MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

May 14, 2009

I. **CALL TO ORDER** - The meeting was called to order at 1:36 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 (arrived at 1:39 p.m.); Ed Holmes (arrived at 1:38 p.m.); Frank Penn; Lynn Roche-Phillips; Marie Copeland; Mike Owens; Joan Whitman (arrived at 1:43 p.m.); Mike Cravens; Patrick Brewer (arrived at 1:38 p.m.), and Carolyn Richardson.

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

II. **APPROVAL OF MINUTES** – Directing the Commission's attention to the March 26, 2009, Planning Commission minutes, Mr. Owens noted that on Page 11, the first paragraph reads: "*the petitioner would like to have the ability to use the church for temporary housing for convention purposes, if necessary,*" should be amended to read: "*the petitioner would like to have the ability to use the church for temporary housing for church related convention purposes, if necessary.*" Mr. Vaughn agreed that that was the intent of that discussion. He asked the Commissioner's if there are any other changes that need to be made. There was no response.

Action - A motion was made by Mr. Owens, seconded by Mr. Penn and carried 7-0 (Brewer, Day, Holmes and Whitman absent) to approve the minutes of March 12, 2009; the corrected March 26, 2009; and those of April 9, 2009; April 23, 2009, and April 30, 2009.

Note: Mr. Brewer and Mr. Holmes arrived 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.) (5/14/09)* - 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 June 11, 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. Richardson, and carried 9-0 (Day and Whitman absent) to postpone PLAN 2008-71P to the June 11, 2009, Planning Commission meeting.

Note: Mr. Day arrived at this time.

b. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (5/14/09)* - 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 June 11, 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 Ms. Roche-Phillips, and carried 10-0 (Whitman absent) to postpone PLAN 2008-76F to the June 11, 2009, Planning Commission meeting.

c. 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)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2009-27F to the June 11, 2009, Planning Commission meeting.

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

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 Ms. Richardson, and carried 10-0 (Whitman absent) to postpone PLAN 2009-27F to the June 11, 2009, Planning Commission meeting.

d. 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 indefinite postponement of DP 2009-18.

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. Roche-Phillips, seconded by Mr. Day, and carried 10-0 (Whitman absent) to indefinitely postpone DP 2009-18.

e. 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 28, 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. Day, seconded by Mr. Cravens, and carried 10-0 (Whitman absent) to postpone DP 2009-26 to the May 28, 2009, Planning Commission meeting.

Note: Ms. Whitman arrived at this time.

f. PLAN 2009-39F: RAMSEY/SULLIVAN PROPERTY, UNIT 3, SECTION 2, LOTS 33-45 (KEARNEY HALL) (AMD) (7/8/09)* - located at Meadowsweet Lane and Kittens Joy Circle. (Council District 12) **(Foster – Roland, Inc.)**

Staff Comments - Mr. Martin said that the staff had received an written request from the applicant, requesting postponement of PLAN 2009-39F to the June 11, 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 Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 11-0 to postpone PLAN 2009-39F to the June 11, 2009, Planning Commission meeting.

g. DP 2009-27: RAMSEY/SULLIVAN PROPERTY (AMD) (7/8/09)* - located at 2663 and 2671 Kearney Ridge Boulevard. (Council District 12) **(Carol Goes)**

Staff Comments - Mr. Martin said that the staff had received an written request from the applicant, from the applicant, requesting postponement of DP 2009-27 to the June 11, 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 11-0 to postpone DP 2009-27 to the June 11, 2009, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, May 7, 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 Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Denice Bullock, Chris Taylor, Tom Martin, Cheryl Gallt, Barbara Rackers, and Rob Johnson, as well as Capt. Charles Bowen and Capt. Allen Case, Division of Fire & Emergency Services. The Committee made recommendations on plans as noted.

General Notes

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

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

<u>Criteria:</u> (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.

<u>Requests can be made to remove items from the Consent Agenda:</u> (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. <u>PLAN 2008-31P: LEXINGTON HOUSING AUTHORITY – 898 GEORGETOWN ROAD</u> (7/31/09)* – located at 898 Georgetown Road. (Council District 1) **(Sherman/Carter/Barnhart)**

   <u>Note</u>: The Planning Commission originally approved this plan on March 13, 2008, subject to the following conditions:
   1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
   2. Urban County Traffic Engineer's approval of street cross-sections and access.
   3. Building Inspection's approval of landscape buffers and required street tree information.
   4. Approval of street names by e911 staff.
   5. Urban Forester's approval of tree preservation plan.
   6. Greenspace Planner's approval of the treatment of greenways and greenspace.
   7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
   8. Environmental Planner's approval of environmentally sensitive areas (sinkholes).
   9. Revise plan status and add standard notes.
   10. Addition of lot information and dimensions.
   11. Kentucky Transportation Cabinet's approval of the access to Georgetown Road right-of-way.
   12. Addition of dimensions to the cross-section "D-D" or half-section.
   13. Delete certification.
   14. Document compliance with Article 4-5(b) of the Land Subdivision Regulations.

