

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

March 12, 2009

- I. **CALL TO ORDER** - The meeting was called to order at 1:34 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Randall Vaughn Chair; Neill Day; Ed Holmes; Frank Penn; Lynn Roche-Phillips; Marie Copeland; Mike Owens; Joan Whitman (arrived at 2:10 p.m.); Mike Cravens and Patrick Brewer. Carolyn Richardson was absent.

Planning Staff Present – Chris King, Director; Bill Sallee, Barbara Rackers, Tom Martin, Cheryl Gallt and Denice Bullock. Other staff members in attendance were: Chuck Saylor, Division of Engineering; Bob Carpenter, Division of Building Inspection; Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire & Emergency Services; and Bettie Kerr, Director and Amelia Armstrong, Division of Historic Preservation.

- II. **APPROVAL OF MINUTES** – A motion was made by Mr. Day, seconded by Mr. Owens and carried 9-0 (Whitman and Richardson absent) to approve the minutes of February 12, 2009.

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

- a. DP 2009-17: WHITE TOWERS (LIMESTONE SQUARE, LLC PROPERTIES) (AMD.) (5/26/09)* - located at 119 Transcript Avenue. (Council District 3) **(Sherman/Carter/Barnhart)**

Representation – Mark McCain, Sherman/Carter/Barnhart, was present representing the applicant, and requested postponement of DP 2009-17 to the April 9, 2009, Planning Commission meeting.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Penn, and carried 9-0 (Whitman and Richardson absent) to postpone DP 2009-17 to the April 9, 2009, Planning Commission meeting.

- b. PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (3/12/09)* - 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 April 9, 2009, Planning Commission meeting.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request for postponement. There was no response.

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

- c. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (3/12/09)* - 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 April 9, 2009, Planning Commission meeting.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request for postponement. There was no response.

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

Note: The next two items were heard simultaneously.

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

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

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

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2007-239F and PLAN 2007-241F to the April 9, 2009, Planning Commission meeting.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action — A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 9-0 (Whitman and Richardson absent) to postpone of PLAN 2007-239F and PLAN 2007-241F to the April 9, 2009, Planning Commission meeting.

- e. DP 2009-13: BROOKHAVEN PLAZA, LOTS 1, 2 & 4 (AMD.) (5/14/09)* - located at 2467 Nicholasville Road.
(Council District 10) **(Eagle Engineering)**

Citizen Comment – Steven Wilson was present representing the property owner for Lot 4. He said that that in speaking with Mr. Taylor before today's meeting, and he was informed that the applicant had submitted a letter to the staff, requesting postponement of DP 2009-13 to the April 9, 2009, Planning Commission meeting. He then said that it was his understanding that this item would be postponed today.

Staff Comments – Mr. Martin agreed, and said that the staff had received an email correspondence from the applicant, requesting postponement of DP 2009-13 to the April 9, 2009 meeting.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Copeland, seconded by Mr. Penn, and carried 9-0 (Whitman and Richardson absent) to postpone DP 2009-13 to the April 9, 2009, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, March 5, 2009, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Mike Cravens, Mike Owens and Carolyn Richardson. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Saltee, Denise Bullock, Cheryl Gallt, Tom Martin, Cindy Deitz, Kenzie Gleason, Barbara Rackers and Frank Boateng, as well as 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. Saltee 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. PLAN 2009-18F: WILLOW OAK, UNIT 1-A, BLOCK A, LOT 12 (AMD.) (5/14/09)* - located at 750 Millpond Road.
(Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to subdivide one lot into two.

* - 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.
 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
 6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
 7. Addition of 25' floodplain setback.
 8. Addition of building line.
 9. Addition of easement for traffic control devices to the approval of Traffic Engineering.
 10. Addition of access easement, as necessary.
 11. Clarify applicable utility easement notes.
 12. Resolve other notes to be modified.
 13. Resolve HOA maintenance of common areas.
2. PLAN 2006-79F: CADENTOWN – BERNITHA KENDRICK PROPERTY (5/11/09)* - located at 784 Caden Lane.
(Council District 6) **(EA Partners)**

Note: The Planning Commission originally approved this plan on July 13, 2006, and reapproved it on August 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 street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester's approval of tree preservation plan.
6. Environmental Planner's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Clarify and complete site statistics.
9. Denote Liberty Road improvements, to include the sidewalks.
10. Denote proposed building lines and rear lot lines (minimum rear yard of at least 30 feet).

Note: The applicant requests a reapproval of this plan.

The Subdivision Committee Recommended: Reapproval, subject to the previous requirements.

Mr. Sallee noted that the third item listed on the Consent Agenda (DP 2009-17) was postponed earlier by the applicant; therefore, the two remaining items listed on the Consent Agenda could be considered for conditional approval by the Commission, unless there was a request for an additional item to be removed.

Commission Comments - There were none.

Audience Comments – There were none.

Action - A motion was made by Mr. Day, seconded by Mr. Holmes, and carried 10-0 (Richardson absent) to approve the items listed on the consent agenda, removing DP 2009-17 due to it being postponed earlier.

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

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda, and
- (2) the Petitioner 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.

- 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)

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

- 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. Development Plans

- a. DP 2009-14: HAMBURG PLACE OFFICE PARK, LOTS 3A & 3B (AMD.) (5/14/09)* - located at 1748 Alysheba Way. (Council District 6)
(Land Development Solutions)

Note: The purpose of this amendment is to revise building layout for lots 3A and 3B.

The Subdivision Committee Recommended: Referral to the full Commission. There were questions regarding the plan's legibility and the internal access proposed between properties.

