

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

April 9, 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; Ed Holmes; Frank Penn; Lynn Roche-Phillips; Marie Copeland; Mike Owens; Joan Whitman; Mike Cravens and Patrick Brewer. Neill Day and Carolyn Richardson were absent.

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

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

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

- a. PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (4/9/09)* - 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 May 14, 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 (Day and Richardson absent) to postpone PLAN 2008-71P to the May 14, 2009, Planning Commission meeting.

- b. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (4/9/09)* - 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 May 14, 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 Ms. Whitman, and carried 9-0 (Day and Richardson absent) to postpone PLAN 2008-76F to the May 14, 2009, Planning Commission meeting.

Note: The next four items were acted on simultaneously.

- c. PLAN 2009-25F: RESERVE AT WALNUT GROVE, UNIT 1-A (6/11/09)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

- d. PLAN 2009-26F: RESERVE AT WALNUT GROVE, UNIT 1-B (6/11/09)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

- e. PLAN 2009-27F: RESERVE AT WALNUT GROVE, UNIT 1-C (6/11/09)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

- f. PLAN 2009-28F: RESERVE AT WALNUT GROVE, UNIT 1-D (6/11/09)* - located at 3820 Hatfield Lane (a portion of).
(Council District 12) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2009-25F, PLAN 2009-26F, PLAN 2009-27F and PLAN 2009-28F to the May 14, 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.

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

Action - A motion was made by Mr. Cravens, seconded by Ms. Roche-Phillips, and carried 9-0 (Day and Richardson absent) to postpone PLAN 2009-25F, PLAN 2009-26F, PLAN 2009-27F and PLAN 2009-28F to the May 14, 2009, Planning Commission meeting.

- g. DP 2009-18: RICHARDSON PROPERTIES (AMD) (6/27/09)* - located at 150 and 390 Chilesburg Road.
(Council District 6) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2009-18 to the May 14, 2009, Planning Commission meeting.

Audience Comment - Chairman Vaughn asked if anyone in the audience wished to discuss this request for postponement. John McGee, residing at 256 Hannah Todds Place, was present. He said that he had some objection to this request, and was not sure of the procedure as to how to make those objections noted. Mr. Vaughn said that the applicant had requested a postponement of this item until the May 14, 2009, at which time it will reappear on the Planning Commission agenda. He asked if this item would be heard before that meeting at the May 7, 2009, Subdivision Committee meeting. Mr. Sallee said that this item was heard at the April 2, 2009 Subdivision Committee meeting; however, should a party request a postponed item to be heard, it could be done at the next Committee meeting, especially if any revisions to that request have been made. Mr. Vaughn confirmed that there would be another opportunity to review this plan, and Mr. Sallee replied affirmatively.

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried 9-0 (Day and Richardson absent) to postpone DP 2009-18 to the May 14, 2009, Planning Commission meeting.

- h. DP 2009-26: BEAUMONT FARM, UNIT 1, SECTION 5 (AMD.) (6/22/09)* - located at 3194 Beaumont Centre Circle.
(Council District 10) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2009-26 to the May 14, 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 (Day and Richardson absent) to postpone DP 2009-26 to the May 14, 2009, Planning Commission meeting.

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

Staff Comments - Mr. Martin said that the staff had received an email correspondence from the applicant, requesting postponement of DP 2009-13 to the April 23, 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 Mr. Owens, seconded by Ms. Whitman, and carried 9-0 (Day and Richardson absent) to postpone DP 2009-13 to the April 23, 2009, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, April 2, 2009, at 8:30 a.m. The meeting was attended by Commission members: Neill Day, Mike Cravens, Mike Owens, Marie Copeland 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, Denise Bullock, Chris Taylor, Tom Martin, Traci Wade, Barbara Rackers, Jimmy Emmons and Frank Boateng, as well as Rochelle Boland, Department of Law; and Capt. Charles Bowen and Capt. Allen Case, Division of Fire & Emergency Services. 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

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- (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 noted the location of these items on the Planning Commission Meeting Agenda. He added 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 2008-26F: THE GLEN AT LOCHDALE, UNIT 1, BLOCK C, LOT 1 (AMD.) (5/18/08)*** – located at 3652 Winthrop Drive. (Council District 9) **(EA Partners)**

Note: This item was originally approved by the Planning Commission on March 13, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Building Inspection's approval of landscape buffers and required street tree information.
3. Approval of street names by e911 staff.
4. Denote: This property shall be developed in accordance with the approved final development plan.
5. Remove note number 5.
6. Resolve street trees and landscaping buffer along the frontage of Winthrop Drive at the time of the final development plan.

Note: The applicant has requested reapproval of this plan.

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

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

Note: The Planning Commission postponed this plan at its March 12, 2009, meeting. The purpose of this amendment is to increase the floor area, lot coverage and the number of hotel rooms, reduce retail square footage, add canopies and to reduce the parking.

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. 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. Addition of notes #18 and 21 from previous plan.
10. Delete note #21 and replace with note #21 from previous plan.
11. Correct note reference on 119 Gazette parking lots.
12. Clarify correct building dimensions.
13. Review by Technical Committee prior to plan certification.

3. **DP 2009-23: ANGLIANA SUBDIVISION & A.G. MCGREGOR SUBDIVISION (AMD) (6/11/09)*** - located at 520, 534, 544 and 537 Angliana Avenue. (Council District 2) **(Brandstetter Carroll, Inc.)**

Note: The purpose of this amendment is to increase the pool and clubhouse areas, and to add a maintenance building.

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.