   <u>Note</u>: The applicant requests reapproval of this plan.

   <u>The Subdivision Committee Recommended: Reapproval</u>, subject to the previous requirements.

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

   <u>Note</u>: The Planning Commission postponed this plan at its April 9, 2009, meeting.

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

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

11. Resolve access to lots from private streets, and the reduction of open space.

3. 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)**

Note: The Planning Commission postponed this plan at its April 9, 2009, meeting.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

4. 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)**

Note: The Planning Commission postponed this plan at its April 9, 2009, meeting.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Addition of exaction information.
10. Document compliance with minimum open space requirements.
11. Resolve access to lots from private streets, and the reduction of open space.

5. PLAN 2009-38F: THE DAVIS FAMILY CHILDREN'S IRREVOCABLE TRUST (RABBIT RUN) (AMD) (7/8/09)* – located at 1950 Fort Harrods Drive and 3598 Rabbit's Foot Trail. (Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to divide lot 3 into 2 lots, to provide an access easement from lot 4 to Rabbit's Forest Trail and to depict the release of the sanitary sewer easement.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Revise note #12.
10. Reference the 25' floodplain setback.
11. Denote all private utilities per Article 5-4(e) of the Land Subdivision Regulations.
12. Complete private street/easement notations.
13. Addition of building line along Ft. Harrod Drive.

6. DP 2005-45: NEWMARKET PROPERTY, PHASE 1, UNIT 6 (7/13/09)* - located off Stolen Horse Trace. (Council District 12) **(EA Partners)**

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

Note: The Planning Commission originally approved this plan on April 14, 2005, 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.
4. Urban Forester's approval of tree preservation plan.
5. Greenspace Planner's approval of treatment of greenways/bike trails.
6. Provide bearings and distances for entire property.
7. Clarify limits of plan.
8. Resolve compliance with the conditional zoning restrictions regarding trees.

Note: The applicant requests reapproval of this plan.

The Subdivision Committee Recommended: Reapproval, subject to the previous conditions, adding three new conditions:
9. Revise adjoining property information to reflect current conditions.
10. Revise note #11 to replace the words "final improvements plan" with "final record plat."
11. Addition of developer's information.

7. DP 2009-29: MAPLELEAF SUBDIVISION, UNIT 1, LOTS 1, 8 & 9 (MINOR AMD) (7/22/09)* - located at 3140 and 3150 Mapleleaf Drive. (Council District 7) **(Endris Engineering)**

Note: The purpose of this amendment is to revise the building layout and reconfigure 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 street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
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. Resolve the proposed drive-through to the approval of Traffic Engineering.

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.

Audience Comments – Chairman Vaughn asked if anyone in the audience wished to discuss one of the items listed on the Consent Agenda. Mr. Kahly, EA Partners, requested that PLAN 2009-38F be removed from the Consent Agenda to further discuss this proposal.

Planning Commission Comments – Chairman Vaughn asked if any Commission member wished to discuss one of the items listed on the Consent Agenda. Ms. Copeland requested that PLAN 2008-31P be removed from the Consent Agenda to further discuss this proposal.

Action - A motion was made by Mr. Penn, seconded by Ms. Whitman, and carried unanimously to approve the items listed on the consent agenda, removing PLAN 2008-31P and PLAN 2009-38F.

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

The procedure for consideration of these remaining plans is as follows:
- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. Preliminary Plans

a. PLAN 2008-31P: LEXINGTON HOUSING AUTHORITY – 898 GEORGETOWN ROAD (7/31/09)* – located at 898 Georgetown Road. (Council District 1) **(Sherman/Carter/Barnhart)**

Note: The Planning Commission originally approved this plan on March 13, 2008, subject to the following conditions:

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

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 buffers and required street tree information.
4. Approval of street names by e911 staff.
5. Urban Forester’s approval of tree preservation plan.
6. Greenspace Planner’s approval of the treatment of greenways and greenspace.
7. Bike and Pedestrian Planner’s approval of bike trails and pedestrian facilities.
8. Environmental Planner’s approval of environmentally sensitive areas (sinkholes).
9. Revise plan status and add standard notes.
10. Addition of lot information and dimensions.
11. Kentucky Transportation Cabinet’s approval of the access to Georgetown Road right-of-way.
12. Addition of dimensions to the cross-section “D-D” or half-section.
13. Delete certification.
14. Document compliance with Article 4-5(b) of the Land Subdivision Regulations.

