

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

June 11, 2009

- I. **CALL TO ORDER** - The meeting was called to order at 1:37 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Neill Day, Vice Chair; Ed Holmes; Frank Penn; Lynn Roche-Phillips; Marie Copeland; Mike Owens; Mike Cravens; Patrick Brewer, and Carolyn Richardson. Randall Vaughn and Joan Whitman 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; W.L. Wilson, Department of Law; Captain Charles Bowen, Division of Fire & Emergency Services; and Jeff Neal, Traffic Engineering.

- II. **APPROVAL OF MINUTES** – A motion was made by Ms. Roche-Phillips, seconded by Mr. Owens and carried 9-0 (Whitman and Vaughn absent) to approve the minutes of May 14, 2009.

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

- a. **DP 2009-30: RICHARDSON PROPERTIES (AMD) (8/22/09)*** - located at 328 Hannah Todd Place.
(Council District 7) **(Carol Goes)**

Representation – Fred Eastridge, Sherman/Carter/Barnhart, was present on behalf of Carol Goes and John Barlow (the applicant), and requested postponement of DP 2009-30 to the June 25, 2009, Planning Commission meeting. He noted that the infrastructure statement was not submitted in a timely manner; therefore, additional time is needed.

Audience Comment – Vice Chairman Day 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 9-0 (Whitman and Vaughn absent) to postpone DP 2009-30 to the June 25, 2009, Planning Commission meeting.

- b. **PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (6/11/09)*** - 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 July 9, 2009, Planning Commission meeting.

Audience Comment – Vice Chairman Day 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. Brewer, and carried 9-0 (Whitman and Vaughn absent) to postpone PLAN 2008-71P to the July 9, 2009, Planning Commission meeting.

- c. **PLAN 2008-76F: BOGIE ESTATE, LOT 1 (6/11/09)*** - 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 July 9, 2009, Planning Commission meeting.

Audience Comment - Vice Chairman Day 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. Brewer, and carried 9-0 (Whitman and Vaughn absent) to postpone PLAN 2008-76F to the July 9, 2009, Planning Commission meeting.

- d. **DP 2009-34: BEAUMONT FARM, UNIT 1, SECTION 1 (A PORTION OF) (AMD) (8/13/09)*** - located at 3100 Beaumont Centre Circle. (Council District 10) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2009-34 to the July 9, 2009, Planning Commission meeting.

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

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

Action - A motion was made by Mr. Holmes, seconded by Ms. Richardson, and carried 9-0 (Whitman and Vaughn absent) to postpone DP 2009-34 to the July 9, 2009, Planning Commission meeting.

- e. PLAN 2009-39F: RAMSEY/SULLIVAN PROPERTY, UNIT 3, SECTION 2, LOTS 33-45 (KEARNEY HALL) (AMD) (7/9/09)* - located at Meadowsweet Lane and Kittens Joy Circle. (Council District 12) **(Foster – Roland, Inc.)**

Staff Comments - Mr. Martin said that the staff had received written communication from the applicant, requesting postponement of PLAN 2009-39F to the July 9, 2009, Planning Commission meeting.

Audience Comment - Vice Chairman Day 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. Penn, and carried 9-0 (Whitman and Vaughn absent) to postpone PLAN 2009-39F to the July 9, 2009, Planning Commission meeting.

- f. DP 2009-27: RAMSEY/SULLIVAN PROPERTY (AMD) (7/9/09)* - located at 2663 and 2671 Kearney Ridge Boulevard. (Council District 12) **(Carol Goes)**

Staff Comments - Mr. Martin said that the staff had received written communication from the applicant, requesting postponement of DP 2009-27 to the July 9, 2009, Planning Commission meeting.

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

Action - A motion was made by Mr. Brewer, seconded by Mr. Penn, and 9-0 (Whitman and Vaughn absent) to postpone DP 2009-27 to the July 9, 2009, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, June 4, 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, Chris Taylor, Tom Martin, Cheryl Galt, and Barbara Rackers, as well as Rochelle Boland, Department of Law; Capts. Charles Bowen and Allen Case, Division of Fire & Emergency Services; Bob Carpenter, Division of Building Inspection, and Paul Hockensmith, LFUCG Addressing Office. The Committee made recommendations on plans as noted.

General Notes

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

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

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

Criteria:

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

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

At this time, Vice Chairman Day requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items that appeared 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).

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

1. PLAN 2009-51F: SIKURA-JUSTICE, UNIT 6, LOTS 4 & 5 (POLO CLUB CENTER) (AMD) (8/13/09)* - located on Man o' War Boulevard and Polo Club Lane. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to subdivide Lot 4 into 2 lots, and record and reflect easements released.

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. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
 7. Addition of property owner and developer information.
 8. Provide listing of private utility agencies.
 9. Delete the proposed easements on lots 2 and 3.
2. PLAN 2009-53F: AUTUMN RIDGE, UNIT 4, SECTION 2 (AMD) (8/13/09)* - located on Forest Spring Court. (Council District 6) **(Sherman/Carter/Barnhart)**

Note: The purpose of this amendment is to dedicate Forest Spring Court for public use.

