MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

July 9, 2009

I. CALL TO ORDER - The meeting was called to order by Commission member Ed Holmes at 1:35 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Frank Penn; Ed Holmes; Marie Copeland; Mike Owens; Mike Cravens; Patrick Brewer, Joan Whitman and Carolyn Richardson.

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

II. ELECTION OF OFFICERS – With the expiration of the terms of former members Randall Vaughn and Neill Day, the Commission shall elect a new Chairperson and a Vice-Chairperson. The nominating committee appointed last month will present its slate for consideration by the Planning Commission. Nominations may also be made from the floor.

The current officers are as follows:

Chairperson	-	Vacant
Vice Chairperson	-	Vacant
Secretary	-	Frank Penn
Parliamentarian	-	Mike Cravens

Planning Commission Comment – Mr. Holmes stated that the nominating committee recommended the following slate of Planning Commission Officers for 2009:

2009 Officer Slate:

Chairperson	-	Frank Penn
Vice Chairperson	-	Carolyn Richardson
Secretary	-	Mike Owens
Parliamentarian	-	Mike Cravens

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer and carried 8-0 to approve the Planning Commission's Slate of officers, as presented.

III. APPROVAL OF MINUTES – A motion was made by Mr. Owens, seconded by Mr. Cravens and carried 8-0 to approve the minutes of June 11, 2009.

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

a. PLAN 2008-71P: HAMPTON SPRINGS (AMD.) (7/9/09)* - located at 4574 Harrodsburg Road (a portion of).
(Council District 10) **(EA Partners)**

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested indefinite postponement of PLAN 2008-71P.

Audience Comment - Chairman Penn 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 8-0 to indefinitely postpone PLAN 2008-71P.

b. PLAN 2008-76F: BOGIE ESTATE, LOT 1 (7/9/09)* - located at 5846 Old Richmond Road.
(Council District 12) **(EA Partners)**

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

Representation - Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2008-76F to the August 13, 2009, Planning Commission meeting.

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

Action - A motion was made by Ms. Copeland, seconded by Ms. Whitman, and carried 8-0 to postpone PLAN 2008-76F to the August 13, 2009, Planning Commission meeting.

c. 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 August 13, 2009, Planning Commission meeting.

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

Action - A motion was made by Ms. Copeland, seconded by Mr. Owens, and carried 8-0 to postpone DP 2009-34 to the August 13, 2009, Planning Commission meeting.

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

Representation – John Barlow, Barlow Homes, was present and requested postponement of DP 2009-27 to the August 13, 2009, Planning Commission meeting.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 8-0 to postpone DP 2009-27 to the August 13, 2009, Planning Commission meeting.

e. DP 2009-45: RAMSEY/SULLIVAN (KEARNEY HALL), UNIT 3, SECTION 2, LOTS 1-44 (AMD.) (9/10/09)* - located at Kearney Ridge Lane, Meadowsweet Lane and Kittens Joy Circle. (Council District 12) **(Foster – Roland, Inc.)**

Representation – John Barlow, Barlow Homes, was present and requested postponement of DP 2009-45 to the July 23, 2009, Planning Commission meeting.

Audience Comment - Chairman Penn 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. Richardson, and carried 8-0 to postpone DP 2009-45 to the July 23, 2009, Planning Commission meeting.

f. 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.)**

Representation – John Barlow, Barlow Homes, was present and requested postponement of PLAN 2009-39F to the July 23, 2009, Planning Commission meeting.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 8-0 to postpone PLAN 2009-39F to the July 23, 2009, Planning Commission meeting.

V. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, July 2, 2009, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, and Carolyn Richardson. Committee members in attendance were: Chuck Saylor, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Chris Taylor, Tom Martin, Jim Marx and Barbara Rackers, as well as Rochelle Boland, Department of Law; Capts. Charles Bowen and Allen Case, Division of Fire & Emergency Services; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

---

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

General Notes

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

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

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

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

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

1. PLAN 2009-60F: RAMSEY/SULLIVAN, UNIT 3, SECTION 2, LOTS 21-28 (AMD.) (9/10/09)* - located at 2509-2516 Kittens Joy Circle. (Council District 12) **(Foster – Roland, Inc.)**

Note: The purpose of this amendment is to revise the lotting and to create a parking and access easement.