Note: The applicant requests reapproval of this plan.

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

Staff Presentation – Mr. Martin directed the Commission’s attention to the rendered preliminary subdivision plan, and noted that the subject property is located at 898 Georgetown Road, which is just south of New Circle Road. He said that the subject property is at the intersection of Keller Court and Georgetown Road, and it is directly across from the Community Action Center, as well as being adjacent to Douglas Park, which is at the rear of the property. He said that the subject property is approximately 3.2 gross acre and 2.2 net acres.

Mr. Martin oriented the Commission to the overall layout of the subject property, noting the loop street into the property and the 17 lots to be developed east of Georgetown Road. He said that the applicant is providing several amenities on the site to include a pedestrian connection to Douglas Park, as well as greenspace area at the end of the street. This plan also is providing permeable pavers at the rear of the property, and a rain garden in the center of the looped street. He then said that this site is owned by the Lexington-Fayette Urban County Government, and being developed by the Lexington Housing Authority with the intent to provide single family homes through the use of non profit organizations.

In conclusion, Mr. Martin said that the Planning Commission had approved this item on March 13, 2008, subject to the 14 conditions listed on the agenda, and since that time the applicant has met some of those conditions, as reflected on the new submittal. He then said that the Subdivision Committee recommended reapproval of this item plan, subject to the same conditions as previously mentioned.

Planning Commission Question – Ms. Copeland requested that the 2007 Comprehensive Plan be shown to the Commission. A copy of the summary map was placed on the overhead. She said that it is important to see how this site relates to the downtown district, as well as to the proposed Lexington Community College campus. She then said that the subject site is approximately 1.75 miles from the Court House Plaza and 1 mile from the new campus. Mr. Martin replied affirmatively. Ms. Copeland asked Mr. Martin, from a planner’s perspective, are these considered walkable distances. Mr. Martin replied affirmatively, and noted that the community’s attitudes and planners’ attitudes are sometimes not compatible in terms of what is “walkable.”

Petitioner’s Presentation – Mark McCain, Sherman/Carter/Barnhart, was present representing the applicant. He said that when the plan for this property first came about, there were several community meetings between the members of the neighborhood, the design team and the Lexington Housing Authority, as well as with potential home builders. In that process, several schematics were reviewed, but ultimately the design that was chosen is the design that was submitted to the Planning Commission. He then said that while these lots may seem larger than many, the depths of the lots are still only 80’ on one side, 90’ on the other, with the driveway being located on the side of the house versus having the garage in the front of the house.

Mr. McCain noted that this project is planned for nonprofit housing providers, and the amenities being provided include a one-way public street system that will be the first dedicated to the city; there will be pervious pavers at the rear of the street, as well as a rain garden to help with the water quality issue, as well as an educational component per the Consent Decree.

Planning Commission Questions – Ms. Roche-Philips commented that she had not reviewed this request, as she is not a member of the Subdivision Committee, and asked if there will be pervious pavers throughout the entire site, or just on a portion of it. She also asked for a brief explanation on the rain garden. Mr. McCain directed the Commission’s attention to the rendered preliminary subdivision plan, and illustrated the location of the proposed pervious pavers and the rain garden area. He explained that as the water travels through the site, it will flow into the rain garden on down to pervious pavers at the rear of the property, at which time, the water will then percolate through the pervious pavers into an underground basin. He noted that the rain garden area will have a bridge that crosses over the middle. They believe that this will become a community space for the area, as well as help promote educational outreach for water quality and volume.

Ms. Roche-Phillips then asked for an explanation to the rear lot on the preliminary subdivision plan. Mr. McCain said that this will be an open greenway leading into Douglas Park. He noted that there will also be a sidewalk system connecting this subdivision to the park.

Mr. Holmes asked what the average lot size for this project is. Mr. McCain said that the lots will have a 60' width, with a range between 80' to 90' in depth. He said that the buildable area has a depth ranging between 45' to 50,' with the width at 45.' Mr. Holmes then asked what the zoning classification for this area is. Mr. Martin replied that the zone is Planned Neighborhood Residential (R-3).

Mr. Cravens asked if the pervious pavers and the basin will omit the usual need for concrete pipes and catch basins. Mr. McCain replied affirmatively, and said that it also eliminates the need for a detention basin. He then said that by not having a detention basin, this could leave enough room to place another house on the site. This type of basin design has been used in the Bluegrass Aspendale area, noting that the City of Versailles is also approving this design. He said that it seems to be very durable and this type of design is very exciting for water quality.

