MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS

February 9, 2012

I. CALL TO ORDER - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Derek Paulsen, Chair; Eunice Beatty; Carla Blanton; William Wilson; Will Berkley; Marie Copeland; Lynn Roche-Phillips and Mike Owens. Patrick Brewer, Mike Cravens and Frank Penn were absent.

Planning Staff Present – Chris King, Director; Bill Sallee; Tom Martin; Cheryl Gallt; Chris Taylor; Jimmy Emmons, Dave Jarman and Denice Bullock. Other staff members in attendance were: Captain Charles Bowen, Division of Fire & Emergency Services; Hillard Newman, Division of Engineering; and Rochelle Boland, Department of Law.

II. APPROVAL OF MINUTES – The Chair noted that there were no prior Planning Commission meeting minutes to be considered at this time.

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

a. DP 2012-4: BAPTIST HEALTHCARE SYSTEM (CENTRAL BAPTIST HOSPITAL) (AMD) (4/2/12)* - located at 1740 Nicholasville Road. (Council District 4) **(HDR)**

Representation – Mark McIntosh, HDR, was present representing the applicant, and requested postponement of DP 2012-4 to the February 23, 2012, Planning Commission meeting.

Audience Comment – The Chair 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. Beatty and carried 8-0 (Brewer, Cravens and Penn absent) to postpone DP 2012-4 to the February 23, 2012, Planning Commission meeting.

b. DP 2011-96: CHINOE VILLAGE SHOPPING CENTER (AMD) (2/9/12)* - located at 1050 Chinoe Road. (Council District 5) **(The Roberts Group)**

Representation Bob Cornett, The Roberts Group, was present representing the applicant. He requested a postponement of DP 2011-96 to the March 8, 2012, Planning Commission meeting to obtain the traffic study information. Mr. Sallee noted that this item was continued from the December 8, 2011 meeting, and recommended that the Planning Commission continue this item to the March 8th meeting rather than postponing this item.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. An audience member asked for clarification between a continuation and a postponement. Mr. Cornett said that a continuance allows the previous discussions from the December meeting to be part of the March meeting rather than starting all the presentations over again.

Action - A motion was made by Mr. Berkley, seconded by Mr. Owens and carried 8-0 (Brewer, Cravens and Penn absent) to continue DP 2011-96 to the March 8, 2012, Planning Commission meeting.

c. DP 2012-1: LOCHMERE ESTATES (MAPLE RIDGE) (AMD) (3/20/12)* - located at 651 Chilesburg Road. (Council District 7) **(Eagle Engineering)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of DP 2012-1 to the March 8, 2012, Planning Commission meeting.

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

Action - A motion was made by Ms. Beatty, seconded by Mr. Wilson and carried 8-0 (Brewer, Cravens and Penn absent) to postpone DP 2012-1 to the March 8, 2012, Planning Commission meeting.

IV. LAND SUBDIVISION ITEMS - The Subdivision Committee met on Thursday, February 2, 2012, at 8:30 a.m. The meeting was attended by Commission members: Derek Paulsen, Eunice Beatty, Mike Owens, Will Berkley and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jim Gallimore, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Jimmy Emmons, Dave Jarman and Denice Bullock, as well as Captain Charles Bowen, Division of Fire & Emergency Services. 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, the Chair 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 regular 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 2012-2F: TUSCANY, UNIT 1-B, SEC. 1, LOTS 62 & 63 (3/29/12)* - located at 2413 and 2409 Rossini Place. (Council District 6) **(Vision Engineering)**

Note: The purpose of this amendment is to reduce the building line from 30 feet to 20 feet.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:
1. Urban County Engineer's acceptance of drainage, storm, 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.
4. Addressing Office's approval of street names and addresses
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of private utility providers.
8. Correct Engineer/Surveyor's certification.

2. DP 2012-3: L.C. BERRY & BELLA VISTA SUBDIVISIONS (PANDA EXPRESS) (4/2/12)* - located at 2433 Nicholasville Road. (Council District 10) **(Milestone Design)**

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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Addition of written scale.
9. Correct copyright information and corporate references to permit copying of this public document.
10. Clarify Dennis Drive cross-section(s).
11. Denote stormwater detention location.
12. Resolve the need for right turn lane and/or provisions of sidewalks on Nicholasville Road into service road to the approval of Division of Traffic Engineering and Kentucky Department of Transportation.