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 permanent control monuments, as required by Article 5-4(d)(6) of the Land Subdivision Regulations.
7. Number general notes (1, 2, etc.) as required by Article 5-4(f) of the Land Subdivision Regulations.
8. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
9. Denote: This property shall be developed in accordance with the approved final development plan.
10. Addition of private utilities listing per Article 5-4(e) of the Land Subdivision Regulations.
11. Addition of adjacent property information per Article 5-4 of the Land Subdivision Regulations.
12. Certification of amended final development and preliminary subdivision plan prior to certification of this plan.
13. Addition of street tree timing notes, to the approval of the Division of Building Inspection.

2. PLAN 2005-330F: SOUTH HILL GARDENS (9/28/09)* - located at 408 and 426 South Mill Street and 421 through 437 Lawrence Street. (Council District 3) **(Wheat and Ladenburger)**

Note: The Planning Commission originally approved this plan on December 8, 2005; and reapproved it on December 14, 2006, December 13, 2007 and again on June 12, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
5. Approval of street addresses as per e911 staff.
6. Urban Forester's approval of tree preservation plan.
7. Denote: There shall be no building permits issued until Final Development Plan has been approved.
8. Demonstrate compliance of existing buildings with lot requirements.
9. Increase font size on entire plan.
10. Document the minimum lot size and the square footage requirements.
11. Addition of adjoining property information and zoning.

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

12. Resolve landscape and buffer area for zone-to-zone screening.
13. The Planning Commission must approve a Final Development Plan prior to recordation of Section 2 (Lots 2, 7-13).
14. Revise lot layout and add easements, as appropriate, such that the proposed Home Owners Association open space is an accessory rather than principal permitted use, as necessary.

Note: The applicant requests reapproval of this plan.

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

3. DP 2009-44: GENERAL TELEPHONE COMPANY OF KENTUCKY, LOT 2 (9/10/09)* - located at 3695 Nicholasville Road. (Council District 4) **(Barrett Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. Provide developer's information on plan.
10. Denote construction access.
11. Denote location of storm water detention.
12. Addition of reciprocal parking and access note.

4. DP 2009-46: BEAUMONT FARM, UNIT 1, SECTION 5, LOT 2 (9/10/09)* - located at 956 Midnight Pass. (Council District 10) **(EA Partners)**

The Subdivision Committee Recommended: Approval, subject to the following requirements:
1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Solid Waste's approval of refuse collection.
9. Addressing Office's approval of street names and addresses.
10. Revise note #8.
11. Denote storm water facilities or revise note #5.
12. Denote construction access.
13. Denote height of building.
14. Provide complete site statistics.
15. Provided the Board of Adjustment approves the conditional use and dimensional variances.
16. List conditional zoning restrictions.
17. Document seating capacity for this use.
18. Resolve sidewalks.
19. Resolve location and timing of parking, including handicap parking locations.
20. Resolve lighting, screening and required landscape buffer.

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

Audience Comments – Chairman Penn asked if anyone in the audience wished to discuss one of the items listed on the Consent Agenda. Rory Kahly, EA Partners, requested that DP 2009-46 be removed from the Consent Agenda to further discuss this proposal.

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

Action - A motion was made by Mr. Brewer, seconded by Ms. Richardson, and carried 8-0 (Roche-Phillips absent) to approve the items listed on the Consent Agenda, removing DP 2009-46.