Ms. Copeland asked how many homes will be built on the site. Mr. McCain said that there will be 16 homes. Ms. Copeland then asked if part of the reason there are huge lots is due to the vehicles being parked on the side of the house. Mr. McCain replied that he could not answer that question since there are various reasons. Ms. Copeland said that compared to what has come before the Commission in the past; these are large lots for this area, especially since this site is within one mile from the new planned college campus and less than two miles from the downtown area. She then said that if the Court House was used as a reference point and a 1.5 mile radius is placed on the 2007 Comprehensive Plan from the Court House, the residential area within the radius ranged from medium to high density, noting that this area was grandfathered in the Comprehensive Plan. She said that the newer developments, such as Hanover Townhouses are high density developments and she questions why ranch style housing is being used so close to the downtown area. Mr. McCain said that there have been multiple meetings and the design that is in front of the Commission is the design that was agreed upon. Ms. Copeland said that for every square foot that is used for a housing lot within the downtown area is a square foot that is lost outside of the New Circle Road area. She then said that inside the New Circle Road area, the developments need to be denser. Mr. McCain said that this development is compatible with the other lots in the surrounding area. Ms. Copeland asked if 60' wide lots are compatible. Mr. McCain replied that this development is compatible with areas near the Arbor Neighborhood to the south. Ms. Copeland said that the Arbors are the only place within the New Circle Road area that has larger lots. She said that if the lots could be reduced, there could be so much more affordable housing provided in this area. She then said that if the design of the development were to be changed to smaller housing lot, the space would be more affordable for the property owner. Ms. Copeland said that she is surprised that this is continually done for the Lexington Housing Authority and no one else in the Community.

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

Action - A motion was made by Ms. Whitman, seconded by Mr. Day, and carried 8-3 (Brewer, Copeland, and Owens opposed) to reapprove PLAN 2008-31P, subject to the conditions listed on the agenda.

2. Final Subdivision Plans

a. PLAN 2009-38F: THE DAVIS FAMILY CHILDREN'S IRREVOCABLE TRUST (RABBIT RUN) (AMD) (7/8/09)* – located at 1950 Fort Harrods Drive and 3598 Rabbit's Foot Trail. (Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to divide lot 3 into 2 lots, to provide an access easement from lot 4 to Rabbit's Forest Trail and to depict the release of the sanitary sewer easement.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.

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

8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Revise note #12.
10. Reference the 25' floodplain setback.
11. Denote all private utilities per Article 5-4(e) of the Land Subdivision Regulations.
12. Complete private street/easement notations.
13. Addition of building line along Ft. Harrod Drive.

Note: Ms. Copeland left the meeting at this time.

Staff Presentation – Mr. Taylor directed the Commission's attention to the rendered final record plat, and noted that the subject property is located at 3598 Rabbit's Foot Trail, which is near the corner of Ft. Harrods Drive and Harrodsburg Road. He said that the purpose of this amendment is to subdivide lot 3 into 2 lots, noting that one of the lots will be for a clubhouse that was approved by the Board of Adjustment recently. In addition to this amendment, the applicant will also release and relocate the sanitary sewer easement. He said that no other previously recorded easements are being amended with this plat. In conclusion, Mr. Taylor said that the Subdivision Committee recommended approval of this item, subject to the 13 conditions listed on the agenda.

Planning Commission Questions – Ms. Roche-Phillips asked for a brief explanation to the path of the sanitary sewer easement. Referring to the staff exhibit, Mr. Taylor illustrated the path of the proposed sanitary sewer easement, noting that the easement runs between building 31 and building 32. He then noted that the existing easement path was originally running under where the developer wanted to construct building 31. Ms. Roche-Phillips then asked why the sanitary sewer was not connected to the lines at the rear of those lots. Mr. Taylor deferred the question to Mr. Kahly.

Petitioner's Presentation – Rory Kahly, EA Partners, was present representing the applicant. He said that the purpose of this amendment solely to divide lot 3 into 2 lots. He then said that one of the lots will be for the clubhouse. He noted that they have obtained the Board of Adjustment's approval for the clubhouse, since it cannot be a principle use on its own lot.

Mr. Kahly stated that they are requesting the required utility signoff from the Kentucky American Water Company be waived by the Commission. He said that the reason for this request is because during the construction phase, there had been some grading on the site and fill had been inadvertently placed on one of the existing water lines. He said that the applicant was told by Kentucky American Water Company that they would not provide a signoff for this plat, which is the reason for this item being discussed today. Mr. Kahly said that the building in question exists, the water service is being provided, and this issue is between the Kentucky American Water Company and the developer. He then said that this easement does not have any impact on this proposed plat, they are only trying to create another lot for use as the clubhouse and pool area.