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. Denote: This property shall be developed in accordance with the approved final development plan.
 6. Reference the LFUCG Council action accepting street as public.
 7. Clarify note #8.
 8. Denote maintenance responsibility for traffic islands.
 9. Provide listing of utility providers, as required by Article 5-4(e) of the Land Subdivision Regulations.
3. DP 2009-31: RESERVE AT WALNUT GROVE (AMD) (8/22/09)* - located at 3820 Hatfield Lane (a portion of). (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to clarify the minimum open space requirements, expand storm water basins, and revise the lotting pattern.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
 2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Urban Forester's approval of tree preservation plan.
 5. Division of Fire's approval of emergency access and fire hydrant locations.
 6. Division of Solid Waste's approval of refuse collection.
 7. Addressing Office's approval of street names and addresses.
 8. Denote the source of contours.
 9. Denote the construction access location on plan face.
 10. Addition of property owner and developer's information, as required by Article 5-4(c) of the Land Subdivision Regulations.
4. DP 2009-33: ADAMS PROPERTY (AMD) (8/13/09)* - located at 3050 Helmsdale Place and 852 Campbell Lane. (Council District 6) **(EA Partners)**

Note: The purpose of this amendment is to depict an 11th building, revise the parking, and revise the floodplain information.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. 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. Delete note #12.
 9. A consolidation plat must be certified and recorded prior to certification.
5. DP 2009-35: BRIGHTON PLACE SHOPPES, PHASE II (AMD) (8/13/09)* - located at 3090 and 3110 Todds Road.
(Council District 7) **(The Roberts Group)**

Note: The purpose of this amendment is to remove the fuel islands and carwash, and add buildable area to Lot 1.

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.
6. DP 2009-36: THOMAS & KING (TIN ROOF) (AMD) (8/13/09)* - located at 303 South Limestone Street.
(Council District 3) **(EOP)**

Note: The purpose of this amendment is to remove notes regarding the entrance aprons and verify required 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. Document off-site parking (leased) location to site statistics.
 10. Remove construction information not required by Article 21-7 of the Zoning Ordinance.
 11. Addition of building height.
 12. Addition of patio dimensions.
 13. Addition of topographic information.
 14. Addition of adjoining property owner information.
 15. Remove tree inventory information and clarify tree canopy information.
7. DP 2009-37: J.M. DOWNING PROPERTY (ST. LUKE UNITED METHODIST CHURCH) (AMD) (8/13/09)* - located at 2351 Alumni Drive. (Council District 8) **(Carman and Associates)**

Note: The purpose of this amendment is to increase the family life center square footage, and revise the layout and 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. Division of Fire's approval of emergency access, fire hydrant locations and canopy height.
6. Division of Solid Waste's approval of refuse collection.
7. Addressing Office's approval of street names and addresses.
8. Correct plan title.
9. Addition of developer's information.
10. Addition of existing and proposed utility easements.
11. Addition of Board of Adjustment approval information.
12. Complete contour information (elevations).
13. Delete notes # 9 and 10.
14. Revise note #5 (Division of Engineering Manual).
15. Identify vehicular use area and zone-to zone screening requirements.

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8. DP 2009-38: HI-ACRES SHOPPING CENTER (AMD) (8/13/09)* - located at Bryan Station Road and St. Anthony Drive.
(Council District 6) **(Wheat and Ladenburger)**

Note: The purpose of this amendment is to add buildable area, landscape areas and to revise 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 all existing and proposed easements.
 10. Addition of building line information from plats.
 11. Correct Tract 1 building line to meet minimum Zoning Ordinance requirement or document dimensional variance.
 12. Remove sign from plan face.
 13. Resolve detention.
 14. Resolve reciprocal parking and access proposed.
9. DP 2006-104: WINBURN SHOPPING CENTER, UNIT 1-E, LOT 1 (AMD.) (8/24/09)* – located at 1100 Winburn Drive.
(Council District 2) **(Prizm Design)**

Note: The Planning Commission originally approved this plan on August 10, 2006, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping.
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. Approval of street names and addresses per e911 staff.
8. Addition of purpose of amendment note.
9. Addition of parking floor area statistic.
10. Correct labeling of existing building.

Note: The applicant requests reapproval of this plan.

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

Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval by the Commission, at this time, unless there was a request for an item to be removed. He noted that DP 2006-104 is the first item to fall under the revised By-Law amendment for items requested for reapproval.

Audience Comments – Vice Chairman Day asked if anyone in the audience wished to discuss any of the items listed on the Consent Agenda. There was no response.

Planning Commission Comments – Vice Chairman Day asked if any Commission member wished to discuss any of the items listed on the Consent Agenda. There was no response.

Planning Commission Question – Vice Chairman Day asked for guidance concerning the items that had been previously postponed that are listed on the Consent Agenda. Mr. Sallee responded that the DP 2009-30: Richardson Properties (AMD) and DP 2009-34: Beaumont Farm, Unit 1, Section 1 (a portion of) (AMD) are listed on the Consent Agenda. However, these items had been postponed earlier at this meeting by the Commission and so were no longer eligible to be considered on this Consent Agenda.

Action - A motion was made by Mr. Penn, seconded by Ms. Richardson, and carried 9-0 (Whitman and Vaughn absent) to approve the items listed on the Consent Agenda, excluding DP 2009-30 and DP 2009-34 due to being postponed earlier.

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

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

- Staff Report(s)

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

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

1. Preliminary Plans

- a. PLAN 2009-55P: MASTERSON STATION, UNIT 10 & MASTERSON HILLS, UNIT 1 (AMD) (A PORTION OF)
(8/13/09)* - located on Sandersville Road. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to revise the street and lot layout for the townhouses into single family lots.

The Subdivision Committee Recommended: Referral. There were questions regarding the proposed pedestrian easement and the change in density.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. Addition of existing or proposed easements.
9. Depict current floodplain elevation information.
10. Clarify contour information.
11. Addition of existing sanitary sewer easement.
12. Delete notes #9, 12, 13, 14, 15 and 19.
13. Denote: This plan supersedes the applicable portion of PLAN 2007-09P.
14. Provide pedestrian easement proposed on its independent lot (as done on adjacent street).
15. Remove certifications from plan.
16. Provide utility information as required by Article 5-2(e) of the Land Subdivision Regulations.

Staff Presentation – Ms. Gallt directed the Commission's attention to a rendering of the amended preliminary subdivision plan, and noted that the purpose of this amendment is to revise the street and lot layout for a townhouse area into single family lots. She oriented the Commission to the surrounding uses, noting that the subject property is located off of Sandersville Road, and it is adjacent to the newly built Masterson Station School.