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
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 title.
10. Clarify extent of fenced play area and label.
11. Clarify handicapped parking spaces.
12. Clarify and correct parking conflict with landscape buffer area (along rear property line).
13. Improve plan legibility.
14. Correct Planning Commission's certification.
15. Remove or clarify building envelopes.
16. Denote: No Occupancy permits shall be issued for Lot 3A until the sanitary sewer lateral and manhole are constructed according to the Engineering Manuals and accepted by the Division of Engineering (per the waiver granted by the Planning Commission on February 12, 2009).
17. Document compliance with Article 21-4(e) of the Zoning Ordinance prior to certification.
18. Resolve internal access (note #18).
19. Clarify parking per Article 8-15(n) of the Zoning Ordinance.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the amended final development plan, and oriented them to the surrounding area, noting that the subject property is located at 1748 Alysheba Way, which is within the Hamburg Place Office Park. He said that the subject site is located off of Man O' War Boulevard, and is adjacent to Pink Pigeon Parkway and Vender Way.

Mr. Martin said that the purpose of this plan is to revise the building layout for Lots 3A and 3B. He then said that the Planning Commission had previously granted a waiver for the sewer line and manhole for Lot 3A; and as part of granting that waiver, the applicant was required to file an amended development plan for this area. He oriented the Commission to the previous development plan, which is approved for a single three-story building approximately 96,000 sq. ft. with access off of Alysheba Way, as well as the associated off-street parking. He said that the applicant has revised the plan, which now proposes 2 separate lots that includes Lot 3A, with approximately 11,895 sq. ft in a single story building; and Lot 3B, with approximately 64,000 sq. ft in a 3 story building. He noted that this is an overall reduction of 22,000 sq. ft.

Mr. Martin stated that in reviewing the applicant's original submission, a number of clean up conditions were added, several of which the applicant has now addressed. He said that one of those conditions was to clarify the plan (condition number 13); and with the revised plan, it now clearly shows that there are no conflicts with the parking or handicap areas. He also noted that there was a concern with the internal access of the subject site. In reviewing the overall area, many of the lots in the vicinity do have reciprocal parking, as well as internal access agreements; however, Lot 7 is one of the lots that will not have reciprocal parking or an internal access until Lot 8 is developed. Mr. Martin stated that if the Planning Commission should approve the applicant's request, then Lot 3A will not have internal access to or reciprocal parking with Lot 3B or Lot 4. He then said that another concern of the staff was the access to the dumpster on Lot 3A; however, in speaking with the Division of Solid Waste, they are comfortable with the turnaround depicted on the revised plan.

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

In conclusion, Mr. Martin stated that the Subdivision Committee had reviewed the applicants plan, and they had recommended referral to the full Commission. He said that condition #17 is strictly to require the engineers who are overseeing this development, to pay the cost up front for the permanent file copy of the plan. He then said that the issue of the internal access has been noted with condition number 18.

Planning Commission Questions – Mr. Penn asked if condition number 15 (Remove or clarify building envelopes) has been addressed with the revised submission. Mr. Martin said that on the original submission, the line weights were thicker, which made it harder to determine where the setbacks, easements and building envelopes were located. Mr. Penn then asked if the staff is satisfied with the revised plan, to which Mr. Martin replied that they are.

Mr. Vaughn asked for clarification as to whether or not condition number 18 (Resolve internal access (note #18)) would be removed or would it remain listed. Mr. Martin said that note # 18 is already required for the majority of this area, and it requires internal access from lot to lot. He then said that the applicant does not want access leading from Lot 3A to Lot 3B on over to Lot 4; however, note number 18 does require the applicant to have that internal access to these lots. He then said that, should the Planning Commission approve this request, the note would be revised to reflect that for Lot 3B and Lot 4.

Mr. Owens said that at the Subdivision Committee meeting, there was a discussion concerning the location of the drop-off area and the possibility of a drive-through, and asked if there had been further discussion between the staff and the applicant. Mr. Martin said that the staff had met with the applicant; however, their revised plan does not depict any revisions to the drop-off area or the drive-through area, noting that what is being shown on the plan is what will be built.

Representation – James Thompson, property owner, was present. With regards to the drive-through issue, he said that every parent must park their car and bring their child to the front door and vice versa when picking their child up; therefore, there is no need for that type of drive-through access.

Planning Commission Questions – Ms. Copeland commented that she is unfamiliar with the applicant's plan, and the clarity of the plan is poor, making it not readable. She asked if there is a reason why the revised plan was not submitted earlier. Mr. Vaughn asked if the scale of the plan was too small to read, to which Ms. Copeland responded that she does not understand the layout of the daycare or the office building, noting that the rendering is unclear to her. Mr. Martin said that the rendering in front of the Commission is at the same scale as the previous submission, and apologized for not enlarging the plan. He proceeded to explain the layout of the subject site, and oriented the Commission to the rendering on the overhead, noting that the front of the building will be facing Alysheba Way, while the playground is proposed at the rear of the property.

Mr. Vaughn asked for a detailed description of the revised submission. Mr. Martin further explained the design and layout of the proposed building, and pointed out the fenced playground area near the detention area around the side of the building, and illustrated the location of the entrance and parking area.

In reviewing the revised submission, Mr. Vaughn said that with condition number 18 being added, the revised plan would need to be modified. Mr. Martin replied that the applicant would need to indicate the access point from Lot 3A to Lot 3B, as well as a proposed access point from Lot 3B to Lot 4, independently of the access from Lot 3A to Lot 3B.

Mr. Holmes asked at what point the applicant would need to show the access point. Mr. Martin said that the applicant would need to indicate the location of the access points at this time, noting that the staff is not locked in to a particular location, but rather they want it to be shown.

Mr. Penn asked if there will be reciprocal parking between the daycare and the office building. Mr. Martin replied that there will not be.

Ms. Copeland asked why there is not a desire for access between these two properties. Mr. Thomson said that they do not want access between any of the surrounding lots due to security concerns for the children. He said that if there is interconnectivity, then their staff could not secure the site properly for the safety of the parents and their children. He noted that there will be several security measures being taken for this site, and one of them is for their staff to be able to determine which cars belong there and which cars do not.