Referring to the staff exhibit, Mr. Kahly pointed out the path of the existing sanitary sewer easement, and said that in order to have these lots developable, the sewer line had to be rerouted between proposed buildings 31 and 32.

In conclusion, Mr. Kahly said that the applicant is in agreement with the staff's recommendations, and requested approval of this item, deleting the signoff from Kentucky American Water Company. He noted that they have or are acquiring the additional signoffs that are needed. He informed the Commission that this property does have a blanket easement with a note on the plat that reads: "*Utility companies shall have access to all open space areas for the provision and maintenance of service*." He then said that this note is typically placed on multi-family developments, so the easement lines do not have to be drawn through the buildings on the plat. Again, Mr. Kahly said that this note will remain on the plat, there will be no impact to this area and there will not be future easements acquired or requested at this time. He then said that all the buildings have water service, and they just want to create one new lot around the clubhouse area.

Planning Commission Comments – Mr. Vaughn noted that originally this item qualified for the Consent Agenda. He said that the purpose of the amendment is to divide lot 3 into 2 lots, to provide an access easement from lot 4 to Rabbit's Forest Trail and to depict the release of the sanitary sewer easement. He then said that Mr. Kahly had requested that this item be removed from the Consent Agenda, due to a request for relief from the Kentucky American Water Company requirements. Mr. Kahly replied affirmatively.

Audience Comment – Chairman Vaughn asked if anyone in the audience wished to discuss this request. Greg Tomko, Kentucky American Water Company (KAWC) was present. He said that KAWC would like to retain their right to review these plans. He then said that this is part of the normal signoff procedures and there is no reason why KAWC should be exempted from it.

Planning Commission Question – Mr. Cravens asked if KAWC would signoff on this plat if it met their criterion. Mr. Tomko said that if the easements are to their satisfaction, then they would. Mr. Cravens then asked for Mr. Kahly to comment. Mr. Kahly said that they had received an email correspondence from KAWC stating that "*however, after consulting with the Kentucky American Water Engineering Manager, as well as in-house council, unresolved concerns within that* *development regarding encroachment on the existing 24" main cause me to decline your request at this time*." He said that this email stemmed from a request for an easement signoff from KAWC on this plat. He then repeated that there is a blanket easement on the property, and whether or not KAWC review was based upon the fill material and what was worked out with the developer, it should not have an effect on this proposed plat. If the applicant was requesting no easements at all, then that would be a concern. Mr. Tomko replied that he is not familiar with the email correspondence, but regardless, his supervisors directed him to come before the Commission requesting to retain their sign-off rights. He said that the easement in question is being considered as a separate issue from the right to sign-off on the plat.

Mr. Holmes said that if this is a separate issue then why can't KAWC sign-off on the easement. Mr. Tomko said that he was informed by his superiors that this will be treated as a separate issue.

Mr. Penn asked if postponing this item would be appropriate in order to allow the issue to be resolved. Mr. Taylor replied that from planning's standpoint, this is nothing but a dispute between the contractors and KAWC. He said that it is standard practice to keep utility companies listed on the conditions. He then said that if utility companies are requesting to stay on the recommendations, then the staff will generally accommodate their request. Mr. Tomko said that Kentucky American Water Company requests to stay listed on the recommendations, and they have made a proposal to the developer, but at this time, they have not received a response. Mr. Sallee said that if the Commission chooses to postpone this item, they have until July 8, 2009, to make a decision on this proposal.

Mr. Cravens asked if the water line in question is shown on the rendering. Referring to the staff exhibit, Mr. Taylor illustrated the location of the existing 24' water main easement, and confirmed Mr. Kahly's comment that there is a note on the plat that states that the utility company will have access to all open space areas. He then said that from the staff discussion with the applicant, the staff believes that the encroachment issue is related to the 24' water main easement. This plat does not propose any changes to that easement.

Ms. Roche-Phillips said that it is not good practice to not allow utility companies to signoff on an item. She then said that she suggest approving this item, and not void any Kentucky American Water Company approval. She said that there will be plenty of time before this plat is completed to resolve any issues.

Motion - A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens, to approve PLAN 2009-39F, subject to the conditions listed on the agenda, retaining Kentucky American Water Company approval of the plat.

Discussion of Motion – Mr. Penn asked if Kentucky American Water Company will still need to sign-off on this item, and if this issue will need to be resolved. Mr. Taylor said that there will be no changes to the recommendations, as is proposed.