Ms. Gallt stated that the Subdivision Committee had recommended referral of the applicant's request; however, with their revised submission, many of the issues raised by the Technical and Subdivision Committees have been addressed. She provided a comparison between the original submission and the revised submission, pointing out the area that will now become single family residential units. She said that with the revised submission, the staff believes several conditions can be deleted, leaving the following:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of parking, circulation, 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. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Department of Environmental Quality's approval of environmentally sensitive areas.
8. ~~Addition of existing or proposed easements.~~
9. ~~Depict current floodplain elevation information.~~
10. ~~Clarify contour information.~~
11. ~~Addition of existing sanitary sewer easement.~~
12. ~~Delete notes #9, 12, 13, 14, 15 and 19.~~
13. ~~Denote: This plan supersedes the applicable portion of PLAN 2007-09P.~~
14. ~~Provide pedestrian easement proposed on its independent lot (as done on adjacent street).~~
15. ~~Remove certifications from plan.~~
16. ~~Provide utility information as required by Article 5-2(e) of the Land Subdivision Regulations.~~

In conclusion, Ms. Gallt said that when the staff first reviewed the applicant's proposal, there was an issue with the amount of density that would be lost; however, in comparing the overall differences between the original submission and the revised submission, there would only be a loss of 24 lots. With that being said, Ms. Gallt stated that the staff is now recommending approval of the applicant's request, subject to the remaining conditions previously mentioned.

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

Planning Commission Questions – Mr. Day clarified that the staff is now recommending approval, subject to the revised conditions listed on the staff's handout. Ms. Gallt replied affirmatively.

Ms. Copeland asked how many units were on the original submission. Ms. Gallt said that there are 17 single family residential lots that back up to the new school, and 71 townhomes that back up to the greenway. She then said that in looking at the overall area, Kizer Park and Barley's Pass were proposed to connect; however, during the grading portion of the construction phase, a cemetery had been discovered, which resulted in this area being amended from single family units to townhome units. With that change to the plan, the overall density was also changed, resulting in a total loss of 24 dwelling units. Ms. Copeland confirmed that those changes were from the cemetery being found. Ms. Gallt replied affirmatively, and said that the area near the cemetery was amended to townhomes, which increased the density of the overall area. Ms. Copeland then confirmed that there are 24 lots being lost. Ms. Gallt replied affirmatively. Ms. Copeland then asked how many lots will be lost in the area just above the pedestrian walkway. Ms. Gallt said that in comparing the original submittal to the revised submittal, there is a difference of one lot on the side that is adjacent to the new school and a difference of 17 lots on the side that is adjacent to the greenway. Ms. Copeland confirmed that there will be a loss of 17 lots above the pedestrian walkway. Ms. Gallt said that the loss will be on the side that backs up to the greenway.

Mr. Owens said that in looking at the revised plan, there appeared to be 35 buildable lots. Ms. Gallt replied affirmatively. Mr. Owens asked how many units are adjacent to the greenway. Ms. Gallt said that there will be 71 townhomes. Mr. Owens confirmed that there will be 17 single family dwelling units and 71 townhomes units. Ms. Gallt agreed. Mr. Owens said that there will be a loss of up to 50 units. Ms. Gallt said that there is an increase in the overall density. Mr. Owens commented that he is speaking only to the current request, and not the overall area.

Mr. Day asked if the area south of Our Tibbs Trail would be amended at a later date. Ms. Gallt said that the portion of Unit 10 southeast of Our Tibbs Trail is not being amended at this time. It was only illustrated to show how it may need to be amended. Mr. Day said that highlighting an area outside the requested amendment causes confusion among the Commission members.

Mr. Owens confirmed that this area is recommended for medium density and it is zoned R-3. Ms. Gallt replied affirmatively.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He stated that the applicant is in agreement with the staff's revised recommendations, and requested approval of PLAN 2009-55P.

Planning Commission Questions – Ms. Copeland asked how the proposed changes to single family on the school side and townhomes on the greenway side came about. Mr. Kahly replied that this area has changed several times over the years, and originally the applicant had proposed single family residential for the requested area. The Fayette County School Board was interested in the land that is adjacent to the single family housing and reserved a portion of it for the new school. The applicant changed the development layout to accommodate the Fayette County School Board request; however, their reservation time had expired, resulting in the applicant changing the development layout back to the original proposal. The Fayette County School Board came back to request the land once again, and in the end it was acquired. The Fayette County School Board proceeded to build the new school, and this required the development plan to be amended once again, resulting in single family residential units next to the school property, and the townhomes next to the greenway. He noted that throughout the Master Station area there are at least 1,500 single family units, and townhomes are scattered throughout this development. He said that the applicant would like to reduce the number of townhomes, and this is the reason the section next to the greenway is now being proposed for single family residential. The reasoning behind single family residential versus townhomes is due to the spacing from the right-of-way of Eminent Drive to the greenway. He said that Eminent Drive does not have enough room (spacing) to provide an additional access for a second street. At the time the townhomes were originally proposed, these units were packed into this area; but since that time, townhomes have become less desirable, resulting in the change to single family lots. As a result of these changes, Eminent Drive has shifted away from the school, creating deeper lots for both sides.

Ms. Copeland asked why townhouses weren't proposed for both sides of the street in the beginning. Mr. Kahly said that this is what the developer wanted. Ms. Copeland asked if there are any environmental reasons behind the change, other than there would be townhouses backing up to the greenway. Mr. Kahly said that they had suggested that the Fayette County School Board use the greenway for outdoor activities, but they declined. He noted that on the original proposal the density was at the maximum level; but as time goes on, the density level can be changed. He said that it is easier to lower the density of an area than it is to increase it as the process moves forward.

