms. Whitman, and carried 9-0 (Cravens and Penn absent) to approve PLAN 2009-02F, subject to the conditions listed, deleting condition number 9; and PLAN 2009-03F, subject to the conditions listed, deleting condition number 7.

j. PLAN 2008-123F: PROVIDENCE PLACE, TRACT 3 (AMD.) (4/6/09)* - located at 2200 Newtown Pike. (Council District 12) **(EA Partners)**

Note: The Planning Commission originally approved this plan on November 20, 2008, 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. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Revise the Scenic Resource Area limits.
10. Delete information south of dedicated Providence Parkway right-of-way.
11. Provided a waiver of the Land Subdivision Regulations is granted for street access to adjacent property to the north.
12. Certification of the preliminary Subdivision Plan for this property shall occur prior to certification of this plat.

Note: The applicant requests a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations regarding the bonding for a portion of the sanitary sewer that is not constructed.

Staff Presentation – Mr. Martin stated that the Planning Commission originally approved this plan on November 20, 2008, subject to 12 conditions, which included a waiver to the Land Subdivision Regulations. He said that the applicant is now requesting a waiver to Article 4-7(d)(1) of the Land Subdivision Regulations regarding the bonding for a portion of the sanitary sewer that is not constructed.

Mr. Martin oriented the Commission to the surrounding street system, and said that on the original approval, a waiver was granted for the stub street; and with this request, the applicant is requesting the ability to bond a portion of the sanitary sewer line that would serve Lot 5. He then said that the applicant has stated that there is a sanitary sewer easement across Providence Place that could tie into the manhole that is located in the stub street right-of-way. He noted that this manhole would have laterals that would then provide service to Lots 3 and 4.

Mr. Martin stated that the applicant would need to run an 8" lateral in excess of 150' to service Lot 5, and this poses a hardship on the applicant's behalf. He said that some of the hardship the applicant has encountered includes rock beneath the surface on the site; and since the lateral is more than 150 feet, the applicant would need to receive approval from the Kentucky Division of Water, as well.

In conclusion, Mr. Martin stated that the staff has reviewed the applicant's request, and recommends approval of the requested waiver for the following reasons:

1. Denial of the waiver would constitute a hardship for the applicant due to the site conditions posed by 1) the amount of rock under the surface, 2) the current uncertainty of the necessary depth of this sewer line, and 3) the time delay in receiving Kentucky DOW approval for this construction. Thus, approval of the waiver

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

will allow the applicant to continue developing other infrastructure improvements in a timely fashion through the winter months.

2. Granting the waiver will not negatively impact public safety, as the completion of public improvements for Lot 5 will be coordinated with the street construction and development of the adjacent lots following the approval of a final development plan. In addition, the posting of a bond for the full amount of this construction will ensure that the sewer will be built should the Planning Commission determine it necessary to serve the future ED development in this area.

This recommendation is made subject to the following additional requirement:

a. Denote: No Certificate of Occupancy for Lot 4 shall be issued until the sewer line extension and manhole are constructed in compliance with Engineering Manuals, and accepted by the Division of Engineering

Planning Commission Questions – Mr. Owens confirmed that Lot 2 would have service and Lots 3 and 4 would not have service until a later time. Mr. Martin agreed and said that the applicant would need to extend the sewer line prior to the plat being signed. He then said that the proposed manhole would serve Lots 3 and 4; but as for Lot 5, the applicant would need to make that connection. The applicant would like to coordinate this task with the construction of the stub street.

Mr. Holmes asked if construction of the sewers would be waived up to the stub street. Mr. Martin replied that the staff's understands that to be true. Mr. Holmes then asked if the reason the sewers are not being extended is due to underlying rock. Mr. Martin said that that is just one of the applicant's justifications. He then said that the sewer line would eventually be extended; but as for now, the applicant would like to postpone that extension to allow the plat to be recorded.

Mr. Vaughn asked if condition number 11 is an additional waiver. Mr. Martin said that the Planning Commission had already granted that waiver at the November 20, 2008 meeting; therefore, that condition could be deleted.