Mr. Cravens asked if the Lots 7 and 9 have connectivity. Mr. Martin replied that Lot 7 does not have access to Lot 9; but it will have access once Lot 8 is developed. Mr. Cravens then asked if these two lots were made to not have access between them. Mr. Martin said that Lot 9 was not required to show reciprocal access. He said that Lot 9 does not have an internal connection with the surrounding lots. Mr. Thomson confirmed that there are other lots in this area that do not have an internal connection to their adjacent lots.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Questions – Ms. Roche-Phillips asked: 1) why certain lots were required to have the reciprocal parking, while others were not; 2) what those land uses are; 3) when did the Planning Commission approve those development plans; and 4) were there any special exceptions with regards to reciprocal access, or was this an oversight. Mr. Martin replied that he did not know the history of this area; therefore, he could not answer those questions.

Mr. Cravens asked if access could be provided without the reciprocal parking. Mr. Martin replied affirmatively. Mr. Cravens then asked if this should be an issue to resolve. Mr. Martin replied that it should.

Mr. Penn asked if the detention pond is dry or wet. Mr. Martin said that he would need to refer the question to the applicant. Mr. Penn then asked if the fencing would be significant enough that the children would not be able to cross over into this area. Mr. Martin replied that it is sufficient. Mr. Penn said that there are some ponds that hold water longer than other ponds; and if this particular pond does hold water, then is there adequate protection between those two uses. Mr. Martin said that there are fences being proposed; and, from his understanding, the pond will not hold water. Mr. Vaughn asked if the Commission would like to hear comments from the Division of Engineering. Mr. Penn said that if the staff has an answer then he would like to hear it. Mr. Saylor, Division of Engineering, said that this pond is a dry pond and does not hold water. Mr. Penn said that this pond is fairly large, and Mr. Saylor agreed. Mr. Penn then said that the pond is about 2 acres in size. Mr. Saylor said that this detention basin covers most of this development. Mr. Penn said that at some point there could be a lot of water, to which Mr. Saylor responded that if there were a significant storm event, then yes, it could hold a lot of water.

Mr. Owens asked if the staff is requesting internal access for Lot 3B and Lot 4. Mr. Martin replied that they are. Mr. Owens then asked if the staff is comfortable with resolving this issue. Mr. Martin replied affirmatively, and said that it would be a matter of modifying note #18 on the development plan, which would then reflect the reciprocal access and parking.

Mr. Thompson clarified that their request is not to have reciprocal parking or access on Lot 3A to Lot 3B. He said that the reason for this is due to safety issues. The parents will be dropping off their children and picking them up at certain times of the day, and they do not want anyone who is not associated with the daycare, to be able to travel through their site.

Ms. Roche-Phillips asked what the prospective land use is for Lot 3B, since that land use would determine how much traffic is in this area. Mr. Thompson replied that he does not know. Warren Witt, Hamburg Place representative, was present. He said that at this time, there is no known potential use for Lot 3B. He said that there could be a future amendment to Lot 3B, but at this point it is unknown.

Mr. Owens said that it is understandable for the applicant to want to secure Lot 3A, and asked if internal access could be provided to Lot 3B if that daycare should ever be removed. He asked if a condition could be added to reflect that internal access will be provided in the case of the daycare being removed. Mr. Martin said that if an amendment is submitted to the staff, showing a different business, then internal access could be requested. He then said that if the Commission approves this plan "as is," then the internal access will not be provided. Mr. Owens asked if an amended development plan would need to be submitted if another business were to take over the building on Lot 3A. Mr. Martin replied that they would not necessarily have to do that, adding that if the proposed business were able to fit within the existing building, then the Commission would not see this development again since it is a final development plan.

Mr. Brewer asked how condition number 18 would be resolved, and Mr. Penn asked if it has or has not been resolved. Mr. Vaughn said that the Commission could determine how to resolve that condition, based upon the testimony given by the staff and the applicant. Mr. Thompson noted that this daycare will cost 3.2 million dollars to build. It will be an early education center, and they are expecting it to be here a fairly long time.

Referencing the overhead, Mr. Vaughn stated that the staff has now developed a revised condition #18, which reads: "Denote reciprocal access location from Lot 3B to Lot 4, per note 18 on the development plan."

Mr. Brewer said that the whole idea is to preserve the security of the daycare, and having reciprocal access would allow unwelcome visitors onto the site, which is not what the applicant wants. Mr. Vaughn said that the revision proposed to note #18 would reflect only Lot 3B to Lot 4. Mr. Martin said that should the Commission approve this request, there would be no access from Lot 3A to Lot 3B; however, the revised note #18 would allow access from Lot 3B to Lot 4. Mr. Brewer confirmed that this would then allow the applicant to provide the security for the site, to which Mr. Martin replied that it would.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, to approve DP 2009-14, for the reasons provided by the staff, revising condition number 18 to read: "Denote reciprocal access location from Lot 3B to Lot 4 per note 18 on the development plan."

Discussion of Motion – Ms. Roche-Phillips confirmed that there will no access from Lot 3A to Lot 3B. Mr. Cravens replied that that was true, based on his motion. Ms. Copeland said that there will be no internal access from any lots, or shared parking. Mr. Vaughn asked if those comments are consistent with the proposed motion made by Mr. Cravens. Mr. Cravens replied affirmatively.

The motion carried 9-0 (Whitman and Richardson absent).

- D. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Day, seconded by Mr. Penn, and carried 10-0 (Richardson absent) to approve the release and call of bonds as detailed in the memorandum dated March 12, 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. BOARD OF ARCHITECTURAL REVIEW APPEAL

- 1. BOAR 2009-1: JERRY LESLIE** – an appeal of the denial of a Certificate of Appropriateness to construct a second detached garage in a Single-Family Residential/Historic District Overlay (R-1C/H-1) zone, on property located at 431 Fayette Park.