Ms. Copeland asked if this is a two step zoning "dance." Mr. Kahly noted that they do have a subdivision plan for at least another 400 units. He said that throughout the Master Station area there is a mixture of zones that includes R-1E, R-1D and R-3. He then said that the lot sizes can range from 40 to 60-foot widths, and the built structures range

from single family residential to townhouses units. As for the density of an area, he said that if there are 40-foot lots, typically with the dedication of the streets and the greenway area, a subdivision section can hold 6 units per acre. He said that the overall density for the Masterson Station area is well within the medium density requirements. Ms. Copeland verified that, at the start of the development, the density was maxed out and then decreased over time. Mr. Kahly replied affirmatively, and said that the plan started out at the maximum level, and then it has been amended depending on how the housing market changes. Ms. Copeland said that it should have been anticipated that this section would change from townhome lots to single family lots. Mr. Kahly commented that you can't anticipate changes in the housing market, and said that plans do change over time, depending on what is needed.

Mr. Owens verified that for this one section, the proposal change from single family residential to townhouses units and back to single family residential units. Mr. Kahly replied affirmatively. Mr. Owens asked what was the reasoning behind this decision. Mr. Kahly replied that these changes have happened over several years. He said that when the school had obtained 15 acres, the layout of this area was changed to accommodate a higher density. Now that the school is ready to move forward, the density has changed again to accommodate a lower density. He noted that the neighbors in this area do prefer single family residential versus townhouse units. Mr. Owens asked if the townhouse proposal was brought in front of the Commission after the school had acquired the land. Mr. Kahly replied affirmatively, and said that once the school board had taken possession of the land, the plan had to be amended. He noted that at the time of the zone change, single family residential was being proposed for this area. Mr. Owens commented that it seems this area is being "down-zoned."

Mr. Holmes asked if these changes are still permitted within this approved zoning category. Mr. Kahly replied affirmatively. Mr. Holmes said that at the time the zone change was approved, the maximum density could have been built out; therefore, he does not see where the downzoning comes into play. Mr. Kahly said that medium density ranges between 5 and 10 units per net acreage. Mr. Holmes said that if there was a concern with the density in this area, it should have been discussed at the zone change hearing. He said that the zone change granted this area an R-3 zone with the different density levels. Mr. Kahly said that the Master Station Park is zoned R-1E and R-1D, which will have different lot sizes.

Ms. Copeland asked if the Fayette County School Board prefers single family residential backing up to their property. Mr. Kahly said that the school does not have a preference. Ms. Copeland confirmed that the School Board has not requested single family residential. Mr. Kahly said that the School Board has not expressed a preference.

Ms. Roche-Phillips asked the reason behind the dedication of the greenway. Mr. Kahly said that there will be a pedestrian access coming through the lot at the intersection of Red Clover Lane and Our Tibbs Lane. This access will lead onto the greenway area, which will connect to Sandersville Road and on over to the next greenway area that will eventually tie into the Master Station area. Ms. Roche-Phillips commented that on the rendering it seemed that the greenway was an isolated area and wondered if there would be connectivity to the other areas.

Action - A motion was made by Mr. Cravens, seconded by Mr. Holmes, and carried 8-1 (Copeland opposed; Whitman and Vaughn absent) to approve PLAN 2009-55P, subject to the revised conditions listed by the staff.

- b. PLAN 2009-57P: TAYLOR PLACE (STINNETT PROPERTY) (8/26/09)* - located at 7900 Tates Creek Road.
(Council District 12) **(MSC - Moore Surveying)**

The Subdivision Committee Recommended: Referral. There were questions regarding the construction of the proposed private access easement.

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

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, and access.
3. Building Inspection's approval of landscaping and street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Denote Health Department's approval of septic systems for these lots.
7. Improve plan legibility (text information)
8. Provide elevations for contour lines (2' intervals) and source of information.
9. Denote maintenance responsibilities for the access easement (per Article 5-4(h)(1) of the Land Subdivision Regulations).
10. Remove all other certifications from plan face.
11. Complete stream information to southeast corner of the site.
12. Complete all site statistics (linear feet of new street, etc.)
13. Denote existing & proposed easements (including drainage easements).
14. Denote construction access location(s).
15. Resolve buildable area & 50' building line conflict along access easement.

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

16. List all utility providers as required by Article 5-2(e) of the Land Subdivision Regulations.
17. Correct note #3 concerning floodplain information.
18. Resolve buildable area conflict with existing home remaining on lot 1-A.
19. Resolve note #8 regarding landscaping.
20. Review by Technical Committee prior to certification.

Staff Presentation – Mr. Martin oriented the Commission to the surrounding area, noting that the subject property is located at 7900 Tates Creek Road. He said that the subject site is near Crawley Lane and abuts the Jessamine-Fayette County line. He then said that the subject site is zoned Agricultural Buffer (A-B), which allows properties to be subdivided into 10-acre lots. He noted that the preliminary development plan was filed in conjunction with the approved zone change from Agricultural Rural (A-R) to Agricultural Buffer (A-B); and as part of that approval, the applicant was required to file this preliminary subdivision plan. He said that the subject site is approximately 54 acres in size, and it will be subdivided into approximately four equal lots. He then said that these lots will front along Tates Creek Road; however, at the zone change hearing, the staff was concerned with how access would be provided to the buildable areas located at the rear of the property. At the zone change hearing, there was a considerable amount of discussion concerning this issue; and a private access easement has been depicted on the rendered plan that will lead to the fronts of the proposed buildable areas, ending in a cul-de-sac. He noted that the cul-de-sac would allow service and emergency vehicles to turn around if needed. He said that there is an existing house located at the corner of Tates Creek Road and the new private access easement, and this house is to be removed at such time a permit is issued to begin construction on the buildable area of Lot 1.