Petitioner's Presentation – Rory Kahly, EA Partners, was present representing the applicant. He said that the applicant is in agreement with the staff's recommendations. He noted that when this plan was first filed, there were only two lots proposed, and a public street was not anticipated. He said that there is a manhole planned to serve these two; but after weeks of negotiating, the end result was a public street with three buildable lots were approved with an open space lot. He then said that if they had researched the construction documents they would have known that the existing sanitary sewer easement across Providence Parkway did not have a line serving Lot 5. They believed that the line would have been through the stub street, which would then connect to Lot 5. He said that there is an existing sewer easement existing under the future right-of-way, and Lots 3 and 4 will connect to this line. He then said that they are now requesting approval for a waiver to delay construction of the sanitary sewer until the time the street is constructed.

Action - A motion was made by Mr. Day, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to approve PLAN 2008-123F, subject for the reasons provided by staff, and subject to the listed conditions, deleting condition number 11, and granting the waiver for the following reasons:

1. Denial of the waiver would constitute a hardship for the applicant due to the site conditions posed by 1) the amount of rock under the surface, 2) the current uncertainty of the necessary depth of this sewer line, and 3) the time delay in receiving Kentucky DOW approval for this construction. Thus, approval of the waiver will allow the applicant to continue developing other infrastructure improvements in a timely fashion through the winter months.
2. Granting the waivers will not negatively impact public safety, as the completion of public improvements for lot 5 will be coordinated with the street construction and development of the adjacent lots following the approval of a final development plan. In addition, the posting of a bond for the full amount of this construction will ensure that the sewer will be built should the Planning Commission determine it necessary to serve the future ED development in this area.

This recommendation is made subject to the following additional requirement:

a. Denote: No Certificate of Occupancy for Lot 4 shall be issued until the sewer line extension and manhole are constructed in compliance with Engineering Manuals, and accepted by the Division of Engineering

3. Development Plans

a. DP 2009-01: LANSDOWNE SHOPPING CENTER (AMD.) (3/5/09)* - located at 3319-3369 Tates Creek Road. (Council District 4) **(Foster – Roland)**

Note: The purpose of this amendment is to add 1,284 square feet of buildable area.

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

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Addressing Office's approval of street names and addresses.
9. Correct plan status and plan title.
10. Add dimensions to buildings and parking spaces.
11. Correct Planning Commission certification.
12. Correct notes # 5 & 6.
13. Correct and clarify building square footage.
14. Clarify parking statistics.
15. Correct tree canopy calculations.
16. Denote existing easements.

Staff Presentation – Mr. Sallee presented the revised amended final development plan for Lansdowne Shopping Center, which is located at 3319-3369 Tates Creek Road, as well as the revised recommendation on this plan proposed by the staff. He said that the shopping center is located on Tates Creek Road, north of New Circle Road. He noted that the propose change to the development plan is small in scope compared to the entire shopping center. The center portion of the shopping center is somewhat close to the existing BP Gas Station adjacent to Tates Creek Road. He said that the part of the change is the proposal of a 1,284 sq. ft. addition to the existing restaurant. He noted that there is an existing dry cleaners next to the restaurant with a drive through facility that will remain. He then noted that there is also an existing restaurant, and a Rite Aid Drug Store immediately to the south of the proposed addition.

Mr. Sallee stated that the Subdivision Committee had recommended approval of this plan, subject to the conditions listed on the agenda. He said that even though the Committee had recommended approval, there was a lengthy discussion concerning the proposed addition and the location of the pedestrian sidewalk in front of it. He presented aerial photographs of the subject property, and oriented the Commissioner's to the surrounding streets and layout of the property. He then said that the Committee did have a concern with the distance between the parking lot and the building. In speaking with the Bike & Pedestrian Planner, as well as the Division of Traffic Engineering, the staff has developed a set of recommendations that will best benefit this proposal, as well as the items of concern from the Subdivision Committee.

Mr. Sallee then stated that the current drive aisle in front of the addition is in excess of 24 feet in width. If the drive aisle were to be narrowed, this would allow 7.5 ft of sidewalk area in front of the new addition. He said that this change would provide a wider sidewalk than what is currently depicted on the development plan, and the staff believes that this would also fit better with the remaining sidewalk in the shopping center. He then noted that the Bike & Pedestrian Planner had stated that 7.5 feet of sidewalk is adequate for this area. He added that with this change, the curb would also need to be relocated, and Mr. Sallee illustrated this necessary change on the overhead projector.