3. DP 2012-5: BEAUMONT FARM, UNIT 1, SEC. 5, LOT 8 (4/2/12)* - located at 1136 Monarch Street. (Council District 10) **(Midwest Engineering)**

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.

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3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda.

Action - A motion was made by Mr. Owens, seconded by Ms. Beatty and carried 8-0 (Brewer, Cravens and Penn absent) to approve the remaining items listed on the Consent Agenda.

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

The procedure for consideration of these remaining plans is as follows:
- 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. DEVELOPMENT PLANS

a. DP 2011-97: LIGGETT & COMPANY (2/9/12)* - located at 1211 Manchester Street.
(Council District 2) **(J.E. Black)**

Note: The Planning Commission postponed this plan at its December 8, 2011 and January 12, 2012, meetings. This plan requires the posting of a sign and an affidavit of such.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding the phasing of the development, emergency access, stormwater management and proposed uses.

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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
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 Waste Management's approval of refuse collection.
9. Correct plan title.
10. Correct parking lot phasing labels.
11. Correct vicinity map.
12. Complete metes and bounds.
13. Addition of signage note (per Article 17 of the Zoning Ordinance).
14. Addition of tree protection notes.
15. Modify the landscaping/screening along 216 Wilton Avenue to meet Article 18-3 of the Zoning Ordinance.
16. Submit details regarding provision of public art.
17. Discuss storm water management.
18. Discuss phasing of development notes.
19. Discuss possible and proposed uses.
20. Discuss past Board of Adjustment approval (and restrictions) for emergency access to Liggett Street.

Development Plan Presentation – Mr. Emmons directed the Commission's attention to the Development Plan for Liggett & Company, which is located at 1211 Manchester Street. He noted that the staff had received the required affidavit regarding the posting of the sign for this site.

Mr. Emmons said that this property is being proposed for an Adaptive Reuse Project for an old tobacco warehouse building. He then said that even though this property is listed with a Manchester Street address, it does not front on Manchester Street. The primary access to the site is provided across the railroad tracks, which run between the subject site and the right-of-way. There is also an emergency access at the rear of the site leading to Liggett

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Street. He said that the subject site is directly across from the Distillery District West, which is another Adaptive Reuse Project. He noted that the properties to the north on Liggett Street are part of the (Melrose/Oak Park) Neighborhood Association.

Mr. Emmons said that the warehouse building is approximately 120,000 square feet and is subdivided into six 20,000 square-foot pods. He then said that there is one-way circulation around the building, as well as parking areas through the property, consisting of asphalt, concrete and gravel. He noted that upon entering the subject property, there is a paved area located near the first pod and gravel parking is located to the rear.

Mr. Emmons said that Board of Adjustment had previously approved a conditional use on this property for The Antique Affair, and this use occupies the first pod. He said that the applicant is proposing to move The Antique Affair from the first pod into the second pod, which would allow a banquet facility in the first pod.

Mr. Emmons then said that the applicant is proposing to build out the entire site and provide improvements for parking that would consist of 196 parking spaces. They are also providing landscaping as required by the Zoning Ordinance. He noted that, for an Adaptive Reuse Project, the required parking is ½ of what is normally required; and since there is a large variety of an allowable uses, the parking requirements can vary. He said that since it is difficult to say what uses would be coming to this area, the staff is recommending limiting the occupancy to the available parking; and if necessary, the applicant may need to establish off-site parking agreement. He noted that when occupancy permits are obtained for each use within an Adaptive Reuse Project, the parking is enforced and tracked through the Urban County Government.

Mr. Emmons said that this plan appears on today's agenda with a recommendation of postponement. He indicated that at the last Subdivision Committee meeting, the applicant presented a revised plan, attempting to address the Committee's concerns. He then said that the applicant had noted they would not agree to any further postponement of this plan and requested to be heard by the full Commission. Mr. Emmons said that the staff had reviewed the revised submittal, and is now recommending approval, subject to the revised 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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
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 Waste Management's approval of refuse collection.

~~9. Correct plan title.~~
~~10. Correct parking lot phasing labels.~~
~~11. Correct vicinity map.~~
~~12. Complete metes and bounds.~~
~~13. Addition of signage note (per Article 17 of the Zoning Ordinance).~~

9. ~~14~~. Addition of tree protection notes.
~~15. Modify the landscape and screening along 216 Wilton Avenue to meet Article 18-3 of the Zoning Ordinance.~~
10. ~~16~~ Submit details regarding provision of public art.
11. ~~17~~ ~~Discuss~~ **Denote the timing of** storm water **improvements at phase 2, to the approval of the Division of Engineering** ~~management~~.
12. ~~18~~ ~~Discuss~~ **Denote** phasing of development notes**, as presented to the Planning Commission**.
~~19. Discuss possible and proposed uses.~~
13. ~~20~~ ~~Discuss past Board of Adjustment approval (and restrictions) for~~ **Denote:** Emergency access **gate** to Liggett Street **will not be used by customers, vendors, employees or for any other aspect of the business**.