Staff Presentation – Ms. Rackers stated that this appeal is being made by Jerry Leslie, owner of property at 431 Fayette Park, which is within the Fayette Park Historic District. She directed the Commission's attention to the overall area, and briefly oriented them to the surrounding street system, which includes North Broadway, West Sixth Street and West Fifth Street. Von Alley intersects with Fifth Street, Sixth Street and provides a separation between the properties along North Broadway and the properties within the Fayette Park neighborhood.

Ms. Rackers said that the appellant is appealing the decision made by the Board of Architectural Review to deny a Certificate of Appropriateness to construct a second detached garage on the property. She said that the Board had approved several changes to the property; however, they questioned the proposal for a two-car, two-story structure with guest quarters on the second level. She then said that the dimensions of the proposed garage will be 21' in height, and the width will be 22' x 28.' Ms. Rackers then directed the Commission's attention to the second exhibit, and noted the location of the existing garage. She said that this portion of the property was deeded to the appellant's property in the 70. In looking at the exhibit, the existing garage appears to be part of 435 Fayette Park, as it is located behind the garage on that property. Referencing the staff report, she noted that at the October meeting, the appellant had originally requested the following changes to the property:

1. Renovation of the structure, including a new roof; installation and replacement of the side bay roof with a copper roof and returning the front porch roof to its original slope.
2. Demolition of the one-story screened porch.
3. Construction of a two-story rear addition with a covered porch.
4. Construction of a porte cochere over the driveway.
5. Demolition and replacement (in-kind) of the one-story garage and construction of a second (two-story) garage.
6. Installation of a 5' brick wall/fence around the rear yard.
7. Installation of an ashlar limestone retaining wall and new paving in the front yard.
8. Installation of wall art on the residence.

Ms. Rackers stated that one of the requests made by the appellant was to demolish the existing garage in the rear and replace it with newer garage, as well as to construct a second two-story garage. As part of the proposal, the appellant also requested to demolish the existing screened porch on the rear of the house to build a two-story addition with a different screened porch area. At the December meeting, the Board had approved most of the appellant's request; the only item disapproved was the second garage.

Ms. Rackers then stated that the Historic Preservation staff found the second garage to be in compliance with the Design Guidelines, based upon its location and orientation. She noted that the staff had cited the following three Design Guidelines in their recommendation for approval:

- 35-4 The complexity of building form and shape should be compatible with adjacent buildings.
- 38-2 Roof deck, dormers, skylights, solar panels and communications equipment should be carefully placed to be compatible and to have the least negative impact on the exterior appearance of the site, structure, adjacent and surrounding buildings.
- 40-2 The architectural details and articulation of new construction should relate in scale, rhythm, proportion and texture to adjacent and surrounding historic buildings.

Ms. Rackers then said that there was one additional Design Guideline that was applicable in this case; and that was Guideline 19-3, which states: "New accessory structures should follow design guidelines established for new construction." The Historic Preservation staff also referenced pages 35 through 41 of the adopted Design Guidelines, which speak to new construction, including materials, scale and/or mass, as they relate to the site and the surrounding buildings.

Ms. Rackers stated that the Board did not agree with the staff's assessment, and they found the appellant's request to be inappropriate because the proposed garage was not compatible or consistent with the surrounding properties within the Fayette Park Historic District. The Board also noted that there would be a loss of green space on the property. She then said that the Board had cited the following Design Guidelines in their recommendation for disapproval:

14-4 Historic green areas and spaces of a site should be retained/maintained.

15-1 Significant historic landscape or land features should be retained/maintained.

15-3 Landscape/land features should not be visually dominant or suggest a false sense of history.

Ms. Rackers noted that the loss of green space (guideline 14-4) was applicable here and had often been cited in past disapprovals; however, the Board's decision also stemmed from the mass, scale and type of material used, as well as the orientation of the garage. She said that the appellant's property is over 200 feet deep in depth, and between the rear of the house and the location of the proposed garage there is at least 100 feet of space, which could be considered as "open space" or "green space." Referring to the site plan, she oriented the Commission to the layout of the property and pointed out the location of the existing garage, the house, the proposed location of the second garage, the screened porch and the two-story addition. She said that, depending on the location of a garage, and whether or not it was appropriate to the site, the Board has approved detached garages for much smaller lots.

Ms. Rackers stated that at the October BOAR hearing, the appellant had requested to replace the roof, raise the front porch roof and replace the metal roof with a copper roof, as well as to demolish the rear screened porch and the existing garage. She said that the Board had issues with the appellant's design for the two garages and the two-story addition, so they had requested that Mr. Leslie come back in November for a conceptual review to further discuss the details of the plan. The Board's concern was with the design of the garage and the appellant's need for two garages, but ultimately their focus was more on the type of material that would be used with the garage. She said that the appellant had suggested using brick on the garage; but the Board felt that brick would make the garage seem too massive and out of place. Ms. Rackers then stated that at the December BOAR meeting, the appellant had submitted a revised plan, which he believed resolved the Board's concerns, as well as being in compliance with the Design Guidelines; however, the Board disapproved the appellant's request for the second garage with a vote of 3 to 1, contrary to the staff's recommendations for approval. She noted that the Board's motion was due to the loss of green space and the garage being too dominating for the property.

In conclusion, Ms. Rackers said that in reviewing this case, it is hard to say whether or not the Board or the staff was correct or incorrect in their interpretation of the Design Guidelines. She said that the Board did not act arbitrarily in their decision as they did base determination of inappropriateness on specific design guidelines. Therefore, the staff recommends that the decision of the Board of Architectural Review be upheld, for the reasons provided in the staff report.

Planning Commission Questions – Mr. Holmes asked if the existing garage will be demolished. Ms. Rackers said that the one-story garage at the rear of the property will be demolished and replaced with a new garage. She noted that when the existing garage was built, it was placed over the property line onto an adjacent property.