Mr. Sallee said that the following conditions are typical signoffs from the different divisions within the LFUCG that will be required:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Solid Waste's approval of refuse collection.
8. Addressing Office's approval of street names and addresses.

He then said that the staff is requesting the following items be added, clarified or corrected:

9. Correct plan status and plan title.
10. Add dimensions to buildings and parking spaces.
11. Correct Planning Commission certification.
12. Correct notes # 5 & 6.
13. Correct and clarify building square footage.
14. Clarify parking statistics.
15. Correct tree canopy calculations.

16. Denote existing easements.

Mr. Sallee noted that condition number 17 does need to be revised, due to the plan being revised. He said that the applicant has addresses the floodplain information; therefore condition #17 should now read:

17. ~~Update floodplain information on plan and~~ Identify the addition's proposed flood elevation information.

He added that since most of the property is within the floodplain area, the applicant will need to document that the new addition is above the minimum floodplain elevation, prior to the certification of this plan.

As for recommended condition #18 (Provide a sidewalk a minimum of 7.5' in width directly in front of the proposed addition, and increase sidewalk width in front of existing canopy), Mr. Sallee said that the staff is requesting for the sidewalk directly in front of the proposed addition to be at least 7.5' in width from the building to the curb, which would also include the area in front of the existing canopy in front of the restaurant to the south. This canopy is very close to the existing parking lot currently, and the new curbing proposed should address this as well.

In conclusion, Mr. Sallee stated that the staff is recommending approval of the applicant's request, subject to the revised conditions previously mentioned.

Planning Commission Questions – Ms. Copeland clarified that the sidewalk is to be 7.5' with the possibility for more porch space. Mr. Sallee said that the staff is unaware of any porch space being proposed between the front wall and the sidewalk. He then said that the revised plan does not indicate any such additional space, and in speaking with the Bike & Pedestrian Planner, there is no expectation of outdoor seating or porches. Ms. Copeland then asked if there will be any columns or any canopy. Mr. Sallee said that there is no canopy being shown on the revised plan. He then explained that the sidewalk is recommended to have a minimum width of 7.5' from the curb to the wall of the addition. It is possible that the applicant could provide an awning in front of the addition, which is similar to the other buildings in the shopping center. He noted that if a canopy were to be provided, the applicant would need to show that on the development plan. Ms. Copeland asked if the buildable area will change. Mr. Sallee said that the buildable area is not proposed to change; it should remain 1,284 sq. ft. He said that the amount of sidewalk width from in front of the addition to the drive aisle area is being proposed to change. Ms. Copeland then asked if there will be 7.5' of sidewalk in front of Oscars. Mr. Sallee replied affirmatively, and said that when exiting the new addition, there will be a sidewalk area of 7.5' before reaching the curb to the parking lot. Ms. Copeland said that there is more workable area in an open area versus against a wall and for this area it would function more like a 6' wide sidewalk, which is minimal. Mr. Sallee agreed, and said that most pedestrian movements are not in close proximity to the wall. He then said that the staff thought by keeping the drive aisle as close to the 24' standard was important, while maximizing the remaining area available for the sidewalk.

Ms. Whitman clarified that the portion of condition number 18 that reads: "and increase sidewalk width in front of existing canopy" will be 7.5' of space. Mr. Sallee said that it will not be 7.5' in front of the existing canopy. Ms. Whitman then asked what does "increase" mean because that could be any number ranging from an inch to several feet. Referencing the diagram shown previously, Mr. Sallee explained that the existing canopy only has 1 to 2 feet from the curb to the building. He said that the idea is to have 7.5' of sidewalk extend in a straight line southward toward the canopy, which would give additional space in front of that canopy. He then said that the staff did not provide a minimum dimension due to the existing dimensions for that canopy is unknown.

Mr. Owens asked for clarification to what type of wall will be provided. Mr. Sallee said that the way the plan is shown this would allow additional enclosed seating. He said that currently there is an outdoor seating area with a low wall. Mr. Owens confirmed that the additional area is to be totally enclosed. Mr. Sallee replied affirmatively.