The motion carried 10-0 (Copeland absent).

Note: Ms. Copeland returned to the meeting.

b. PLAN 2009-40F: HAMBURG EAST, LOTS 1 & 2 (BAPTIST HOSPITAL DEVELOPMENT) (AMD) (7/8/09)* - located at 6201 Man O' War Boulevard. (Council District 12) **(HDR/Quest Engineers)**

Note: The purpose of this amendment is to dedicate the right-of-way for Polo Club Boulevard and to create 2 lots.

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
9. Addition of exaction information to the approval of the Division of Planning.
10. Addition of 25' floodplain setback.
11. Correct floodplain information to current maps.
12. Correct note #1.
13. Designate non-buildable areas on lot 2.
14. Addition of required maintenance responsibility note per Article 5 of the Land Subdivision Regulations.
15. Denote compliance with Article 6-3(b) of the Land Subdivision Regulations.
16. Provided the Planning Commission grants a waiver of Article 4-7(d)(1) of the Land Subdivisions regarding the completion of sanitary sewer improvements.

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

Staff Presentation – Ms. Gallt directed the Commission's attention to the rendered amended final record plat, and noted that the subject property is located at 6201 Man O' War Boulevard, which is adjacent to the Polo Club Boulevard right-of-way. She said that the Polo Club Boulevard is an extension from the Sikura-Justice property and this road will extend across Man O' War Boulevard to connect with Winchester Road.

Ms. Gallt stated that the purpose of this amendment is to dedicate the right-of-way for Polo Club Boulevard and to create two lots. She said that the first lot is approximately 129 acres, and it is currently zoned Economic Development (ED). It will be the location for the new Central Baptist Hospital development. The second lot is approximately 52.32 acres, it is currently zoned Agricultural Rural (A-R), and it will remain in agricultural use at this time.

In conclusion, Ms. Gallt then stated that the Subdivision Committee recommended approval of this plan, subject to the 16 conditions listed on the agenda. She said that the applicant has requested a waiver of Article 4-7(d)(1) of the Land Subdivisions regarding the completion of sanitary sewer improvements, which will be presented by Mr. Martin.

Waiver Staff Report – Mr. Martin directed the Commission's attention to the rendered final record plat, and briefly oriented the Commission to the overall layout of the subject property. He noted the location of Polo Club Boulevard, which is currently under construction to extend from Man O' War Boulevard to Winchester Road. He then noted the location of the Agricultural Rural (A-R) lot, as well as the location of the Economic Development (ED) lot.

Mr. Martin stated that the waiver request would not require the applicant to build the sanitary sewer line for these two lots. He then said that the Land Subdivision Regulations does require the sewer line to be constructed when a lot is created; however, there are certain factors in this situation that have been recognized, such as 1) the applicant is currently in the process of constructing the sanitary sewer trunk line, which is part of the approved EAMP infrastructure plan; and 2) the applicant must wait until the Lexington-Fayette Urban County Government constructs the pump station that will be located to the north of Winchester Road on North Elkhorn Creek. He said that since the pump station has not been constructed, there is no ability for a tie in to the sanitary system at this time.

Mr. Martin then stated that the Planning Commission will review a final development plan for lot 1. As for lot 2, only a single family home or a farming operation is currently permitted. He said that a zone change and a final development plan must be approved for lot 2 prior to any development being started. Considering these factors, the staff does recommended approval of the requested waiver, for the following reasons, as listed in the staff report:

1. Denial of the waiver would constitute a hardship for the applicant due to the construction and timing constraints imposed by the required construction of the planned sanitary sewer trunk line and pump station. Recordation of the plat will allow the applicant to proceed with the necessary financing and final design for the future development of Lot 1.
2. Granting the requested waiver will not negatively impact public health or safety, as the completion of the sanitary sewer improvements and development of the proposed lots shall be further evaluated at the time of the approval of final development plans and since no development shall occur until these infrastructure improvements have been made. In fact, the dedication of the Polo Club Boulevard and its right-of-way will improve public safety by enhancing the flow of traffic in the area.