Mr. Vaughn asked for the site plans to be shown for comparison. Ms. Rackers explained where the new garage will be located relative to the existing garage.

Historic Preservation Staff Presentation – Bettie Kerr, Director of Historic Preservation, was present. She submitted into the record the Certificate of Appropriateness Application, the applicable Board of Architectural Review minutes, Article 13 of the Zoning Ordinance (Historic Preservation section), and the Design Guidelines.

Amelia Armstrong, Historic Preservation Specialist, was present. She presented slides to the Planning Commission, and gave a brief description of each.

Slide 1- is a view of the front façade of the residence.

Slide 2 - is a view of the back yard looking toward the rear of the property.

Slide 3 - is a view of the rear of the structure.

Ms. Armstrong said that the appellant had received a permit for the removal of the existing screened porch.

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

Slide 4 - is a view of the rear yard area near the proposed location of the new garage.

Slide 5 - is a closer view of the existing garage in the rear.

Ms. Armstrong noted that the appellant's garage crosses the property line of the adjoining property near the neighboring garage at 435 Fayette Park.

Slide 6 - is a rear view of the house, looking toward Fayette Park.

Referring to the aerial photograph, Ms. Armstrong pointed out the location of the appellant's property, as well as the location of the driveway that leads to the rear of the property, where the existing garage currently sits. She then indicated the location where the proposed garage will be constructed.

Ms. Armstrong directed the Commission's attention to the following exhibits, and gave a brief description of each design.

Exhibit 1 – Garage “B” Elevations show the appellant's proposal for the replacement garage. She noted that the replacement garage dimension is 22X20, with the height at 16’.

Exhibit 2 – Garage “A” Architectural Design shows the appellant's proposal for the new garage design. She noted that the new garage dimension will be 22X28, with the height at 21’. She also noted that this design includes dormers, and there is a second level.

Exhibit 3 – Garage “A” Architectural Design illustrates the rear design of the new garage.

Exhibit 4 – Garage “A” Elevations show the left and rear elevations of the new garage.

Exhibit 5 – Garage “A” Architectural Design illustrates a second design for the appellant's proposed new garage design. She noted that this garage dimension will be 22X28, with the height at 17’. She also noted that this design does not have a second level.

Ms. Kerr added that two permits have been issued: 1) to demolish the existing garage, and 2) construction of a new garage at the rear of the property. She said that the issue at hand is whether or not it is appropriate to construct a new (second) garage behind the house at the rear of the property.

Planning Commission Questions – Mr. Penn asked if the BOAR had determined that both plans were inappropriate. Ms. Kerr replied affirmatively, and said that their action denied the construction for both plans. Mr. Penn then asked if height was an issue. Ms. Kerr said that the issue was the overall mass and volume of the garage, as well as the utilization of the property.

Mr. Holmes asked if the staff had approved both garages. Ms. Kerr said that the staff felt that the application with the dormers was more in keeping with the Design Guidelines. She said that the dormers would reduce the volume of the roof in terms of its presence. There is room to consider either proposal from the staff's interpretation of the Design Guidelines, but the proposal with the dormers was more in keeping with the Guidelines.

Ms. Roche-Phillips said that it appears that at some point the property owners of 431 Fayette Park had purchased a piece of the adjoining property at 435 Fayette Park, and asked if there is any history behind the reasoning of this land transaction. Mr. Kerr said that the staff is unaware of the history or the motivation behind that transaction. In response to a question from Ms. Roche-Phillips about timing of the transaction, Ms. Kerr replied that it took place in the late 70s or early 80s.

Mr. Vaughn asked if the staff felt the option with the dormers was more appropriate. Ms. Kerr replied affirmatively, and said that both designs were presented to the Board for consideration. Mr. Vaughn clarified that the two options presented were designs for the second garage. Ms. Kerr said that they were.

Appellant's Presentation – Jerry Leslie, property owner of 431 Fayette Park, was present. He thanked the Planning Commission for their service to the Community, and expressed his appreciation to the staff for their help during the appeal process. He gave a brief description of his background, and said that, upon graduating from the University of Kentucky, he was fortunate enough to be part of the Paris Pike project, which gave him experience and an understanding of historic landscapes, structures, and so forth; and in turn, this experience has helped him with this project. He noted that there had been a lot of work and time put into this proposal to make sure the requirements were being met.

Mr. Leslie made a presentation to the Commission, and said that at the time they had purchased the house, it did require some work to the exterior of the structure, as well as the interior, in order to be in compliance with today's code, while maintaining its historic features. When they had originally submitted their proposal to the Board of Architectural Review, they had planned several changes that included the following:

1. Renovation of the structure, including a new roof; installation and replacement of the side bay roof with a copper roof and returning the front porch roof to its original slope;
2. Demolition of the one-story screened porch;
3. Construction of a two-story rear addition with a covered porch;

4. Construction of a porte cochere over the driveway;
5. Demolition and replacement (in-kind) of the one-story garage and construction of a second (two-story) garage;
6. Installation of a 5-foot brick wall/fence around the rear yard;
7. Installation of an ashlar limestone retaining wall and new paving in the front yard; and
8. Installation of wall art on the residence.

However, in working with the staff and listening to the Board's comments, they realized the scale of the garage would not be in keeping with the Fayette Park Historic District; therefore, they had omitted the following two things:

4. Construction of a porte cochere over the driveway.
7. Installation of an ashlar limestone retaining wall and new paving in the front yard.

Mr. Leslie said that they had also reduced the originally proposed addition by 50 percent, as well as substantially reducing the scale of the garage. He noted that they were not planning to have a guest quarters in the garage, but the second level would be used for storage.

Mr. Leslie directed the Commission's attention to slide 3, and indicated the location of the proposed garage, the addition to the house, and the area where the screened porch would be built. He said that the previous property owner had built the older garage, and the reason it was built over the property line is unknown. He then said that they are planning to demolish the older garage and build a new one in its place.