Petitioner's Presentation – Myke Robbins, Foster - Roland, was present representing the applicant. He said that the new addition will not be a permanent enclosed area, rather there will be roll up doors that would allow a portion of the structure to be open, if the weather permitted. He then gave several local examples of this type of patio area within the Lexington area. He then said that part of the year the patio area will be open; therefore, the pedestrians outside of the restaurant will not feel the wall. As for the width of the sidewalk, the minimum requirement is 6' and for this proposal there is now to be 7.5' of area, which is a reasonable amount of sidewalk. Mr. Robbins concluded that they are in agreement with the staff's recommendations, and requested approval of DP 2009-01.

Planning Commission Questions – Ms. Roche-Phillips said that condition number 16 is to denote the existing easements, and asked if there will be a structure built over these easements. Mr. Robbins said that there are no existing easements in this addition's area.

Staff Comments- Mr. Sallee said that this development plan was not reviewed as either a temporary or seasonal building; and this area is being shown as a full addition on the development plan. This has a direct relation to the parking area, noting that the minimum parking requirement is very close to the maximum number available on the site.

Planning Commission Questions –Mr. Holmes asked if the parking requirement is an issue, will this plan not be approved or will the size of the building be reduced. Mr. Sallee said that this could affect the size of what is permanent enclosure versus that possible for temporary outdoor seating.

Mr. Owens asked if Traffic Engineering is in agreement with the new curb near the speed bump. Mr. Sallee said that there is not a lot of distance between the canopy and the speed bump, and it was important to have the new curb extend in front of the existing canopy, given how close it is to the current curb. He then said that Traffic Engineering is listed on the recommendations and they will need to sign off on this plan. Mr. Owens said that he is concerned with how the old curb would tie into the new curb.

Ms. Copeland said that there is a dance class in the two story building and there are a number of small children coming in and out of this area. She said that she would be more comfortable with having 9.5' of sidewalk area versus 7.5.' In turn, the addition sq. ft could be reduced to meet the off-street parking requirements.

Action - A motion was made by Ms. Copeland, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to approve DP 2009-01, subject to the reasons provided by staff, Changing condition number 17 to read: "Identify the addition's proposed flood elevation information" and changing condition number 18 to read: "Provide a sidewalk a minimum of 9.5' in width directly in front of the proposed addition, and increase sidewalk width in front of existing canopy."

Note: Chairman Vaughn disqualified from considering the next item, and left the meeting. Vice-Chairman Day presided over the following item.

e. DP 2009-05: JOYCE FIELDS PROPERTY, LOT 1-A (AMD.) (3/30/09)* - located at 701 Red Mile Road. (Council District 11) **(Midwest Engineers)**

Note: The purpose of this amendment is to depict the redevelopment of lot 1-A with a new building and associated parking.

The Subdivision Committee Recommended: Referral. There were questions regarding the detention basin, the parking floor area and the extent of the development plan.

Should this plan be approved, the following requirements should be considered:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Solid Waste's approval of refuse collection.
7. Addressing Office's approval of street names and addresses.
8. Resolve detention.
9. Addition of dock dimensions.
10. Review by Technical Committee prior to certification.
11. Discuss extent of development plan.
12. Discuss parking floor area.

Staff Presentation – Mr. Taylor introduced a rendered development, and oriented the Commission to the surrounding street system. He said that the subject property is located at 701 Red Mile Road. He then said that the purpose of this amendment is to depict the redevelopment of Lot 1-A to include a new 58,000 sq. ft. building, including a warehouse space and the associated off-street parking spaces. He noted that the applicant is proposing 99 parking spaces, which is over the required minimum amount.

Mr. Taylor stated that the Subdivision Committee recommended referral of the applicants request due to questions regarding the extent of the development plan (condition number 11) and about the proposed parking floor area (condition number 12). He said that since the Subdivision Committee meeting, the applicant has submitted a revised plan that shows the detention basin, the correct number of parking spaces and the overall development of the area.

In conclusion, Mr. Taylor said that, with the applicant's recent revision, the staff is now recommending approval, subject to all the conditions listed on the agenda.

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

Petitioner's Presentation – Andy Holmes, Midwest Engineering, was present representing the applicant. He said that they had met with the staff to discuss the issues presented at the Subdivision Committee meeting, and they had also submitted a revised plan showing the changes that were made. He then said that they had met with Engineering; and they had indicated that both the graphical location of the basin, as well as note number 10 that referenced the mitigation of the additional impervious area was to their satisfaction. He concluded that they are in agreement with the staff's recommendations, and requested approval of DP 2009-05.