In conclusion, Mr. Martin stated that this item was filed with the staff as a late item; therefore, the Subdivision Committee recommended referral to the full Commission. He said that as part of this item being filed late, the Technical Committee will review this item prior to it being certified. Directing the Commission's attention to the staff's handout, he said that the applicant has provided the 30 percent report that is required by Article 4-5(b) of the Land Subdivision regulations. He noted that there will not be any public improvements provided on this property, and the access easement will be a private easement to the four lots. It will not be a public or private street.

Planning Commission Questions – Mr. Penn asked why the access easement would not be a private road, and who would maintain it. Mr. Martin said that at this time it is considered to be a private access easement that will be maintained by the four property owners. He said that the record plat lays out the specifics maintenance requirements, and if this request were only two lots it would be considered a minor plan. However, since there are four lots, the staff wanted to avoid any potential danger with the new access onto Tates Creek Road.

Mr. Penn asked what the difference is between a private road and a private access easement. Mr. Sallee explained that because this is an easement, it allows the lotting to go from the rear to the front of the property and not be affected by the platting of a street that would otherwise bisect these lots. He said that for this situation, each of the lots can meet the 10-acre requirement for the Agricultural Buffer (A-B) zone.

Mr. Holmes asked if the property owners will have the legal right to use the access easement. Mr. Martin replied yes, and said that the access easement will serve the four lots, as well as allow public service vehicles to provide the necessary services to these lots. Mr. Holmes then asked who determines the width or thickness of the pavement. Mr. Martin said that Engineering will need to approve those construction details.

Mr. Owens asked for an explanation on the process of how this development occurred. Mr. Martin said that the applicant had filed a preliminary development plan in conjunction with the approved zone change. He said that the applicant could have filed a preliminary subdivision plan instead, but they did not; therefore, as part of the approved zone change, a note was added that a preliminary subdivision plan had to be submitted to and approved by the Commission. As far as the public infrastructure and improvements, those come from the preliminary subdivision process. He said that the improvement plan would be filed after the preliminary subdivision plan approval. He then said that after the area was built, the final record plat would need to be filed; and at that time, the public improvements could be dedicated. Mr. Owens said that as far as this situation is concerned, it appears that the road had already been built without that approval. Mr. Martin replied that the road has been built. Mr. Owens then asked if staff could explain how this occurred. Mr. Martin replied that he could not answer that question and said that the Division of Engineering or the applicant would need to respond to that question.

Ms. Roche-Phillips confirmed that the access easement is built. Mr. Martin replied affirmatively, and said that it has not been created as far as the record plat is concerned. Ms. Roche-Phillips asked if it will be a source of access, and Mr. Martin replied affirmatively.

Representation – Rick Moore, Moore Surveying, was present representing the applicant. He said that they had requested and received approval for the preliminary development plan that was filed in conjunction with the zone change. He then said that they had received approval from the Engineering staff for their construction plan, and when he submitted those plans to the staff there was a preliminary subdivision plan included in that submission. The

Engineering staff was present at the time the road was being constructed, and it is constructed according to the LFUCG standards. He said that he was not aware of any problems until he was told later that the preliminary subdivision plat had not been filed. At that time, he gathered all the information and submitted this item to the planning staff under the late filing requirements. He then said that once they receive approval for the preliminary subdivision plan and it has been certified, the access easement will be depicted on the final record plat. In conclusion, Mr. Moore requested approval of PLAN 2009-57P.

Planning Commission Questions – Mr. Owens asked how this situation occurred. Hillard Newman, Division of Engineering, apologized to the Commission for this error. He said that they had received the construction plan for the access easement, and those plans were processed, reviewed and accepted. He then said that they had monitored the progress of the construction to assure that the applicant had obtained the proper permits; however, the staff had erroneously accepted the plan when the preliminary subdivision plan had not been filed or approved by the Commission, which is contrary to what is required in the regulations.

Mr. Brewer asked what precaution will be taken to prevent this from happening again. Mr. Newman said that the Division of Engineering is working internally to prevent this mistake from happening again; and, if necessary, procedures will be modified.

Mr. Day asked other than the procedural part, if the road is constructed to the LFUCG standards. Mr. Newman replied affirmatively.

Mr. Penn asked if there is a preliminary development plan on file, and if it was submitted after the road was constructed. Mr. Newman said that a preliminary development plan was filed in conjunction with the zone change request; and as part of the requirement for approval of the preliminary development plan, a note was added stating that a preliminary subdivision plan would be submitted prior to the construction plan and final record plat. He then said that the preliminary subdivision plan should have been submitted to the Commission for approval and then reviewed by the Engineering, which it had not.

Mr. Owens asked if curbing is required for the access easement. Mr. Newman replied negatively and said that this is a rural cross-section.

Mr. Brewer commented that he was unaware that any mistake had been made in the procedures, and the issue pertaining to the access easement should have been presented at the very beginning of the meeting through the staff's presentation, rather than the Commissioners taking time to "tease out" the access easement issue.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 9-0 (Whitman and Vaughn absent) to approve PLAN 2009-57P, subject to the conditions listed on the agenda.

2. Final Subdivision Plans

- a. 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)**

Note: The Planning Commission postponed this plan at its April 9, 2009 and May 14, 2009, meetings.

The Subdivision Committee Recommended: Postponement. There were questions regarding the minimum open space requirements.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree 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. Discuss access to lots from private streets, and the reduction of open space.

Staff Presentation – Mr. Martin directed the Commission's attention to a rendering of the final record plat for Walnut Grove, Unit 1-C, noting that this property is located at 3820 Hatfield Lane. He then noted that Unit 1-C was originally

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

filed with four other record plats (Units 1-A, 1-B and 1-D), all of which are located off of Walnut Grove Lane and near the Greenbrier and Thomas Communications Subdivisions. He said that the Planning Commission had previously approved the record plats for Units 1-A, 1-B and 1-D; however, at the staff's recommendation, Unit 1-C was postponed due to the concerns regarding minimum open space requirements not being met. Subsequently, an amended development plan (DP 2009-31) was also filed that addressed those concerns associated with Unit 1-C. He noted that DP 2009-31 was approved by the Planning Commission earlier in the meeting on the Consent Agenda.