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7. Addressing Office's approval of street names and addresses.
8. Correct Planning Commission's certification.
9. Addition of building dimensions for the clubhouse.
10. Revise floor area information for the clubhouse.
11. Remove note #4.

4. DP 2009-24: MARSHALL PROPERTY, UNIT 2 (AMD) (6/11/09)* - located at 3000 Leestown Road.
(Council District 2) **(EA Partners)**

Note: The purpose of this amendment is to revise the townhouse buildings and layout.

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 Solid Waste's approval of refuse collection.
 6. Addressing Office's approval of street names and addresses.
 7. Correct address in title block.
 8. Submit revised landscaping plan per note #11.
 9. Document minimum open space requirements on lots with attached garages.
 10. Revise note #13 to include "provided Article 8-10(o)(1) of the Zoning Ordinance is met."
 11. Provide typical townhouse unit details.
 12. Document compliance with R-1T lot and yard requirements.
 13. Addition of adjoining property information.
 14. Clarify the need for building envelopes.
 15. Clarify the sidewalks necessary to serve the townhomes from the public right-of-way.
5. ZDP 2007-111: THE GLEN AT LOCHDALE, UNIT 4 (AMD.) (5/18/08)* - located at 3600 and 3652 Winthrop Drive.
(EA Partners)

Note: The Planning Commission indefinitely postponed this plan at its September 27, 2007, meeting, pending the zoning decision by the Urban County Council. The Urban County Council approved the zone change request at its December 4, 2007, meeting. The Planning Commission approved this plan on March 13, 2008, subject to the following conditions:

1. Provided the Urban County Council rezones the property B-1; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
3. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
4. Building Inspection's approval of landscaping.
5. Urban Forester's approval of tree inventory map.
6. Denote: There shall be no development of the property until the Planning Commission approves a final development plan.
7. Addition of building dimensions.
8. Addition of zone-to-zone screening.
9. Resolve connection to R-4 property to the east at the time of the final development plan.
10. Provide notification to the adjacent property owners to the east.

Note: The applicant has requested reapproval of this plan.

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

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.

Commission Comments - There were none.

Audience Comments - There were none.

Action - A motion was made by Mr. Holmes, seconded by Ms. Whitman, and carried 9-0 (Day and Richardson 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:

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

1. Final Subdivision Plans

Note: The next two items were heard simultaneously.

- a. PLAN 2007-239F: GESS PROPERTY, UNIT 6-A (4/9/09)* - located on William Way (a portion of).
(Council District 7) **(EA Partners)**

Note: The Planning Commission postponed this plan at its January 8, 2009; February 12, 2009, and March 12, 2009 meetings. This item was originally approved by the Planning Commission on December 13, 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 landscape buffering and required street tree information.
4. Approval of street addressing by e911 staff.
5. Greenspace Planner's approval of the treatment of greenways and greenspace.
6. United States Postal Service (USPS) approval of mailbox locations.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Correct cul-de-sac and "F-F" street cross-sections.
10. Addition of required exaction information.
11. Label and indicate purpose of homeowners' association.
12. Addition of homeowners' association maintenance note.
13. Addition of adjoining property information (Units 4-G, 4-E and 5-A).
14. Applicant shall document either evidence of a Section 404 Water Quality Permit and relief from the Corps of Engineers "Cease and Desist" Order for this Unit or sufficient evidence that this Unit does not require a Section 404 Water Quality Permit, prior to certification.

Note: The applicant has requested reapproval of this plan.

The Subdivision Committee Recommended: Postponement at the applicant's request.

- b. PLAN 2007-241F: GESS PROPERTY, UNIT 6-C (4/9/09)* - located on William Way (a portion of).
(Council District 7) **(EA Partners)**

Note: The Planning Commission postponed this plan at its January 8, 2009; February 12, 2009, and March 12, 2009 meetings. This item was originally approved by the Planning Commission on December 13, 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 landscape buffering and required street tree information.
4. Approval of street addressing by e911 staff.
5. United States Postal Service (USPS) approval of mailbox locations.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Denote: This property shall be developed in accordance with the approved final development plan.
8. Correct street cross-sections.
9. Addition of required exaction information.

Note: The applicant has requested reapproval of this plan.

The Subdivision Committee Recommended: Postponement at the applicant's request.

Staff Presentation – Mr. Taylor directed the Commission's attention to these final subdivision plans, and oriented them to the surrounding areas, noting that the subject property is located on a portion of William Way, which is off Todds Road and Hayes Boulevard toward Jouett Creek. He said that Unit 6-A is only partially recorded; Unit 6-B is completely recorded; and Unit 6-C is partially recorded as well, noting that these areas have not been certified, and are the items being requested today for reapproval. Mr. Taylor said that the Subdivision Committee had reviewed the

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applicant's request and, at the request of the applicant, they recommended postponement. He said that the Planning Commission had originally approved these plans, subject to the conditions listed on the agenda. Referring to Unit 6-A, he said that the staff has received confirmation of a permit being approved by the Army Corps of Engineers. He noted that the permit information packet was previously submitted to the Commission for review.

Planning Commission Questions - Mr. Penn asked if the permit submitted from the Army Corps of Engineers releases the applicant. Mr. Taylor replied affirmatively, and said that the letter would resolve condition number 14 for Unit 6-A. Mr. Penn then asked if condition number 14 could be deleted. Mr. Taylor said that that condition could be deleted or it could remain listed on the recommendation. He said that the letter from the Army Corps of Engineers meets condition number 14.