---

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

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

<u>The procedure for consideration of these remaining plans is as follows</u>:

- 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. <u>Development Plans</u>

a. <u>DP 2009-46: BEAUMONT FARM, UNIT 1, SECTION 5, LOT 2</u> (9/10/09)* - located at 956 Midnight Pass. (Council District 10) **(EA Partners)**

<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 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. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Solid Waste's approval of refuse collection.
9. Addressing Office's approval of street names and addresses.
10. Revise note #8.
11. Denote storm water facilities or revise note #5.
12. Denote construction access.
13. Denote height of building.
14. Provide complete site statistics.
15. Provided the Board of Adjustment approves the conditional use and dimensional variances.
16. List conditional zoning restrictions.
17. Document seating capacity for this use.
18. Resolve sidewalks.
19. Resolve location and timing of parking, including handicap parking locations.
20. Resolve lighting, screening and required landscape buffer.

<u>Staff Presentation</u> – Mr. Taylor directed the Commission's attention to a rendering of the final development plan for property located at 956 Midnight Pass. He said that the subject site is located at the center of Beaumont Centre Circle, between Monarch Street and Midnight Pass. He oriented the Commission to the location of the surrounding street system and the nearby commercial businesses, as well as the townhouse development.

Mr. Taylor stated that this proposal is to construct an amphitheater with associated storage areas, dressing rooms and a concession stand. He said that the required parking for this proposal is proposed to be handled off site through the adjacent P-1 developments. He then said that since the amphitheater is a conditional use in the B-1 zone, the applicants will need to obtain approval by the Board of Adjustment (BOA). The applicants will also need to obtain approval from the BOA for a dimensional variance, which would allow the required parking to be greater than 300 feet from the amphitheater.

Mr. Taylor said that the Subdivision Committee had recommended approval of this request, subject to the 20 conditions listed on the agenda. He noted that most of these conditions are typical signoffs from each of the divisions, as well as some clean-up items; however, condition numbers 18 through 20 are items that need to be resolved. He noted that the "resolve" items are issues that could be worked out at the Board of Adjustment hearing through the conditional use application. He then noted that condition number 20 could also be resolved through a note being placed on the development plan. He said that as for condition number 18, the staff previously submitted an email correspondence from Kenzie Gleason, Bike and Pedestrian Planner (a copy of which is attached as an appendix to these minutes); and in that email, she noted that she was not able to attend the Technical Committee or the Subdivision Committee meeting, but she had denoted some of the goals and concerns for the pedestrian facilities for this site. He then said that Ms. Gleason recommends that a pedestrian access be installed connecting Monarch Street to the amphitheater, as well as a sidewalk connecting the amphitheater to Midnight Pass. With the applicants revised submission, they are proposing to connect the sidewalk only from Monarch Street to the amphitheater.

<u>Planning Commission Questions</u> – Mr. Brewer asked if condition number 10 has been resolved. Mr. Taylor said that note number 8 on the rendering incorrectly referenced Article 18 of the Zoning Ordinance; however, the applicants has corrected that with the revised submission.

---

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

Mr. Penn asked if condition number 8 can now be deleted. Mr. Taylor said that since this item was eligible for the Consent Agenda, and the applicants has addressed some of the concerns listed, the staff suggests leaving the conditions as they are presented for now. Mr. Penn confirmed that condition number 8 will remain on the list of recommendation. Mr. Taylor replied affirmatively.

Mr. Owens asked if the Bike and Pedestrian Planner's suggestions are noted on the rendering with dotted lines. Mr. Taylor replied affirmatively, and pointed out the proposed sidewalk location.

<u>Representation</u> - Rory Kahly, EA Partners, was present, along with Tim and Andy Haymaker, the applicant's. He said that condition number 18 is the reason for this item being removed from the Consent Agenda. He then said that they had received Ms. Gleason's email at the Technical Committee meeting; and at the Subdivision Committee, they had submitted the proposed rendering that is being shown today. Therefore, they believed the issue with the pedestrian access had been resolved.

Mr. Kahly said that the service road will connect from Monarch Street to the rear of the amphitheater. It will be made of concrete or asphalt, and the width of the road will be 16 feet. He said that vehicles will only use the service road while loading and unloading equipment; and when the road is not in use, it will be blocked off at the entrance of Monarch Street to prevent any vehicles from accessing this area. During the events, the service road will be used strictly for pedestrian use. He said that they believe it would be redundant to have both the road and the sidewalk leading to the amphitheater. With that being said, Mr. Kahly said that Mr. Haymaker was present, should the Commission have any questions about this facility.