Mr. Leslie said that the Board of Architectural Review was arbitrary in their decision, and it does confuse property owners when only certain properties, with less green space, are allowed to have a garage built. At this time, he pointed out the reasons for disapproving this request, and referred to the aerial photographs (slides 5 through 10) of the surrounding lots. He then said that, in comparing the following lots, the amount of green space on each of the lots varies in size:

- 435 Fayette Park - 1800 square feet
- 414 Fayette Park - 2400 square feet
- 428 Fayette Park - 2800 square feet
- 432 Fayette Park - 3200 square feet
- 434 Fayette Park - 3200 square feet
- 442 Fayette Park - 1800 square feet
- 431 Fayette Park - 3000 square feet

He noted that his property has 25 percent more green space than most of the lots within this neighborhood.

Mr. Leslie then said that, according to the findings provided by the Board, his proposal is not consistent with others in the Fayette Park neighborhood; however, when reviewing the Fayette Park area, the following properties already have garages built, and provided images of each:

- 414 Fayette Park has a 3-story, three-car garage;
- 416 Fayette Park has a 1-story, one-car garage;
- 424 Fayette Park has a 1-story, one-car garage;
- 428 Fayette Park has a 1-story, three-car garage;
- 432 Fayette Park has a 1-story, one-car garage;
- 434 Fayette Park has a 1-story, one-car garage;
- 438 Fayette Park has a 1-story, one-car garage;
- 439 Fayette Park has a 1-story, two-car garage;
- 435 Fayette Park has a 1-story, two-car garage;
- 425 Fayette Park has a 1-story, one-car garage;
- 417 Fayette Park has a 1-story, one-car garage.

Mr. Leslie said that, in looking at the Fayette Park neighborhood, the characteristics of each garage are very different from one another. He said that the roofs of the garages are either gable, hipped or flat; the rood material is either metal, asphalt shingles, or rubber; the width of the garages varies from 45 feet to 16 feet; the depth of the garages varies from 25 feet to 18 feet; the height of the garages varies from 34 feet to 11 feet, and the building material ranges from brick, vinyl siding, wood siding, hardiplank siding or concrete block. He then said that his proposal would consist of a metal hipped roof, the dimensions being 28 feet x 22 feet. The height would range between 17 feet and 19 feet, and the building material would be brick.

Mr. Leslie then stated that the staff had said there was not a lot of discussion concerning the second garage; however, at the November meeting, one Board member had asked the question, why not have one garage that would span the entire width of the property, which would give the same amount of space, rather than two garages. He said that throughout the discussion, it was determined that having two garages would be less massive, and more in scale with

the historic context of the neighborhood. He noted that in the Board's discussion, other ideas were also discussed, for example, having an attached garage or having a 2-story garage with a lift to bring the car up to the second level.

In conclusion, Mr. Leslie reviewed the garage schematics and provided a brief description. He said that this proposal does meet the following Guidelines:

- 19-3 New accessory structures should follow design guidelines established for new construction.
- 35-4 The complexity of building form and shape should be compatible with adjacent buildings.
- 38-2 Roof decks, dormers, skylights, solar panels and communications equipment should be carefully placed to be compatible and to have the least negative impact on the exterior appearance of the site, structure, adjacent and surrounding buildings.
- 40-2 The architectural details and articulation of new construction should relate in scale, rhythm, proportion and texture to adjacent and surrounding historic buildings.

He then said that the staff had recommended approval of this request. He added that there has been no negative comment from the neighbors with regards to the garage other than their opposition to making the second story a habitable space, if that was his intent. He noted that the Board was more opposed to the design of the garage rather than the idea of the garage.

Planning Commission Questions – Ms. Copeland asked if the drawing were to scale. Mr. Leslie replied affirmatively. Ms. Copeland then asked if the new addition would be 2-stories, to which Mr. Leslie replied that only part of the addition would be. Ms. Copeland asked about the brick wall, and Mr. Leslie responded that they are proposing a 5' brick wall that will match what is on the adjoining property. Ms. Copeland then asked if the wall will be 18" wide and if it will be made of concrete block. Mr. Leslie replied that they will be using brick.

Mr. Owens asked about the overall height of the house. Mr. Leslie said that the house is 3 stories, with each floor being approximately 12' in height.

Mr. Cravens asked which garage design was preferred. Mr. Leslie said that they would be agreeable with the staff's recommendations, which has the dormers (alternative #2). Mr. Cravens then asked the height of the side walls. Mr. Leslie said that it is approximately 8' from the floor to the roof joist. Mr. Cravens asked if the second level will be finished. Mr. Leslie replied that it would not be - it would be used as storage space. He said that the dormers will allow the mass to be broken up. Mr. Cravens said that it appears to him that the garage is a story and a half.

Mr. Vaughn asked for clarification to the room addition schematic. Mr. Leslie explained the location of the new addition, as well as the location of the conservatory and how they relate to the residence.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to speak in favor of this request. There was no response. He then asked if anyone in the audience wished to speak in opposition to this request.

Pat Odell, residing at 434 Fayette Park, was present, noting that her house backs up to Fifth Street. She said that there has only been one garage along West Fifth Street built after the Fayette Park Neighborhood was approved for an H-1 Overlay. She then said that Historic Preservation had approved that plan due to damage from a fallen black locust tree. She said that the reason there are different garages in this area is that they were built prior to the H-1 Overlay being approved.

Spencer Millard, residing at 440 Fayette Park, was present. He said that he had researched this area and some of the existing garages were horse stables, and were built prior to any historic standard being applied to this area.