Ms. Copeland asked for an explanation to the following sentence found in the Army Corps of Engineers letter: "This letter is to inform you that the issuance of this permit resolves the violation associated with this project and you are authorized to commence filling waters of the United States per the approved plan." Mr. Taylor said that this would be related to the grading and construction of roads. He said that the letter corresponds to the violations on the site and the "Cease and Desist" Order that was previously issued for Unit 6-A. Ms. Copeland asked if there are wetlands on the site, to which Mr. Taylor replied affirmatively.

Representation – Rory Kahly, EA Partners, along with Howard Cruse, Ball Homes, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2007-239F and PLAN 2007-241F.

Planning Commission Questions – Mr. Penn congratulated the applicant on getting the permit and asked who will be overseeing the mitigation of this area, if it is needed. Mr. Cruse said that the Army Corps of Engineers has approved an Improvement Plan that outlines any improvements that will be made to any area within United States waters, as defined by the Army Corps of Engineers. He said that the improvements are listed on the report, which was previously submitted to the Division of Engineering. He then said that they will notify the Army Corps of Engineers 5 days prior to any activity starting; and if they (Army Corps of Engineers) chose to, they could monitor that activity. Under the permit, the applicant is required to submit a yearly report to the Army Corps of Engineers, outlining what has taken place and to monitor the success of the mitigation measures that have been taken. He said that these reports will continue for 5 years after the mitigation has been completed.

Mr. Penn asked if Red Wing will help with the reporting of this area. Mr. Cruse replied that they will. Mr. Penn asked if the City will have any involvement. Mr. Cruse said that, to his knowledge, they would not; but the City could participate in the monitoring, if desired. He then said that the federal government has the primary responsibility; but if other government agencies wanted to get involved, they could demand a higher requirement. If that should happen, then that agency would have the responsibility for what the federal government does not oversee.

Mr. Vaughn asked for a brief explanation as to the identity of Red Wing is for the newer Commission members. Mr. Cruse said that Red Wing is an environmental consultant who is providing assistance to the applicant. He then said that Red Wing has a wide range of experts on staff that has provided support and knowledge in this field on several occasions.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request. Mr. John Tucker, who owns property on Chilesburg Road, was present. He asked the following questions of Mr. Cruse: He asked how long this development has been going on, how many acres are proposed for this permit, and how many acres drain into the retention pond. In response, Mr. Cruse said that the development was begun in the late 90s; there are 500 acres on the Gess farm; and he did not know how many acres drain to the retention pond.

Mr. Tucker said that according to the USGS, it is approximately 590 acres, and the permit allows 400 acres. He also asked if there is more land to be developed on the Gess property, if the Gess Property is included in the Expansion Area, and if there will be any more land added to the existing development. In response, Mr. Cruse said that the additional land to be developed is outside the Expansion Area. The land being developed now as part of the Gess Property is inside the Expansion Area; and Mr. Gess still owns the remainder of the farm.

Mr. Tucker said that in reviewing the Division of Engineering's Procedures Manual for Infrastructure Development, on page 17, number 13, it reads: *KRS 151.320 requires the LFUCG to concurrently enforce, along with the Kentucky Natural Resources and Environmental Protection Cabinet, state regulations related to construction along or in streams. The United States Code of Federal Regulations Title 44 Section 60.3 requires the LFUCG to assure that all state and federal permits have been obtained. Therefore, the Engineer shall obtain the following permits and submit them to the Division of Engineering before construction of the permitted item begins:*

- Kentucky Division of Water 401 Water Quality Certification
- Kentucky Division of Water Dam Construction Permit
- Kentucky Division of Water Floodplain Construction Permit

- *Kentucky Division of Water Stormwater Permit for Construction Activities (or evidence of submittal of the Notice of Intent to the Kentucky Division of Water)*
- *Federal 404 permit for construction in streams*

Mr. Tucker said that he is glad the applicant has obtained the 404 permit, but it is eight years too late. He said that the Planning Commission has approved plan after plan without the required 404 Permit. For him this is an admission of guilt on the part of the applicant that they have operated without the permit, and the Planning Commission has participated in this. He said that, under the law, engineers are to uphold the law of the Commonwealth of Kentucky, as well as local and federal laws. He then said that this is a direct violation of the Clean Water Act, which relates to the Consent Decree.

Staff Comment – Mr. Taylor directed the Commission's attention to the previously submitted permit packet, and said that, in reviewing the Water Quality Certification list of conditions, it notes that 3.46 acres of wetlands are to be filled.

Planning Commission Questions - Ms. Roche-Phillips said that it would be nice to have the local government articulate the regulations that still need to be upheld in light of the federal permit. She said that Mr. Cruse had insinuated that the federal permit will absolve the property from any local regulations. Mr. Cruse nodded in agreement. Ms. Roche-Phillips asked if there are any other regulations that the applicant will need to comply with at the local level. Mr. Newman, Division of Engineering, was present, and said that the applicant will need to implement the mitigation procedure that was submitted by the Army Corps of Engineers. He then said that the applicant may also need to obtain a construction and/or grading permit from the LFUCG, as well as coordinate with the Division(s) of Planning and Engineering for future mitigation within the greenway area.

Mr. Penn asked if there will be a permit issued for development without the 404 permit or does the 404 permit need to be in place. Mr. Newman said that the applicant will need to provide the information that states whether or not the 404 permit is required. Mr. Penn then asked if this process will be done through the Technical Committee. Mr. Newman said that this will be done prior to the Improvement Plan being submitted. Mr. Penn said that the Planning Commission has some culpability in this issue because plans were approved without the appropriate permits, and this cannot continue. He asked what level of assurance there is that the plans being approved have the proper permits in place. He said that during his entire term on the Planning Commission, they have been in direct violation. Mr. Newman said that as far as the state and federal permits, the violation would have occurred with the physical construction; for example, when a road is built across a stream, such as on the Gess property, it would be a violation. He said that it would not necessarily be approval of the planning document, but rather the physical construction. He then said that they monitor that very carefully.