<u>Planning Commission Questions</u> – Mr. Brewer asked if the requested sidewalk had been added to the lower portion of the property. Mr. Kahly replied affirmatively, noting that the sidewalk will lead to Midnight Pass. Mr. Brewer then asked if the service road will be used only for loading and unloading of the equipment, and if it will be used as a pedestrian access. Mr. Kahly replied affirmatively. Mr. Brewer then asked if the service road covers the same space as what was requested by Ms. Gleason. Mr. Kahly said that it does.

Mr. Holmes asked for clarification to the location of the sidewalk. Mr. Kahly pointed out the location of the service road on the rendering, and said that Ms. Gleason had requested a separate sidewalk either adjacent to the service road or closer to the townhouse developments. He said that they do not want to bring pedestrian traffic closer to the townhouse development, and it would be redundant to have a sidewalk next to the service road, since the road will be closed to vehicle use during any type of event. He noted that this proposal was presented at the Subdivision Committee; however, this is not what Ms. Gleason wanted, which is the reason they requested that this item be discussed. Mr. Taylor said that the staff supports the recommendation of the Technical Committee; however, he cannot speak to Ms. Gleason's rationale.

Kenzie Gleason, Bike and Pedestrian Planner, said that in reviewing this plan, one of the primary concerns was not only to provide a pedestrian access to the site, but also to provide a pedestrian access from the site to Midnight Pass. She then said that another concern would be the high pedestrian traffic that would be within this area at the same time the service road is in use. She commented that the pedestrian access and the service road need to be clearly designated.

<u>Planning Commission Questions</u> – Mr. Cravens commented that people will not use the sidewalk; rather they will walk down the service road to the amphitheater. He asked if the applicants could mark a pedestrian area on the service road instead of adding a sidewalk. Ms. Gleason replied that that could be one compromise.

Mr. Holmes asked if different pavement materials could be used. Ms. Gleason replied that that could be feasible, but there needs to be some type of distinction between the pedestrian use area and the vehicular use area.

Mr. Penn asked if there is a sidewalk along Monarch Street that will connect to the service road. Ms. Gleason replied affirmatively. Mr. Penn said that the issue then is connectivity. Ms. Gleason said that in reviewing the overall area, there are direct pedestrian paths from the surrounding neighborhoods and commercial developments and the nearby streets.

Mr. Owens clarified that the service road will be open to pedestrian traffic 24 hours a day, 7 days a week. Ms. Gleason replied affirmatively.

Mr. Holmes asked where the pedestrian connection come from if there are no sidewalks connecting to the amphitheater. Ms. Gleason said that there are sidewalks along Monarch Street, around the central feature, and sidewalks that connect to Midnight Pass.

Ms. Richardson said that it was her understanding at the Subdivision Committee meeting that there would be bollards used at the entrance of the service road, and asked if the loading and unloading will be prior to the pedestrians showing up for the event. Mr. Kahly replied affirmatively, and said that they hoped everything would be set up prior to people showing up. He then said that the service road will be designed like the Beaumont Walking Trails. He noted that the service road will be 16 feet wide, so people will know where to walk. This site was designed to be in the center of the area, with the main entrances off of Man O' War Boulevard and Harrodsburg Road leading to it. He said that they want to keep as much greenspace area as possible.