Ilse Sofie Newberry, residing at 425 Fayette Park, was present. She said that the Fayette Park neighborhood has a north side and a south side, with a park in the center. She said that the houses on the north side of the park have the same footprint. Several of the garages that were cited are on the south side of the street face Fifth Street. She then said that living in a park setting is unique for the residents and this proposal will decrease the amount of green space. The garage and the brick wall, which will surround the property, will not only separate these lots, but it will take away from the green space. She said that one of the most important Design Guidelines is to "maintain and retain green space", and if there is too much built, it would set the stage for green space to be lost in the future. In conclusion, Ms. Newberry said that it is important to preserve the Fayette Park Historic District, and it is important to keep the park-like features. The green space should be maintained to preserve the historic nature of the area. She said that the reduction of green space will threaten the survival of this historical neighborhood.

Win Meeker, residing at 417 Fayette park, was present. She said that the neighborhood is always glad to welcome new neighbors, and it was a shock to hear of the plans for the brick wall, which the Board of Architectural Review did approve. She then said that the Fayette Park Neighborhood was the first subdivision in Lexington, and this area was completely built up by 1910. With all the different property owners ranging in age and backgrounds, no one had yet to move to this area and close themselves off from the rest of the neighborhood. She then said that everyone knows

everyone in the neighborhood and when there is a problem people are there to help out. Although this area is an urban setting, it is more like a suburban area, as it has an open feeling to it. Ms. Meeker noted that there are three properties without garages, and the properties with garages only have one garage, with the exception of a one garage that is two stories. She said that the previous owner of that garage had homing pigeons and needed the space for the birds. In conclusion, she said that in the mid 1980s, the neighborhood signed a petition for the Fayette Park Neighborhood to become a historic district, adding that H-1 Overlay only regulates the exterior of structures – not the interior. She then said that this area is zoned R-1C; and, according to Building Inspection, there cannot be any plumbing going to the second floor of a garage, because it would no longer be considered an accessory structure.

Planning Commission Questions – Mr. Penn asked if the issue is the garage only and her opposition was based upon the fact that is a second garage. Ms. Meeker replied that it was. Mr. Penn then asked if she was opposed to the garage or opposed to the size and scale of the garage. Ms. Meeker said that she feels the garage violates the Design Guidelines for the site and setting - not only for this property, but also for Sixth Street and Fayette Park as a whole. Mr. Penn asked if two garages would be all right as long as the second garage was not too big. Ms. Meeker said that she believes one garage is plenty, unless there is a compelling reason for two garages. She then said that this area is so open, it makes it easier to watch out for one another; so more open space is better, and the garage would take away a large area of open space.

Cora Carrick, residing at 440 Fayette Park, was present, and noted that she has lived in this area for many years. She then said that Fayette Park is an asset to Lexington. Visitors have consistently expressed their delight with the different styles and character of the houses. She concluded her comments with the observation that Fayette Park is a real neighborhood – unlike many newer subdivisions around the county.

Staff Rebuttal – Ms. Rackers commented that the subject site is zoned R-1C, and as an accessory uses a property owner can have up to two roomers or boarders. She said that the appellant could have guests stay in the upper level of the garage, as long as there is no plumbing and as long as there are no kitchen facilities. She added that the staff report reflected what was stated in the minutes for the Board of Architectural Review hearings with regard to guest quarters above the garage.

Appellant Rebuttal – Mr. Leslie said that he is a new resident of the Fayette Park neighborhood, and he agrees that it is important that the historical context remain as is; however, historic areas cannot stay frozen in time, and it must be allowed to be brought up to the modern standards in order to make the area and the house economically viable.

Audience Rebuttal – There was none offered.

Planning Commission Questions – Ms. Roche-Phillips asked what the minimum lot size is for the R-1C zone. Mr. Sallee said that the minimum lot size is 8,000 square feet. Ms. Roche-Phillips then asked if there is a minimum open space requirement. Mr. Sallee said that there is not an open space requirement in the standard R-1C zone; as for the Infill and Redevelopment areas, the staff would need to research those regulations. Ms. Roche-Phillips said that she would be interested in that information, as well as any information on whether or not there is any lot coverage requirement (maximum) in the R-1C zone. She also asked if there is a zone-to-zone vegetative buffer required at the rear of the properties as it abuts Sixth Street. Mr. Sallee said that Sixth Street is zoned R-2, and there is no landscape buffer required by the Zoning Ordinance to separate the R-1C from the R-2 zone.

Ms. Roche-Phillips asked in what year the Fayette Park Neighborhood became an historic district. Ms. Kerr said that this area was approved by the Commission in 1986. Ms. Roche-Phillips then asked if it is assumed that the original garage was built between 1960 and 1980. Ms. Kerr said that the original garage was already in place when this area was approved for the H-1 Overlay zone. She noted that the permits would be on file, but the staff was unaware of the date when the garage was built.

Referring to a previous question asked by Ms. Roche-Phillips, Mr. Sallee said that the Infill and Redevelopment Area does not have a minimum usable open space requirement and there is no maximum lot coverage for the R-1C zone. He then said that there is a restriction for the floor area coverage, in that lots with less than 50 feet of frontage may have 35% floor area or 2,600 buildable square feet per residence, whichever is greater. He noted that a few lots within the Fayette Park Neighborhood have more than 50 feet of frontage, and those lots are allowed a maximum 70% of floor area or buildable square feet. Ms. Roche-Phillips asked if the floor area ratio has been calculated with and without the second garage. Mr. King said that a garage is an accessory structure; therefore, it would not count against the floor area ratio. Ms. Armstrong added that, as far as Building Inspection is concerned, garages are not calculated.