Ms. Roche-Phillips said that, as the Planning Commission is concerned; they must anticipate and foresee any potential consequences on a development. She then said that if there is anything suspicious, it is the staff's responsibility to place a hold on that request prior to construction to allow for further investigation.

Action - A motion was made by Ms. Whitman, seconded by Mr. Cravens, and carried 9-0 (Day and Richardson absent) to reapprove PLAN 2007-239F, subject to the conditions listed on the agenda.

Action - A motion was made by Ms. Whitman, seconded by Mr. Penn, and carried 9-0 (Day and Richardson absent) to reapprove PLAN 2007-241F, subject to the conditions listed on the agenda.

3. Development Plans

- a. DP 2009-02: BERRY CREST, PHASE II (AMD.) (5/18/09)* - located at 2385 Huguenard Drive and 223 Pasadena Drive. (Council District 10) **(Foster – Roland)**

Note: The Planning Commission originally approved this plan on January 15, 2009, 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 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.

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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.

Note: The applicant has requested a continued discussion regarding the 24' access easement leading toward 231 Pasadena Drive.

The Subdivision Committee took no action.

The Staff Recommended: Approval, subject to the previous conditions, adding the following recommendation:

17. Certification and recordation of an easement minor plat, prior to certification of this plan.

Staff Presentation – Mr. Martin directed the Commission's attention to the final development plan for property located at 2385 Huguenard Drive and 223 Pasadena Drive. He said that this item was originally approved on January 15, 2009, subject to the conditions listed on the agenda. He then said that the applicant has requested a continued discussion regarding the access easement leading toward the adjacent property.

Mr. Martin oriented the Commission to the surrounding street system, which includes Pasadena Drive, Huguenard Drive, Regency Road and Nicholasville Road. He said that the approved zone change for this property included the existing daycare, the associated parking and the access easement leading toward the adjacent property. Subsequently, the applicant has come back requesting a new addition, which is a subject of concern by the staff. He said that at the time the original request was approved by the Planning Commission, there was a considerable amount of discussion concerning the access easement through the subject property.

Besides referring to the staff's rendering, Mr. Martin indicated the location of the proposed access easement at the rear of the Pasadena Drive properties. He said that this access easement will provide an alternative route for the traffic for future uses. He then said that a property nearer to Regency Road was approved for a zone change; and in that approval, they were required to provide a connection to the access easement leading toward the adjacent property (231 Pasadena Drive) that is currently zoned R-1C. He noted that at this time 231 Pasadena Drive does not have any pending proposals. He said that the applicant is now requesting to not provide their portion of this connection for the access easement.

Mr. Martin stated that if 231 Pasadena Drive were to come in for a zone change, the staff would likely recommend that access not be provided off of Pasadena Drive. It should only be through the access easement, which will then connect with Huguenard Drive. He then said that in order to facilitate this action, the staff has added the following condition:

17. Certification and recordation of an easement minor plat, prior to certification of this plan.

In conclusion, Mr. Martin said that this item was placed on the Subdivision Committee agenda; however, the Committee did not take action on this item.

Planning Commission Questions – Mr. Vaughn asked if the adjacent lot is currently zoned R-1C. Mr. Martin replied affirmatively, and said that the 2007 Comprehensive Plan recommends Professional Services land use for this area.

Petitioner Presentation – Steve Ruschell, attorney, was present on behalf of John Elias, the applicant. He said that his client is requesting that the Commission amend their prior approval to only provide the right-of-way and not construct the access easement (i.e. the driveway) due to the day-care facility expansion. He then said that as a private road, it will not be subject to the jurisdiction of the Planning Commission; rather, it will be a driveway among the neighbors along Pasadena Drive.

Mr. Ruschell said that the concept of providing a parallel access to Pasadena Drive is a good idea, but the question remains when and who should construct it. He then said that his client is willing to give up a valuable property right, which is the access easement across his property. He asked if this access easement needs to be constructed at this point, if so, why. He said that if the access easement is constructed at this point, it will become a road to a piece of property that may never be developed. He then said that, assuming the road is constructed, it will start to degrade over time; it will need maintenance and it will create an impervious surface, as opposed to having a grassy area, which would help facilitate a healthier environment.

Mr. Ruschell stated that, in speaking with the Planning and Traffic Engineering staff, his client proposed to provide a permanent easement on the plat for this property, with a width of 24' proposed, as well as a 5' construction easement. He said that when the adjacent property does develop, the driveway could be constructed at that time. He then said that there is no reason why this driveway should be constructed at this time since it may have to be removed in the future due to the topography of the area. The driveway needs to be designed and installed at the

same time as the property is developed to avoid any major reconstruction. He said that it would be inappropriate to construct only a portion of the driveway.

Mr. Ruschell asked what the job of the Planning Commission is; adding that the Planning Commission approves plans, and anticipates what will be developed in the area. He then said that the Planning Commission is fully carrying out the requirement for the access easement; but at this time, it would serve no purpose to require its construction. At the Subdivision Committee meeting, a staff member had stated that this is no different then when the Planning Commission requires a sanitary sewer easement to the adjoining property. Taking that example, he said that when the adjacent property begins developing, there is the ability for the next property to easily tie into the sewer line. If the sewer line were to be required now, the size of that line may not tie in properly. He then said that the appropriate time of constructing the sewer line is when the adjoining land develops.