Mr. Martin said that the amended development plan (DP 2009-31) proposes to revise the lotting pattern for this area, as well as clarify the minimum open space requirements in order to match what has been depicted on Unit 1-C. He then said that the applicant has adjusted the layout of Lot 17 to help reflect the open space requirements that are needed. Mr. Martin noted that the subject site is also proposing a pedestrian walking trail, and two tree protection areas, as well as a storm water detention area. With that being said, the staff does believe this plat can now be approved, subject to the recommendations listed on the agenda.

Mr. Martin stated that, in reviewing the conditions listed on the agenda, condition number 10 requires the applicant to document compliance with the minimum open space requirements for Unit 1-C. This has been accomplished on the revised development plan (DP 2009-31). He then said that, in searching for other potential ways to address the open space requirement, the staff and the applicant had met to review the final record plat for Unit 1-C as well as the final development plan; and during that meeting, they spoke about the dedication of Walnut Grove Lane. He noted that Walnut Grove Lane is a rural scenic highway, and it has been designated as such on the EAMP. He said that the applicant is not required to dedicate additional right-of-way for Walnut Grove Lane, but they have agreed to do so; therefore, the staff believes it is reasonable to consider this portion of the land as part of the minimum open space requirement. He noted that Article 23 of the Zoning Ordinance and Article 6 of the Land Subdivision Regulations justify this conclusion. In particular, Articles 23A-2(a) and 23A-2(s) of the Zoning Ordinance specifically target Walnut Grove Lane and the importance of maintaining it as a rural scenic highway. He noted that there is a 200-foot setback requirement along Walnut Grove Lane; and with the change now proposed to Lot 17, this enabled the applicant to come into compliance with the open space requirements.

Planning Commission Questions – Mr. Penn asked if the 200-foot setback was located on the schematic. Mr. Martin said that the 200-foot setback is not depicted on this plat because it is at the rear of the overall property. He then drew attention to the proposed walking trail, which runs throughout the property.

Ms. Copeland asked if this is the same item that was discussed at Subdivision Committee, in which the applicant would give a portion of the land for the right-of-way, and in return, the remaining portion of that land would be considered as open space. Mr. Martin replied affirmatively, and said that it has never been necessary to do this in the past to meet the open space requirement. Ms. Copeland confirmed that the applicant is dedicating a portion of the land to the LFUCG and, in return, the applicant will receive credit toward the open space requirement, while the homeowners' association maintains it. Mr. Martin said that that section of land will be dedicated right-of-way; and as for who will maintain that land, the applicant should address that question.

Representation – Dick Murphy, attorney, was present, along with Rory Kahly, EA Partners and Jim Ball, the applicant. He stated that the applicant is in agreement with the staff's recommendation, and noted that from their presentation, it is their understanding that condition numbers 10 and 11 have been satisfied; therefore, those can be deleted. He then said that the area noted in red on the rendered plat is a walking trail that will tie into the Rails-to-Trails project. He noted that as far as the maintenance of the open space area and the right-of-way, the homeowners' association would assume responsibility. With that being said, Mr. Murphy requested approval of PLAN 2009-27F.

Planning Commission Questions – Mr. Penn asked how large the building envelopes will be for these homes. Mr. Murphy said that only 3 houses are allowed for every 5 acres, so these houses will be fairly large; and with 80% being required for the open space area, only 20% percent of the land can be used for houses. He then said that these will be fairly expensive houses due to the high price of the land.

Staff Comments – Mr. Martin clarified that condition number 10 should be retained on the recommendations, but condition number 11 could be removed.

Action - A motion was made by Mr. Brewer, seconded by Mr. Penn, and carried 9-0 (Whitman and Vaughn absent) to approve PLAN 2009-27F, subject to the conditions listed on the agenda, deleting condition number 11.

- b. PLAN 2009-52F: HI-ACRES SHOPPING CENTER (AMD) (8/13/09)* - located at 1784, 1816 and 1820 Bryan Station Road. (Council District 6) **(Wheat and Ladenburger)**

Note: The purpose of this amendment is to revise the building line.

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

* - 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 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. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Clarify easement information.
8. Addition of building line information from previous plats.
9. Provided the Planning Commission grants a waiver to Article 5-4(h)(2) of the Land Subdivision Regulations.
10. Denote reciprocal parking and access.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the amended final record plat for property located at 1784, 1816 and 1820 Bryan Station Road. He noted that the subject site is located at the intersection of Bryan Station Road and St. Anthony Drive, where there is an existing shopping center and a service station at the corner.

Mr. Taylor stated that the purpose of this amendment is to reduce the previously platted building line back to the required 20' setback for the Neighborhood Business (B-1) zone. He said that that the previous plat denoted a building line surrounding the property, ranging between 30 and 50 feet; but with this amendment, the 50-foot building line along Bryan Station Road would be reduced to the required 20 feet, and the remaining building line that surrounds the site would also be removed. He then said that the Neighborhood Business zone does not require rear or side setback; however, this property is governed by a development plan (DP 2009-38) that was previously approved on the Consent Agenda; therefore, if there is any discussion concerning this site, it could be addressed through the development plan.

In conclusion, Mr. Taylor stated that the Subdivision Committee recommended approval, subject to the conditions listed on the agenda. He noted that as part of the recommended conditions, the Planning Commission must grant a waiver to Article 5-4(h)(2) of the Land Subdivision Regulations, as well.