Planning Commission Questions – Referencing the letter from Mr. Messinger, Mr. Penn read the following excerpt: *"if for some reason the planned pump station construction gets delayed or development occurs on lots 1 and 2 that require a sewer connection before 2012, the owner/developer has a backup plan to install a temporary pump station to serve the development until the LFUCG pump station is completed*." He asked if the applicant has plans to install a temporary sewer line, and if the Planning Commission grants this waiver request, would it allow the applicant the opportunity to build the temporary line if needed. Mr. Martin said that the applicant has told the staff that they would build the temporary line, if it is needed, due to the pump station not being completed by the LFUCG. Mr. Penn then asked if the line would run under the interstate back to the subject property. Mr. Martin replied that the applicant's engineer could answer that question, since there may be other options. He said that those issues could come before the Commission through the final development plan stage, if there is a need for a temporary line. Mr. Penn then asked if the capacity for the temporary line would be an issue, at this time. Mr. Martin replied no, not at this time, and said that the only issue facing the sewer line is that the trunk line may be complete before the LFUCG pump station is completed. Mr. Penn asked if the Commission would give the applicant an opportunity to construct a temporary pump station, if needed. Mr. Martin replied affirmatively, and said that the Commission will review a final development plan explaining that the temporary pump station is needed. Mr. Penn then asked why the waver is needed for the temporary pump station at this time. Mr. Martin said that the temporary pump station is not a concern at this time; and the applicant is strictly denoting that if the LFUCG schedule is not met, then the temporary pump station will be needed. Mr. Penn commented that he wants to make sure that the Commission will see the final development plan, if the temporary pump station had to be built, as well as discuss the capacity issue at that time. Mr. Martin agreed.

Petitioner's Presentation – Keith Messinger, HDR/Quest Engineers, was present representing the applicant. In reference to Mr. Penn's concerns, he said that they have met with the LFUCG Engineering staff and submitted a preliminary study of the sanitary sewer basin that would cover this area. Currently, there is sanitary sewer capacity available; and if it becomes necessary, they would build a temporary pump station; however, that decision will not be made until later, depending on the LFUCG's pump station schedule. He noted that they have explored a couple of possible routes, but as of now, everything is on schedule, and should the need arise; they also have a backup plan.

Planning Commission Questions – Mr. Penn asked if exaction fees are associated with this infrastructure. Mr. Messinger replied affirmatively. Mr. King clarified that there are also exaction credits available for infrastructure built pursuant to formal agreements between the Lexington-Fayette Urban County Government and the applicant. He said that a temporary pump station would not receive exaction credits, but the items that are permanent, and subject to a written agreement with the LFUCG, are eligible for exaction credits.

Ms. Copeland asked if the Commission were to agree to this waiver, does the applicant feel that the Commission has condoned the building of a temporary sewer line. Mr. Messinger relied no, and said that they have discussed this option for the past year and half with the Division of Engineering. Should the LFUCG pump station not be completed, their temporary pump station would be a bridge for this ED development until the LFUCG can build their pump station. Ms. Copeland then asked if granting the waiver is also granting approval for the temporary line. Mr. Messinger said that they would need the Division of Engineering approval for their temporary pump station, if necessary. At this time, the capacity does exist for sanitary sewer; however, it cannot be determined what the capacity will be two years from now. He noted that they would need to go forward with the entire development plan process at that time.

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

Action - A motion was made by Mr. Day, seconded by Mr. Cravens, and carried 11-0 to approve PLAN 2009-40F, subject to the conditions listed by the staff, and granting the waiver to Article 4-7(d)(1) of the Land Subdivisions Regulations, for the reasons provided by the staff.

3. Development Plans

a. DP 2008-20: THE LANDINGS (AMD.) (8/4/09)* – located at 2414 Lake Park Drive.
(Council District 5) **(Foster – Roland, Inc.)**

Note: The Planning Commission originally approved this plan on March 13, 2008, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscape buffers.
4. Urban Forester's approval of tree preservation area.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Waste Management's approval of refuse collection.
7. Approval of street names and addresses per e911 staff.
8. Addition of building dimensions.
9. Addition of typical parking spaces.
10. Addition of required development plan notes per Article 21 of the Zoning Ordinance.
11. Addition of parking lane dimensions.
12. Addition of all easements.
13. Clarify proposed building layout.
14. Add Lake Park Drive cross-section.
15. Denote compliance with off-street parking.
16. Resolve building and lake conflict.
17. Denote existing and proposed floor area ratio and lot coverage.

Note: The applicant requests reapproval of this plan.

The Staff Recommended: Reapproval, subject to the previous requirements.

Staff Presentation – Mr. Martin directed the Commission's attention to the rendered amended final development plan, and gave a brief description of the surrounding properties. He noted that the subject property is located at 2414 Lake Park Drive, which is west of the Richmond Road and New Circle Road interchange. He also had a rendering of a site plan for this same area that had been approved by the Board of Adjustment.