In conclusion, Mr. Ruschell said that they have spoken with, and carefully worked with, the staff from both Planning and Traffic Engineering. He then said that his client believes that the best interest for the adjoining property would be well served if the easement were in place, which would allow them to construct the driveway at the time their property develops. He then said that they feel this is a good solution, and requested that the Planning Commission modify their prior approval.

Planning Commission Question - Mr. Penn asked should the adjoining property develop, who would pay for the 37' feet to be constructed. Mr. Ruschell said that the primary beneficiary would construct the easement, which is the adjoining property. He said that if the adjoining property does not develop, there is no reason to start the driveway, which would destroy greenspace area. Mr. Penn said that it is understood that this would be a private driveway access. Mr. Ruschell said that this is not a public road, but rather a driveway. He asked if the Commission members have visited the site; if not, he can submit pictures of the subject site.

Ms. Copeland commented that she has visited the site, and said that there is currently a privacy fence between these two properties. She asked if the previous illustration submitted by the staff was an accurate depiction of the access easement. Mr. Ruschell said that it would probably be closer to Huguenard Drive. He noted that the applicant was not present for the original approval, but he is present at this time to answer questions. John Elias (applicant) oriented the Commission to the location of the proposed access easement on his property, and said that there is an existing concrete pad that is approximately 12 feet deep that has a dumpster on it. He noted that the sides of the concrete pad are not completed. Ms. Copeland asked if the driveway is unfinished. Mr. Elias said that the concrete area extends 8 feet forward and 12 feet back from the dumpster. Ms. Copeland then asked if they want the adjacent property owner to pay for the paving of their new addition when their property develops. Mr. Ruschell said that that would be a fair conjecture. He then said that his client does not need the area behind the new addition to be paved. Their parking requirements have already been met and there is no need for him to have additional paved areas, considering that that area could be use for the children's activity.

Mr. Owens said that this item was originally approved in January, and asked why there was a change of heart with regard to providing the access easement. Mr. Ruschell said that his client was not present at the first meeting, and he was not aware that he would be required to provide the road prior to any building permit being issued. He then said that he had told his client that perhaps if the Planning Commission knows the facts of this case, they may reconsider their original approval. He noted that, in reviewing the original recommendation, it does not state that this needs to be paved; it only states that there should be an access easement. In speaking with the staff, they had said that his client would need to come back in front of the Planning Commission requesting relief, because the Commission was under the impression that this easement would be paved. He said that his client was not aware that he would be responsible for paving the access easement until later, which is why they are asking the Planning Commission to reconsider this matter.

Mr. Owens said that the road must be built prior to any building permit being issued, and asked if the applicant would be willing to bond the road until it is needed. Mr. Ruschell said that they had actually discussed that issue; and since this is a private road, it cannot be bonded. He said that when the adjacent property develops a note could be added to that plan stating there shall be no access granted to Pasadena Drive; and at that time, a portion of the access easement must be paved. He said that this is a very reasonable requirement, because it would more sensible versus constructing the access easement now. He said that his client wants to fully cooperate, but this driveway may never be needed.

Ms. Roche-Phillips asked if the submitted plat includes both lots. Mr. Ruschell said that the plat constitutes the two lots. He said that his client had acquired the corner lot for the day-care center, and then later acquired the second lot for the expansion. Ms. Roche-Phillips then asked for a brief explanation of the photographs. Mr. Ruschell presented the following photographs: 1) is a view of the subject site looking toward the privacy fence, noting that the children's play area is within the white fenced area; the dumpster area, and the parking lot; 2) is a view of the subject site looking toward the adjacent property; 3) is a view of the adjacent property and the subject site from Pasadena Drive.

Mr. Elias noted that, as part of the original requirements, a privacy fence was placed on the original property line to act as the zone-to-zone buffer.

Ms. Roche-Phillips asked if the two lots were consolidated. Mr. Elias replied affirmatively. Ms. Roche-Phillips then asked for a brief explanation to "original property line." Mr. Elias said that the privacy fence sits just inside the property line for the first lot and was placed there prior to purchasing the second lot. He then said that the second property was vacant until it was confirmed that the new addition would be built. Mr. Ruschell said that when the construction of the second lot starts, his client will need to install a new privacy fence for the zone-to-zone buffer requirements. He noted that the first lot was purchased in 2006 and the second lot was later purchased in 2007.

Referring to the staff exhibit of the access easement, Mr. Cravens said that he understands what happens when a person gets stuck with the last lot. He asked why the applicant believes the other property owners should run the access easement down just to his property, when the lots next to Regency Road have complied with the requirements. In response to a comment from Mr. Ruschell regarding the development of the lots, Ms. Copeland said that those lots are not fully developed. Mr. Cravens asked if that access easement is paved, to which Ms. Copeland said that it is not. Mr. Martin said that the Planning Commission had approved a plan that lays out that function. Mr. Cravens asked if those developments are planning to construct their portion of the access easement. Mr. Martin replied affirmatively, and said that once the connection is made, an access point will be lost from Pasadena Drive. Mr. Cravens said that this will be a driveway for those uses along Pasadena Drive, and he doesn't understand why the applicant is unwilling to complete what was required. Mr. Ruschell asked if there is blacktop on the ground along the rear of those properties. Ms. Copeland replied no. Mr. Martin said that the access easement has not been built at this time; it is only depicted on an approved plan. Mr. Cravens reiterated that he does not understand why the applicant does not want to complete the road. Mr. Ruschell said that it is unknown as to when the adjacent properties will be rezoned or even developed. He then said that the topography of this area is different from one lot to the next; and if the driveway is built at this point, there may be reconstruction of it in the future. Mr. Cravens said that he understands those concerns, but it was stated that the applicant is not willing to pay for a portion of the easement that is on his property. He then said that everyone should comply with what is being required. Mr. Ruschell said that it is just not timely at this point, and asked for suggestions on how the applicant could pay for this. Mr. Cravens said that the applicant should say that he will pay for the construction, rather than saying he won't pay for it. Mr. Ruschell said that it is possible that the applicant and the adjacent property could split the cost of the construction, if and when that property develops; however, that option would have to be discussed with his client.