Waiver Presentation – Mr. Martin stated that the applicant has requested a waiver to the Engineer's and Surveyor's certification that is required by Article 5-4(h)(2) of the Land Subdivision Regulations. He said that the purpose of this plat is to amend the building line along Bryan Station Road to reflect the current requirements of the Neighborhood Business zone. He then said that there will be no public improvements or changes to the physical structures, since the site is completely "built out." The reason for this waiver request is because to Mr. Ladenburger is not able to certify the plat for public improvements or engineering design because he is not an engineer. However, Mr. Ladenburger can certify that the information on this plat is true and accurate, and that it meets the applicable provisions of both the Zoning Ordinance and the Land Subdivision Regulations.

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

1. Granting the waiver will not adversely affect public health and safety, and will otherwise maintain compliance with the Land Subdivision Regulations.
2. Strict compliance with this requirement of the Land Subdivision Regulations would constitute a hardship for the applicant by requiring an engineer's stamp and signature to be affixed to the plat when it is not warranted by the same Land Subdivision Regulations.

This recommendation is made subject to the following additional requirement:

a. This certification shall read as follows:

"I hereby do certify that this record plan was prepared by me or under my direction; ~~that all work performed by me or under my direction, including engineering design and construction observation of the infrastructure, was done in accordance with the provisions of the Land Subdivision Regulations, the Zoning Ordinance, the Division of Engineering Technical Manuals and the requirements of the Planning Commission; that all monuments indicated hereon do exist and their locations, size, and materials are correctly shown; that, to the best of my knowledge and belief, the information shown hereon is accurate.~~" (Engineer's and surveyor's signature, address, date, and seal)

Mr. Martin noted that the staff has reviewed the above requirement with the Division of Engineering, and they are in agreement.

Representation – Roger Ladenburger, Wheat and Ladenburger, was present representing the applicant. He stated that the applicant is in agreement with the staff's recommendations, and requested approval of PLAN 2009-52F.

Planning Commission Question – Mr. Day asked if the Planning Commission should take action on both the final record plat and the waiver, or should action be taken separately. Mr. Martin replied that the waiver should be separate from the plat.

Audience Comment - Vice Chairman Day asked if anyone in the audience wished to discuss this request for approval. There was no response.

Action - A motion was made by Mr. Penn, seconded by Mr. Holmes, and carried 9-0 (Whitman and Vaughn absent) to approve PLAN 2009-52F, subject to the conditions listed on the agenda.

Action - A motion was made by Mr. Penn, seconded by Mr. Owens, and carried 9-0 (Whitman and Vaughn absent) to grant the waiver to Article 5-4(h)(2) of the Land Subdivision Regulations, based upon the findings provided by the staff and subject to the recommended condition.

Note: A brief recess was declared at 2:30 p.m. and the meeting re-convened at 2:40 p.m.

- c. PLAN 2009-54F: TAYLOR PLACE (STINNETT PROPERTY) (8/13/09)* - located at 7900 Bates Creek Road.
(Council District 12) **(MSC - Moore Surveying)**

Note: The purpose of this final record plat is to subdivide one lot into four 10-acre lots for property zoned A-B.

The Subdivision Committee Recommended: Postponement. There were questions regarding the filing of the preliminary subdivision plan, as required by the preliminary development plan, and the 30% infrastructure report required by Article 4-5(b) of the Land Subdivision Regulations.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree 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. Update and correct floodplain information.
9. Document compliance with Article 4-5(b) of the Land Subdivision Regulations regarding the Improvement Plan Progress Report.
10. Addition of street tree information.
11. Certification of preliminary subdivision plan prior to certification.

Staff Comments - Mr. Martin stated that this final record plat is associated with the preliminary subdivision plan (PLAN 2009-57P) that was previously approved by the Planning Commission. He said that this item was recommended for postponement due to questions regarding the filing of the preliminary subdivision plan, as required by the preliminary development plan, and the 30% infrastructure report that is required by Article 4-5(b) of the Land Subdivision Regulations.

Mr. Martin oriented the Planning Commission to the layout of the subject property, and said that the Subdivision Committee had recommended postponement of this request; and under normal circumstances, the previous approval of PLAN 2009-57P would have allowed the staff to recommend approval of this request. Unfortunately, the applicant does not have the necessary affidavit for the posting of the sign that is required by Article 6-4(j)(6) of the Land Subdivision Regulations. He noted that when a subdivision development is within the agricultural area, a sign must be posted 14 days prior to the public meeting. He said that the applicant is required to submit an affidavit and a photograph of the sign at the Commission's meeting; and since this has not yet been achieved, the staff can only recommend postponing this item until the June 25, 2009, Planning Commission meeting.

Audience Comment - Vice Chairman Day 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 9-0 (Whitman and Vaughn absent) to postpone PLAN 2009-54F to the June 25, 2009, Planning Commission meeting.

3. Development Plans

- a. DP 2009-40: WOLF RUN INDUSTRIAL PARK, LOT 5 (8/26/09)* - located at 2308 Frankfort Court.
(Council District 12) **(Foster – Roland, Inc.)**

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

The Subdivision Committee Recommended: Postponement. There are questions regarding whether or not this proposal complies with the limitations of the Zoning Ordinance for Office/Warehouse mixed-use projects.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of parking, circulation, access and street cross-sections.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).
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. Label contour information.
10. Addition of required parking and provided parking statistics, and identify parking spaces on plan face.
11. Addition of property owner information, as required by Article 21-6(a)(1) of the Zoning Ordinance.
12. Addition of typical parking and drive aisle dimensions.
13. Addition of tree preservation plan and tree canopy information.
14. Denote building square footage and height of building.
15. Denote compliance with Article 8-21(o)(3) of the Zoning Ordinance (75% - 25% mixture of uses).
16. Correct Planning Commission certification.
17. Correct owner's certification.
18. Correct site statistics.
19. Document compliance with interior landscaping requirements (for front parking lot).
20. Remove "Recordation Note" from plan.
21. Review by Technical Committee prior to certification.
22. Discuss areas of steep slope.
23. Discuss detention location(s).
24. Discuss fencing encroachment into street extension reservation area.