Mr. Owens commented that the applicants hope the service trucks will be able to set up prior to pedestrians arriving, but that cannot be guaranteed. Tim Haymaker assured the Commission that they can write a program in their policy book to prevent vehicles from being present. He said that the only reason for trucks being present is to load or unload the equipment. He then said that they can require that no vehicles are to park on site during any event, noting that that could be placed on the development plan as a condition, as well. As for the types of pavement material, they prefer to have a smooth concrete surface. Their reasoning is that the handicap parking will be utilized through the adjacent property on Monarch Street, and the service road needs to be smooth for people who use walkers, wheel chairs, strollers, etc. He said that a smooth surface will help prevent anyone from tripping for whatever reason when walking to the amphitheater. He then said that the people who are familiar with the Beaumont Walking Trail are aware of the bollard system and how it works. The bollards are large, made of concrete, very secure, and a key must be used to operate them. He said that the bollards will remain locked unless access is needed for a scheduled event, such as a show, or if lawn maintenance or city service is required. In closing, Mr. Haymaker said that the sidewalk will go completely around the amphitheater, and the service road will provide direct connectivity to the center of the site. He then said that they believe having a sidewalk adjacent to the service road is overkill, and it reduces the little greenspace that is there.

Mr. Brewer said that, given everything that was presented at this meeting, he would have to agree that there is no need for an additional sidewalk. He said that Ms. Gleason felt it was reasonable to have the pedestrian access clearly marked, and asked if the applicants agreed. Mr. Haymaker said that that was fine as long as the markings are tastefully done, such as the Beaumont Walking Trail. He then said that the walking trails have clearly visible signs that show where the pedestrian areas are located. Mr. Brewer said that there is no need for an additional sidewalk; and with Ms. Gleason agreeing to the service road being clearly marked, he sees no reason why this should not be approved.

Ms. Copeland asked what precautions will be taken for noise abatement for the residential areas. Mr. Haymaker said that they were very forthcoming with the property owners about the amphitheater being built, and they were very careful with the design of the residential area adjacent to the site. He then said that in order to help with the light and noise pollution, it was suggested that Leyland Cypress trees were to be used, since they are very fast growing trees. The concern with using any trees was that 1) the townhouse area was advertised as being able to sit on the front porch and watch the events, and 2) there was a concern with the potential for people congregating behind those trees. He said that it was preferred to have the area open in order to see the performances. He then said that they can write a policy that denotes during the week that events will end by 10 p.m. and on the weekend the events will end by 11 p.m. He then said that this policy is not a guarantee, due to unforeseen circumstances, such as the bad weather. He noted that if there is a 15-minute postponement time, and if the show runs 2 hours long, it will not end until after the allotted time. He assured the Commission that the events in this area will not be intrusive or obnoxious; it will be tastefully done. He said that they have accommodated the LFUCG by building a wooden floor to allow the Ballet Under the Stars to be able to perform here.

Ms. Copeland asked what the seating capacity for this area will be. Mr. Haymaker said that, according to their studies, the maximum seating capacity at this facility could be as high as 1000 people. Ms. Copeland estimated that about 400 parking spaces should be provided, and asked if the required parking is being met. Mr. Taylor replied that the parking issue will be discussed at the upcoming Board of Adjustment hearing, noting that the hearing will take place after the Planning Commission makes their recommendations. Mr. Haymaker said that the existing buildings adjacent to this site have 350 parking spaces each; and with the pending 4 professional office buildings, the required parking should be met. He said that they do not want the parking to be at the front of the circle, since it would take away from the retail area that prospers at night. He noted that they have written statements from the surrounding companies that have given their permission for them to use their parking lots for the events.

Mr. Owens said that he appreciates the efforts put into this design, and he looks forward to attending some of the events. He asked if they would be willing to work with Ms. Gleason if condition number 18 were to remain. He said that the pedestrian area needs to be designated for the public to have easy access. Mr. Haymaker said that the policy could read that the bollards will be locked a few hours prior to the start time of any event.

Mr. Holmes said that he would like to see some type of signoff from Ms. Gleason showing what will be acceptable for the pedestrian use. Mr. Haymaker said that their goals are the same and he sees no problem in getting this resolved.

Audience Comment – Mr. Penn asked if anyone in the audience wished to discuss this request for approval. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Owens, to approve DP 2009-46, subject to the conditions listed by the staff.

Discussion of Motion – Mr. Penn asked if the motion on the floor is to keep condition number 18 as listed. Mr. Brewer said that it is his understanding that both parties have agreed that this issue can be resolved, and asked if a further signoff approval was needed. Mr. Penn said that Ms. Gleason could be a required signoff concerning the sidewalks.