Mr. Penn asked if it is his intention to say his client does not need that access because he has access off Huguenard Drive. Mr. Ruschell replied affirmatively, and said that his client understands that at some point it could be beneficial, but not right now.

Ms. Whitman said that normally there is an agreement among the property owners to maintain a driveway, and asked if this will be the case with this area. Mr. Ruschell said that that was correct. He then said that there would be a joint agreement to maintain the access through a maintenance agreement note.

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

Staff Comment – Mr. Martin clarified that the two lots are controlled by the development plan and there has been no consolidation plat for these two properties at this time.

Planning Commission Discussion – Mr. Owens said that the applicant is reluctant to build the access at this time, and asked if it could be built along with the new addition or at the time it is needed. Mr. Martin said that both options are feasible. He said that, in speaking with Traffic Engineering, the primary concern was the impact and access to Pasadena Drive. He then said that the staff often sees pieces of development come into the office and the staff feels that it would be a good compromise to have the development that needs the access to build the access at the time the property develops, especially since no access from Pasadena Drive will be recommended.

Mr. Vaughn said that this is a request to approve DP 2009-2, subject to the previously approved conditions, noting that the staff has added a 17th condition, as noted on the agenda. He then said that the Subdivision Committee took no action on this request, and asked if one of the Commissioner members serving on that Committee would like to offer any comments.

Ms. Whitman asked where it is noted in the conditions that the applicant is required to build the driveway. She said that there are conditions addressing the easement, but not the driveway. Mr. Martin said that when the Planning Commission had previously approved this plan, it had also approved the construction of the easement. He said that the Commission could add a separate condition to read: "As a matter of approving DP 2009-2, the applicant is required to construct the access easement, as shown on the plan." Ms. Whitman said that the way the conditions are written now, it is not a condition. Mr. Martin said that the applicant was required to build the access through the

previous approval. Mr. Vaughn asked if the previous approval had construction of the easement included. Mr. Martin replied affirmatively. He said that it was not seen explicitly as a separate condition, but rather a development plan item. Mr. King said that this issue was not addressed through the conditions, but as an improvement shown on the plan; it was assumed it would have to be built, which is where the confusion lies. He said that the Commission could now clarify that action by adding a separate condition or leave it as is.

Mr. Penn asked if the access easement could be built by the applicant at the time it is needed. Mr. King replied affirmatively, and said that the question would be who would enforce that issue. He then said that if the Commission agrees that the construction is to be deferred and the financial responsibilities placed upon the current property owner, not the adjacent property, it would not need to be built at this present time. However, five years from now, the question would be who would enforce that access easement to be built. He said that normally there are sureties placed on the plan; but with this being a private improvement this could not happen. Ms. Boland said that the Commission could place a note on the development plan, but this would create an enforcement issue. She said that a business cannot be shut down after the fact if the access easement is not built. She then said that unless the property owner is willing to agree with such an agreement, it would end up in litigation.

Action - A motion was made by Mr. Cravens to approve DP 2009-2, subject to the previous conditions provided by the staff, and adding the following two conditions:

17. Certification and recordation of an easement minor plat, prior to certification of this plan.
18. The property owner is required to complete the access easement with blacktop to the adjacent lot.

The motion was seconded by Mr. Owens.

Mr. Vaughn clarified that the motion on the floor is to add an 18th condition to further clarify the complete construction, which Mr. Cravens verified.

The motion carried 7-2 (Whitman and Penn opposed; Day and Richardson absent).

Note: A brief recess was declared at 2:50 p.m. and the meeting re-convened at 2:58 p.m.

D. PERFORMANCE BONDS AND LETTERS OF CREDIT

Planning Commission Questions – Mr. Penn said that in reviewing the Release and Call of bonds memorandum, it lists the sureties to be collected, and asked if this month is different from the past months, to which Mr. King said that he does not believe this month is different from any other month. He said that there are two types of requests being asked by the Division of Engineering for the public improvements for subdivisions: the first section is for the release of surety for the Leestown Office Park, in the amount of \$36,705, adding that the staff has verified that all the public work has been completed and is acceptable. The second section is the list for the Letter of Credit (LC), with the exception of CK (check in lieu of Letter of Credit). He said that the Letter of Credit has an expiration date, and the applicant is given a 6-month time frame to complete the work. During the 6-month time frame, if the work is completed, then the applicant would come before the Planning Commission requesting to be released; however, if the work is not completed within the time frame allowed, then the applicant would need to submit a new Letter of Credit for additional time. He said that that would be the situation for the majority of the plats listed. He noted that if some work has been done on an area, then the amount of the surety could be decreased. Mr. King stated that if an item were to be “called,” that allows the LFUCG to take the monies from the applicants’ account for any improvements and place it into a separate government account, which guarantees the completion of the improvement. Mr. Penn asked if the Commission is releasing or calling these bonds. Mr. King said that none of the items listed are being released; they are being called. He said that if the applicant were to show that the work is completed, they would need to come before the Planning Commission, requesting to be released.