Mr. Martin said that this item was originally approved by the Planning Commission on March 13, 2008, and at that meeting, a waiver to Article 6-8(b) of the Land Subdivision Regulations was discussed at length and granted, which allowed Lake Park Road to be terminated in an unconventional fashion. He then said that the applicant is proposing seven townhouses that will exist on their own lot. He noted that the applicant has also acquired approval from the

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

Board of Adjustment to move the townhouses back toward the rear property line. With that approval, the drive aisle and garages are now at the front of the townhouses, and not at the rear. He said that the reason for this change is due to a Kentucky American Water Company easement that has since been discovered at the front of the property for a line that transports raw water.

In conclusion, Mr. Martin said that the staff is recommending reapproval of the applicant's request, subject to the conditions listed on the agenda. He said that the staff is recommending revising condition number 13 to read; "Clarify proposed building layout by either eliminating building envelope conflict with vehicular use area and/or documenting Board of Adjustment's approval of a dimensional variance."

Planning Commission Questions – Mr. Vaughn asked if the development plan has been updated to reflect the Board of Adjustment approval. Mr. Martin replied negatively, and said that the Board of Adjustment has approved a different site layout for these townhouses, which will need to be incorporated into the amended development plan.

Mr. Penn asked for clarification to condition number 16. Mr. Martin said that this condition reflects the original submittal, and noted that a building was too close to the lake area. Mr. Penn asked if this was part of the Board of Adjustment decision. Mr. Martin replied negatively, and said that this condition was a cleanup item. Mr. Sallee clarified that this condition refers to the building at a different location on the overall property.

Ms. Roche-Phillips asked what the setback requirements are since it is joining a water reservoir. Mr. Martin said that the setback requirements are 25' from the floodplain area, but the buildings noted on the illustration are to depict the entire area. He then said that there are no additional setbacks required relative to the reservoir, as of this time.

Petitioner's Presentations – Gary Roland, Foster – Roland, Inc., the applicant was present. He noted that he is in agreement with the staff's recommendations; however, with the staff's recommendation to condition number 13, he asked if small changes can still be made. He said that originally there was a proposed building envelope that provided some flexibility, and with the structures not being finished, that flexibility still needs to be allowed. He asked if the revised conditions will still provide him the flexibility that is needed. Mr. Martin said that it is standard practice to establish building envelopes that would allow some flexibility, and the Ordinance does require that a final development plan, and what was approved by the Board of Adjustment, to match. He then said that if the applicant wants a building envelope that could be added as an additional condition of approval.

Ms. Copeland asked how a building envelope could be added into the recommendation. Mr. Martin said that condition number 13 could be amended to reflect that language. Mr. Sallee said that condition number 13 does allow a building envelope to be retained; however, it must be clarified that the structure would not be closer to the side property line that the Board of Adjustment had initially approved, and it must not encroach upon the new found easement. He then said that there is still the possibility that a building envelope could respect the Board of Adjustment's decision, as well as the new easement that has been discovered.

Mr. Brewer asked for clarification. Mr. Sallee said that condition number 13 will allow a building envelope that will not conflict with the Board of adjustment's approval or the new easement that has been found. Mr. Brewer asked if any new language should be added. Mr. Sallee replied that no additional language was necessary.

Mr. Vaughn asked if Mr. Roland is in agreement, to which, he replied affirmatively.

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

Action - A motion was made by Ms. Richardson, seconded by Mr. Cravens, and carried 11-0 to reapprove DP 2009-20, subject to the conditions listed by the staff, revising condition number 13 to read: "Clarify proposed building layout by either eliminating building envelope conflict with vehicular use area and/or documenting Board of Adjustment's approval of a dimensional variance."

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Mr. Penn, seconded by Ms. Roche-Phillips, and carried 11-0 to approve the release and call of bonds as detailed in the memorandum dated May 14, 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. FAYETTE COUNTY PUBLIC SCHOOL-DISPOSITION OF SURPLUS PROPERTY (JULIA R. EWAN ELEMENTARY SCHOOL) – located at 350 Henry Clay Boulevard.

Ms. Rackers noted that a letter was sent to the Division of Planning, notifying the staff that the Julia R. Ewan Elementary School had been auctioned before a Public Facility Review could take place.

VII. STAFF ITEMS

A. UPCOMING WORK SESSION – Mr. King reminded the Commission members of the upcoming work session on May 21, 2009. Mr. Vaughn asked if the information had been mailed to the Commissioner's ahead of time, to which Mr. King replied affirmatively.

VIII. 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.

IX. NEXT MEETING DATES -

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... May 21, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... May 27, 2009
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **May 28, 2009**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... June 4, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... June 4, 2009
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **June 11, 2009**

X. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 2:50 p.m.

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Randall Vaughn, Chair

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Frank Penn, Secretary

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

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