Staff Presentation – Mr. Taylor directed the Commission's attention to a rendering of the final development plan for the property located at 2308 Frankfort Court. He oriented the Commission to the surrounding area, and noted that the subject site is located off of Old Frankfort Pike, just outside New Circle Road. He said that the purpose of this plan is to designate the existing building, within a Light Industrial (I-1) zone, as an office/warehouse project. He then said that this change would allow up to 75 percent of the building's square footage to be used for office uses and 25 percent for industrial use, which is not typically permitted within the I-1 zone. He noted that Article 8-21(o)(3) of the Zoning Ordinance requires an approved final development plan to be approved by the Commission in order to make use of that provision. He then noted that there are no physical changes being proposed to the subject site. He stated that the Subdivision Committee recommended postponement of this plan, due to the fact that filing item did not document compliance with Article 8-21(o)(3) of the Zoning Ordinance. He said that the applicant's engineer originally failed to denote the approximate square footage that is allowed, as well as the total square footage of the building on this property. The applicant has submitted a revised development plan that addresses many of the deficiencies reviewed by the Subdivision Committee; and now the staff can recommend approval of this plan, subject to the following revised 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. ~~Department of Environmental Quality's approval of environmentally sensitive areas (steep slopes).~~
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. ~~Label~~ Correct contour information.
10. ~~Addition of required parking and provided parking statistics, and identify parking spaces on plan face.~~
11. Addition of property owner information, as required by Article 21-6(a)(1) of the Zoning Ordinance.
12. ~~Addition of typical parking and drive aisle dimensions.~~
13. Addition of tree preservation plan and tree canopy information.
14. ~~Denote building square footage and height of building.~~
15. ~~Denote compliance with Article 8-21(o)(3) of the Zoning Ordinance (75% - 25% mixture of uses).~~
16. ~~Correct Planning Commission certification.~~
17. ~~Correct owner's certification.~~
18. ~~Correct site statistics.~~
19. ~~Document compliance with interior landscaping requirements (for front parking lot).~~
20. ~~Remove "Recordation Note" from plan.~~
21. ~~Review by Technical Committee prior to certification.~~

- ~~22. Discuss areas of steep slope.~~
- ~~23. Discuss detention location(s).~~
- 24. Discuss Resolve fencing encroachment into street extension reservation area.

In conclusion, Mr. Taylor said that the applicant has requested that condition number 21: "Review by Technical Committee prior to certification" be removed. He said that the applicant has been obtaining the different divisions' signoffs, and the staff is comfortable in removing this condition.

Planning Commission Questions – Mr. Day clarified that there are 10 conditions remaining. Mr. Taylor replied affirmatively.

Mr. Owens asked for clarification to the status of condition number 24. Mr. Taylor commented that there is a fence in the middle of an area reserved for a potential future (public) street. Referencing the revised development plan rendering, he identified the location of the fence, and the reservation for the street extension that could eventually serve another property. He said that the staff would like a note to be added to the development plan stating that when the street extension is built, the encroachment would be resolved with the removal of that fence.

Mr. Penn asked for clarification to condition number 22. Mr. Taylor said that when the original plan was submitted, the elevations for this area were not indicated on the schematic. He said that, in reviewing the development plan, the contour lines were not clearly labeled and there was no way to tell if there were steep slopes. He then said that the applicant's contour information is still not correct on the revised plan because there is not an area in Lexington with a finished floor elevation as low as 105 feet, for example. He noted that the staff is comfortable in concluding that there are no steep slopes on the site now, based on the revised submission which indicates that the contours are at one-foot intervals. As for the issue of the incorrect contour lines, condition number 9 will serve to correct that information.

Representation – Michael Ades, attorney, was present representing the applicant. He said that they appreciate the staff and their working to try to resolve many of these issues. He said that this was a late filed plan, and the applicant has worked diligently to resolve many of the conditions that were recommended for this development plan. He then said that the applicant is in agreement with the staff's recommendations, and requested approval of DP 2009-40.

Audience Comment - Vice Chairman Day asked if anyone in the audience wished to discuss this request for approval. There was no response.

Planning Commission Comments – Mr. Day verified that the staff is now recommending approval, subject to the following remaining 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. Correct contour information.
8. Addition of property owner information, as required by Article 21-6(a)(1) of the Zoning Ordinance.
9. Addition of tree preservation plan and tree canopy information.
10. Resolve fencing encroachment into street extension reservation area.

Mr. Owens said that this development plan was filed late, and the Subdivision Committee was able to review it; however, it was recommended for postponement in hope that the applicant would resolve many of the issues that were listed on the original recommendations. He noted that the applicant has been working very diligently to resolve those issues.

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and 9-0 (Whitman and Vaughn absent) to approve DP 2009-40, subject to the 10 remaining conditions listed by the staff.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Mr. Penn, seconded by Ms. Roche-Phillips, and carried 9-0 (Whitman and Vaughn absent) to approve the release and call of bonds as detailed in the memorandum dated June 11, 2009, from Ron St. Clair, Division of Engineering.

- V. COMMISSION ITEMS** – Vice Chairman Day announced that any item a Commission member would like to present will be heard at this time. There were none offered.

- VI. STAFF ITEMS** – Staff items were considered at this time.

- A. **APA AUDIO CONFERENCE** - Ms. Rackers reminded the Commission that there would be an APA audio-conference in the Division of Planning Conference Room on Wednesday, June 24, 2009, beginning at 4:00 p.m. The title of this conference is "2009 Planning Law Review" and will count toward 1.5 hours of 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., 2nd Floor Council Chambers June 18, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) June 24, 2009
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers **June 25, 2009**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) July 2, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) July 2, 2009
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers **July 9, 2009**

- X. **ADJOURNMENT** - There being no further business, Vice Chairman Day adjourned the meeting at 3:03 p.m.

Randall Vaughn, Chair

Frank Penn, Secretary

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