Action - A motion was made by Mr. Penn, seconded by Ms. Roche-Phillips, and carried 9-0 (Day and Richardson absent) to approve the release and call of bonds as detailed in the memorandum dated April 9, 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. SRA 2009-1: AMEND ARTICLES 1-5 AND 4-7(d)(9)(c) FOR WAIVERS REGARDING INFILL & REDEVELOPMENT, SIDEWALKS, AND TO UPDATE THE SUBDIVISION PLAN PROCEDURE LISTING** – petition for a Subdivision Regulations text amendment to: 1) consider Infill & Redevelopment goals in the consideration of formal waiver requests; 2) allow bonding of sidewalk improvements on private streets; and 3) update the “Simplified Description of Procedure for Processing Major Subdivision Plans” contained at the conclusion of Article 4.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: (Text underlined indicates an addition to the existing Land Subdivision Regulations.)

1-5(c) INFILL & REDEVELOPMENT FACILITATION – Because of the inherent area limitations that many infill or redevelopment projects have to work in; and because of the added coordination that most infill or redevelopment projects entail; and because sometimes it is desirable to match or mimic older infrastructure designs; the Commission may modify these regulations to the extent necessary to facilitate infill or redevelopment projects, as long as the basic objectives of these regulations are still being achieved.

4-7(D)(9)(C) SURETY FOR PRIVATE STREETS

All private street improvements (excepting only the final course of asphalt and possibly the sidewalks) shall be constructed in compliance with the approved improvement plan before the final subdivision plan is recorded. For the final course of asphalt only, the developer shall be permitted to post a surety in favor of the final maintenance association responsible for the private street, and shall note such requirement on the final plat of the property. For any sidewalks not yet constructed, the developer shall be permitted, at the time of recordation of the final plat, to post a surety in favor of the final maintenance association responsible for the private street, as long as it is also in favor of the Urban County Government. This shall not be construed to hold the Urban County Government responsible for the construction of such sidewalks other than to the extent of the funds provided by the surety; and neither this, nor any action by the Urban County Government relative to the enforcement of the required construction of such sidewalks and/or the surety therefore shall be construed as acceptance of responsibility by the Urban County Government for the construction, maintenance or dedication of such sidewalks as public infrastructure.

The amount of the surety for the private street shall be 10% of the cost of the installed private street plus 100% of the cost of the final course of asphalt. The surety shall also include an additional 20% of the amounts above to provide for inflation and administrative cost, should the surety be called; and the final maintenance association must cause the work to be constructed or repaired, as appropriate. When private streets are permitted, the surety that is submitted in favor of the Urban County Government for the infrastructure shall not include an amount equal to the surety for private streets. The amount of the surety for the sidewalks shall be 100% of the cost of the construction of the sidewalks. The surety shall also include an additional 20% of the amounts above to provide for inflation and administrative cost, should the surety be called; and the final maintenance association must cause the work to be constructed or repaired, as appropriate.

Subdivision Plan Procedure (see attachment to this report).

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

The Staff Recommended: **Approval**, for the following reasons:

1. The proposed change to Article 1-5(c) is consistent with implementing the goals of the 2007 Comprehensive Plan, related to infill and redevelopment, and recognizes the inherent challenges facing many infill and redevelopment projects.
2. The proposed change to Article 4-7(d) is in conformance with current practices for private street construction and offers a solution to a problem common to most of those developments.
3. The proposed change will protect public health and safety in conformance with the intent of the Subdivision Regulations.

Staff Presentation – Mr. Martin stated that the staff has requested that the Planning Commission initiate an amendment to the Land Subdivision Regulations to better address infill project and the bonding for private sidewalks and to update the procedure for processing major plans. He directed the Commission's attention to the previously submitted staff report (SRA 2009-1), and said that this amendment would include changes to Article 1-5(c): Infill & Redevelopment Facilitation and Article 4-7(d)(9)(c): Surety for Private Streets.

Mr. Martin stated that the first requested change is to Article 1-5(c): Infill & Redevelopment Facilitation. He said that the staff proposes to add another justification for granting waivers specific to infill and redevelopment projects. He noted that there was some discussion at the Zoning Committee meeting on the word "facilitation", and said that it is at the discretion of the Commission to make any changes to the heading. He then said that the purpose of this amendment is due to the inherent difficulty for smaller lots, the existing infrastructure, the built environment and similar established physical relationships when considering development. He noted that there have been several waivers granted within the Infill and Redevelopment Area in the past few years, so it is apparent that this is an issue facing these projects.

Mr. Martin then stated that the second requested change is to Article 4-7(d)(9)(c): Surety for Private Streets. He said that the current practice only allows a surety for private streets at the time the final course of asphalt is applied. He then said that with this surety, it would be posted in favor of the Home Owners' Association (HOA), as well as the Lexington-Fayette Urban County Government (LFUCG), which would then ensure that the sidewalks would be built regardless of any change in the composition or attitude on the part of the HOA. He said that this process is already being done for public streets; and the staff felt it would help protect the private street, as well as avoid any damage to the sidewalks done by construction equipment. He noted that there are more and more waivers being requested to allow this practice, and said that this change would not imply any additional responsibility on behalf of the LFUCG; rather, it is strictly to have the ability to call that surety for the construction of the sidewalks.