Mr. Owens noted that the staff's recommendation for disapproval was based on Design Guidelines 14-4, 15-1 and 15-3, and asked for further explanation to 15-1 and 15-3. Ms. Kerr said that the disapproval of the appellant's request was by the Board of Architectural Review; the staff was in support of the appellant's request. She said that as to why the Board did not agree with the construction of the garage, the staff is not sure; but Guideline 15-1 states that the significant features or yard space within a historic district should be retained and maintained versus having alterations

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

introduced; and Guideline 15-3, refers to the landscape features, stating that they should not be physically dominant on a site. She said that the Board was likely referring to introducing a new structure in a part of the yard that has historically been open space. Mr. Owens said that the Planning staff had mentioned that one of the reasons for disapproval was that the brick on the accessory structure would not be appropriate. Ms. Kerr said that as far as the Historic Preservation staff's recommendation, the accessory structure was within the Design Guidelines. She said that the Board of Architectural Review's decision did not concur with the staff's recommendation, resulting in the appellant's request being denied. Mr. Owens asked if brick is not appropriate for an accessory structure. Ms. Rackers clarified that in the conceptual review, the Board had discussed the different types of materials and how those materials would affect the appearance with regard to its mass.

Planning Commission Discussion – Ms. Copeland provided a series of exhibits to the Commission, and said that in researching this area, she found that the Fayette Park neighborhood was approved for an H-1 Overlay zone in 1985. She then said that the small section on the appellant's property where the existing garage is located was purchased for a parking area, which then allowed the remaining area on the property to be used as a garden. She noted that this transaction occurred in 1970. Ms. Copeland said that the gardens on this property are just as important as the gardens in the historic areas in Charleston, SC. She said that she did not know why this area is being called "green space" when it is clearly a garden. She then said that for years the Fayette Park neighborhood and its gardens has been a part of the walking tours in Lexington, which is why the neighborhood is in opposition – i.e. because everyone enjoys the openness of the neighborhood. When looking at the overall area, Ms. Copeland said that this property is a flowing space in the middle of a much diversified, socially organic neighborhood. She then said that there is a range of people, who have many talents. Those people make the area work because they work together and there are no walls to close off the views with the neighborhood. They can therefore check on each other, which provides a level of security. Ms. Copeland said that she feels it would be wrong to place any type of obstacle in the center of the property, especially since the previous owner had used this area as a garden space. She then said that this is a historic garden space and it should be preserved as such. It is not just a green space; therefore, she cannot support this request.

Mr. Day clarified that the only issue is whether or not the new garage should be allowed at the back of the lot, not anything else pertaining to the property. Mr. Vaughn replied affirmatively.

Mr. Holmes said that he understands that the garden was significant, but nothing prohibits the appellant from plowing it under. He then said that in reviewing the garage and the Design Guidelines, the design of the garage fits in compliance with the overall scheme of Mr. Leslie's plan, while keeping the historic nature of the property.

Mr. Owens said that the atmosphere/environment of Fayette Park is tremendous with its park-like setting; but there is a mixture of styles of garages throughout the park, as well as a variety of materials used. He then said that the appellant's lot is somewhat unusual, in that it does have an additional piece of property, which is behind the adjoining lot. He believes that as long as the second garage is not a dominating physical structure, then he would be in favor of the appeal.

Mr. Holmes said that he would like to make a motion to approve the appellant's request. Mr. Vaughn noted that findings must be submitted to reflect that motion.

Law Department Comments – Ms. Boland said that the Commission can adopt the findings that were originally set forth by the Historic Preservation staff in their report that were based on the Design Guidelines; however, the only distinction that maybe necessary is whether or not the Commission intends to approve either alternative proposed by the appellant or if it will be restricted to one of the other designs. She said that the original findings for approval from the Historic Preservation staff stated that the garage with the dormers would be more appropriate because it broke up the mass of the roof. The Commission must make note which alternative will be approved and whether or not the dormers are significant with regards to the design.

Action - A motion was made by Mr. Holmes to approve BOAR 2009-1: JERRY LESLIE, for the reasons listed in the staff report, noting that the alternative garage design to be used, including the dormers.

Ms. Boland said that the Historic Preservation staff had originally recommended the garage with the dormers because it had broken up the mass of the garage roof. She said that if the Commission does not feel that this is significant, then the Commission could indicate which design could be approved either with or without the dormers.

Action - Mr. Holmes amended his motion and recommended that the garage with the dormers be approved, subject to the original findings provided by the staff.

The motion was seconded by Ms. Whitman.

Discussion of Motion - Mr. Vaughn said that there is a motion and a second, on the floor to approve BOAR 2009-1, adopting the findings from the Historic Preservation original staff's report, accepting the alternative design with the dormers, which would allow a visual break in the roof line and mass.

Mr. Owens said that staff report also mentions one additional guideline (19-3) is applicable. He asked if 19-3, which states "New accessory structures should follow design guidelines established for new construction," would be appropriate to add in the motion. Ms. Kerr said that Historic Preservation's staff report already has integrated Guidelines 19-3 in the recommendation.

Mr. Penn said that even though the new house addition in the rear is not the issue, if this motion passes, then the garage would be a mirror image to the back of the house. He said that this would be a continuation of what has already been approved by the Board of Architectural Review.

The motion carried 9-1 (Copeland opposed; Cravens and Brewer absent).

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

- A. APA AUDIO CONFERENCE** - Ms. Rackers said that there will be an APA audio conference on Wednesday, March 18, 2009 from 4:00 to 5:30 in the Division of Planning Conference room, 7th floor at 101 E. Vine Street. The title of this audio-conference is "Designing for Water Conservation," which will count for 1.5 hours of training toward House Bill 55. She said that if any Commissioners would like to attend this course to contact her by Tuesday, March 17, 2009.

Planning Commission Questions - Mr. Penn asked if the Planning Commission members will receive credit. Ms. Rackers replied affirmatively. Mr. Vaughn confirmed that the APA audio conference will being at 4:00 p.m that day.

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.

Chairman Vaughn asked if anyone in the audience wished to discuss items that were not heard. There was no response.

VIII. NEXT MEETING DATES -

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	March 19, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	March 25, 2009
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	March 26, 2009
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	April 2, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	April 2, 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 9, 2009

- X. ADJOURNMENT**- There being no further business, a motion was made by Mr. Day, seconded by Ms. Whitman, and carried 10-0 (Richardson absent) to adjourn the meeting at 3:42 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

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