Staff Comments – Mr. Taylor clarified that condition numbers 11 and 12 have been resolved; therefore, they could be deleted from these listed on the agenda.

Action - A motion was made by Ms. Richardson, seconded by Ms. Whitman, and carried 8-0 (Cravens and Penn absent; Vaughn disqualified) to approve DP 2009-05, for the reasons provided by staff and subject to the listed conditions, deleting condition numbers 11 and 12.

Note: Chairman Vaughn returned to the meeting at this time.

D. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 9-0 (Cravens and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated January 15, 2009, from Ron St. Clair, Division of Engineering.

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

A. ELECTION OF OFFICERS – The Commission's By-laws state that at the first regular meeting in January, the Commission shall elect a Chairperson, Vice-Chairperson, Secretary, and Parliamentarian. The nominating committee will present its slate for consideration by the Planning Commission. Nominations may also be made from the floor.

The current officers are as follows:

Chairperson	-	Randall Vaughn
Vice Chairperson	-	Neill Day
Secretary	-	Frank Penn
Parliamentarian	-	Mike Cravens

Planning Commission Comments – Ms. Roche-Phillips stated that the nominating committee recommended the following slate of Planning Commission Officers for 2009, which involves no change from last year:

2009 Officer Slate:

Chairperson	-	Randall Vaughn
Vice Chairperson	-	Neill Day
Secretary	-	Frank Penn
Parliamentarian	-	Mike Cravens

Other Nominations – There were no other nominations from the floor.

Action - A motion was made by Mr. Owens, seconded by Ms. Richardson and carried 9-0 (Cravens and Penn absent) to approve the Planning Commission's Slate of officers, as presented.

Mr. Vaughn thanked the Commission, and said that he looked forward to continuing to serve as Chair on the Planning Commission.

B. DELEGATION OF SECRETARY'S DUTIES – The Commission's past procedure for carrying out the Secretary's duties, except for signing minutes, has been to delegate that authority to the Director of the Division of Planning and his staff. The Chair will request the Commission consider taking action on this matter.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Richardson and carried 9-0 (Cravens and Penn absent) to delegate the Secretary's duties to the Director of the Division of Planning and his staff.

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

A. UPCOMING WORK SESSION – Mr. King reminded the Commission members of the upcoming work session on January 22, 2009. He said that originally the staff had planned a joint meeting between the Urban County Council Planning Committee and the Planning Commission on January 22, 2009; however, Council Member Gorton had requested that this meeting be rescheduled for Thursday, February 19, 2009, beginning at 11:30 a.m. The Commission's scheduled Work Session will commence after that meeting, at 1:30 p.m.

B. **APA AUDIO CONFERENCE** - Ms. Rackers said that there will be an APA audio-conference in the Division of Planning Conference Room on Wednesday, January 21, 2009, beginning at 4:00 p.m. The title of this conference is "Infrastructure, CIP and Alternative Transportation" and will count toward training credit for the Planning Commission members, as well as staff. She said that if any Commissioners would like to attend this course to contact her by Tuesday, January 20, 2009.

Mr. Vaughn asked if the Commissioners were current with their continuing education credit. Mr. Sallee said that everyone had completed their requirements for the period ending with 2008; but as for the 2009 - 2010 periods, no one has earned credit.

Ms. Copeland requested that the staff send a reminder the Commissions regarding the APA audio conference, which would allow them to respond as to whether or not they will attend.

C. **CLOSING COMMENTS** – Ms. Roche-Phillips confirmed that the joint Planning Committee/Planning Commission meeting will start at 11:30 a.m. Mr. King replied affirmatively, and said that refreshments will be served during the meeting. The regular monthly work session will begin afterwards. Mr. Vaughn said that he understands that the Planning Commission members give a considerable amount of their time. Having this joint meeting on the same day as the work session should help to consolidate their time. He then said that in speaking with Council Member Gorton, they believe that this meeting will be productive.

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

VIII. **NEXT MEETING DATES -**

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... January 22, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... January 28, 2009
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.................................. **January 29, 2009**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... February 5, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... February 5, 2009
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **February 12, 2009**

X. **ADJOURNMENT**- There being no further business, a motion was made by Ms. Whitman, seconded by Ms. Richardson, and carried 9-0 (Cravens and Penn absent) to adjourn the meeting at 2:45 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

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

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