In conclusion, Mr. Martin stated that the last change is to the steps involved in the "Simplified Description of Procedure for Processing Major Subdivision Plans." He directed the Commission's attention to the second handout, and said that the staff is recommending changing Step 9 to reflect the current requirement for the submittal of a progress report to the Planning Commission when 30 percent of the improvement design has been completed, per Article 4-5(b) of the Land Subdivision Regulations. He noted that this would allow the Planning Commission to review the progress of the development and address any issue(s) that may be pending. He then said that the next change would be to Step 10 to reflect that once the 30 percent report has been completed, the developer must file their Improvement Plan with the Division of Engineering, as per the current requirement of the Subdivision Regulations.

Planning Commission Comments – Mr. Penn reminded the Commission that Step 9 is a direct result from the work performed by the Ad-Hoc Committee concerning the community's stormwater issues and the Consent Decree.

Ms. Copeland asked if the 30 percent report is to come to the Planning Commission and not the Division of Engineering. Mr. Martin said that the Division of Engineering already receives preliminary information about the Improvement Plan at the 50 percent completion stage, and the Planning Commission is now to receive their report at the 30 percent completion stage. Mr. King said that the Commission could ask for the status of any required permits at that time; for example, the 404 Permit. Ms. Copeland asked if the report would go to the Technical Committee, to which Mr. Martin replied that it would not. He said that the 30 percent report is for informational purposes only. Ms. Copeland said that it seems that the Technical Committee should review these reports. Mr. Martin said that the Technical Committee will continue to review any related request; but this information would be for the Planning Commission to review.

Mr. Vaughn said that the Planning Commission will receive a one-page document stating that the applicant's 30 percent Improvement Plan is complying with the Planning Commission's approval. He said that the Commission wanted the staff to know what to require in the content of these reports, and noted that this does not require someone to have a technical background.

Mr. Vaughn said that at the Zoning Committee meeting, it was suggested to change the word "Facilitation" to "Adaptation" for Article 1-5(c).

Staff Comment – Mr. Martin said that the Subdivision Committee had recommended approval of these changes, for the reasons provided by the staff. He said that these changes are consistent with the intent of the Land Subdivision Regulations.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Penn to approve SRA 2009-1, subject to the reasons provided by the staff.

Mr. King asked if the motion included changing "1-5(c) Infill & Redevelopment Facilitation" to "1-5(c) Infill & Redevelopment Adaptation." Ms. Roche-Phillips and Mr. Penn replied affirmatively.

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

- B. CANCELLATION OF COMMISSION WORK SESSION ON APRIL 16** – The staff will request the Commission take action to formally cancel their previously scheduled work session next week on April 16, 2009. The next scheduled work session will be scheduled to be held in the Council Chambers on April 30th.

Directors Comment – Mr. King requested that the Planning Commission cancel their previously scheduled April 16th Work Session. He said that the reasons for this are due to a scheduling conflict with the consultant who is performing the Residential Housing Market Study, as well as a special event related to the East End Small Area Plan.

Action - A motion was made by Ms. Whitman, seconded by Mr. Cravens, and carried 9-0 (Day and Richardson absent) to cancel the previously scheduled April 16th Work Session.

- C. PUBLIC HEARING REQUESTED FOR CENTRAL SECTOR AND EAST END SMALL AREA PLANS** – the staff will ask the Planning Commission to amend its Official Meeting & Filing Schedule to schedule a public hearing on the afternoon of April 30, 2009, to consider both the Central Sector Small Area Plan, and the East End Small Area Plan. The first of the two hearings will begin at 1:30 p.m. in the Council Chambers at the Government Center, followed by the second public hearings, and, time permitting, the previously scheduled work session.

Directors Comment – Mr. King said that in speaking with the people who are involved with the small area plans, it seemed that the afternoon of April 30, 2009 would be a great time to hold two public hearing to amend the 2007 Comprehensive Plan, which would adopt the Central Sector and East End Small Area Plans. He then said that at these hearings, the Planning Commission will have an opportunity to hear from the consultants and the staff. If the Commission chooses to amend its Official Meeting & Filing Schedule for the afternoon of April 30, 2009, the staff could advertise these hearings to allow any public comment that may be given. He said that directly after these hearings, time permitted, the Commission could then commence with the previously scheduled work session.

Planning Commission Question – Mr. Vaughn asked if there will be a small presentation for the Small Area Plan by the consultant and staff. Mr. King replied affirmatively. Mr. Vaughn then asked if there will be a period for public comment. Mr. King said that there will be the opportunity to hear public comment. He said that the consultants would be presenting their findings to the Commission at these hearings.

Mr. Vaughn noted that these hearings would be the same week as the Kentucky Derby, and wondered if that may create a conflict for some Commission members. Mr. Penn and Mr. Owens noted that they will be present.

Action - A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 9-0 (Day and Richardson absent) to amend its Official Meeting & Filing Schedule to schedule public hearings at 1:30 on the afternoon of April 30, 2009, to consider both the Central Sector Small Area Plan, and the East End Small Area Plan.

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

- A. APA AUDIO CONFERENCE** - There will be an APA audio conference on Wednesday, April 15, 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 “Zoning for Transit Oriented Development,” which will count for 1.5 hours of training toward House Bill 55 requirements.

Director's Comment - Mr. King said that there will be an APA audio-conference in the Division of Planning Conference Room on Wednesday, April 15, 2009, beginning at 4:00 p.m. The title of this conference is “Zoning for Transit Oriented Development” and will count toward training credit for the Planning Commission members, as well as staff.

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., 2 nd Floor Council Chambers	April 16, 2009 (Cancelled)
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 23, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	April 29, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	April 30, 2009
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	May 7, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	May 7, 2009
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	May 14, 2009

- X. ADJOURNMENT**- There being no further business, a motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, and carried 9-0 (Day and Richardson absent) to adjourn the meeting at 3:19 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

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