Mr. Cravens asked if the only stipulation for this request to be approved is to have the sidewalk built. Ms. Gleason said that she is open to some of the ideas that have been mentioned. Mr. Cravens confirmed that Ms. Gleason would not insist that the applicants build the sidewalk next to the service road. Ms. Gleason replied that, as long as the pedestrian areas are clearly designated, she would not.

Action – Mr. Brewer withdrew his original motion, and made a motion to approve DP 2009-46, subject to the conditions listed by the staff, deleting condition umber 18.

The motion was seconded by Ms. Richardson, and carried 8-0.

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 8-0 to approve the release and call of bonds as detailed in the memorandum dated July 9, 2009, from Ron St. Clair, Division of Engineering.

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

A. COMMENTS – Ms. Whitman requested that the Planning Committee/Planning Commission Joint meeting dates be added to the Planning Commission agenda. Mr. King agreed, and said that can be arranged.

Mr. Penn said that Tuesday, June 30, 2009, the Planning Committee/Planning Commission Joint meeting was very productive. Mr. King elaborated, noting that members of the Planning Commission, the Council, and others had attended the June session to discuss the University of Kentucky plans for housing and how it would relate to the larger vision for Lexington. He said that they also discussed a primer on form-based codes and the possibility of this program being initiated for the Lexington-Fayette County area. He noted that the next scheduled meeting will be held at the Lexington Public Library, Tuesday, September 29, 2009, beginning at 9 a.m.

Mr. Penn encouraged the Planning Commission members to attend this meeting, and said that these meeting have evolved from "getting to know you," to how can we move forward as a unified group with regard to policy decisions regarding the Infill and Redevelopment issues. He then said that these meetings are held quarterly; and as long as the meetings are productive, the attendance will be high.

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

A. UPCOMING WORK SESSION – Mr. King reminded the Commission members of the upcoming work session on July 16, 2009. He said that there will be a brief presentation regarding the touch screen monitor at each of the Commission seats, as well as presentations concerning two text amendments that the staff has been working on.

Mr. King then said that the Urban County Council had suspended its rules before their summer break, and enacted the packet of Infill and Redevelopment text amendments that were previously forwarded by the Planning Commission. He said that the staff was asked to present an independent summarization of those text amendments the previous week, and that presentation was very well received by the Council. He noted that the Council is looking forward to Round 4 of Infill text amendments.

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.

Audience Comment - Chairman Penn asked if anyone in the audience wished to discuss any issues at this time. Myke Robbins, Foster – Roland, was present. He said that he was present at the beginning of the meeting, and was unaware of the outcome for PLAN 2009-60F, and asked for clarification. Mr. Penn said that PLAN 2009-60F was listed on the Consent Agenda for conditional approval by the Commission. He then said that after the staff had presented the Consent Agenda, a request was made by an audience member to discuss concerns regarding an item listed. Since there were no comments made from the other audience members the Commission approval for the remaining items listed on the Consent Agenda.

IX. <u>CLOSING COMMENTS</u> – Mr. Penn said that if a member of the Planning Commission wishes to change or alter their Committee assignments, they should inform him within the next couple of weeks. He noted that there are pending appointments for two new Commission members, as well as the pending reappointment of Ms. Roche-Phillips, and once this has been confirmed, it will help alleviate the Committee assignments.

Mr. Penn commented that at the July 16, 2009, Work Session, he would like to discuss a few items that would help the Commission become more efficient in their duties.

X. <u>NEXT MEETING DATES</u> –

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... July 16, 2009
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **July 23, 2009**
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) .... July 29, 2009
Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... July 30, 2009
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) .... August 6, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .... August 6, 2009
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers .... **August 13, 2009**

XI. <u>ADJOURNMENT</u> - There being no further business, Chairman Penn adjourned the meeting at 2:22 p.m.

____
Frank Penn, Chair

____
Mike Owens, Secretary

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