Mr. Emmons gave a brief explanation of the revised conditions, and said that conditions #1 through #8 are typical "sign-offs" from the different local government divisions. He then said that the original conditions #9 through #13, as well #15 and #19, were "cleanup" conditions, and could be removed.

Mr. Emmons directed the Commission's attention to the remaining conditions, and said that an Adaptive Reuse Project must meet the Goals and Objectives of the 2007 Comprehensive Plan, as well as Article 8-21(o)4 of the Zoning Ordinance. He said that Article 8-21(o)4 lists 9 criteria that an Adaptive Reuse Project must meet. The applicant meets 4 of those 9, which includes public art. He said that there is an existing mural along Manchester Street, and the applicant is proposing to continue that wall painting on the remainder of building. He then said that the applicant will need to submit those details, such as location, timing and so forth (condition #9) to the staff.

Mr. Emmons said that the staff had spoken with the Division of Engineering, and it was recommended that condition #11 be changed to read: "**Denote the timing of** storm water **improvements at phase 2, to the approval of the Division of Engineering**." He directed the Commission's attention to the staff exhibit, and said that condition #12 is related to the phasing of the parking. The applicant will need to denote this phasing on the development plan (condition #12). He indicated that the phasing of the development was initially discussed at the December Subdivision Committee meeting, and was reviewed again at the February Subdivision Committee meeting. He

briefly discussed what changes and improvements would be required for the different increments of square footage as the building is developed.

- Up to 20,000 square feet (1 room) would not require any physical changes, and the existing parking would be utilized. Railing would be required, as necessary, around the elevated walkways (Manchester Street);
- Up to 40,000 square feet (2 rooms) would require Phase 1 parking improvements, the completion of proposed public art and the removal or repair of the elevated walkway adjacent to the railroad for any rooms being used;
- Up to 60,000 square feet (3 rooms) would require Phase 2 parking improvements, including any additional storm water controls and the removal or repair of the elevated walkway adjacent to the railroad for any rooms being used;
- Up to 80,000 square feet (4 rooms) would require Phase 3 parking improvements, including any necessary storm water controls and the removal or repair of the elevated walkway adjacent to the railroad for any rooms being used; and
- Up to 120,000 square feet – full development - would require Phase 4 parking improvements, including any necessary storm water controls and the removal or repair of the elevated walkway adjacent to the railroad for any rooms being used.

Mr. Emmons directed the Commission's attention to the highlighted rendering, and explained that the proposed improvements for this site would be done in increments of 20,000 square feet, based on occupancy. He said that there is an existing drive aisle that circles the building, and a portion of this drive aisle and parking spaces currently consist of paved or gravel material. The drive aisle coming off of Manchester Street toward Liggett Street is paved, but the area at the rear, near Liggett Avenue and around toward Manchester Street, is graveled. He said that the staff doesn't recommend gravel but rather asphalt or concrete for the drive aisle. Mr. Emmons said that this type of improvement phasing had been done in previous Adaptive Reuse Projects, and is based upon the occupancy of the site until full capacity is reached.

Mr. Emmons stated that Article 8-21(o)d of the Zoning Ordinance does permit restaurants (with or without outdoor seating and with or without live entertainment), as well as banquet facilities or private clubs with live entertainment, brew pubs, bars, cocktail lounges and nightclubs. He then said that the initial concern was the close proximity of the residential neighborhood to the possible permitted uses (i.e., live entertainment). The subject site is 10 feet lower than the adjacent neighborhood, and there is a rock ledge with very dense vegetation between these two areas. He said that if live entertainment were permitted outdoors between the rock ledge and the building, it could cause an echo effect and be amplified; but this is a very unlikely place to hold any live entertainment because it is the main drive aisle around the building. He then said the staff is comfortable with permitting live entertainment; and should the Commission allow this type of use, it should be restricted to the first pod, which is oriented toward Manchester Street.

Mr. Emmons said that, as previously stated, the Board of Adjustment reviewed this site for The Antique Affair and made a recommendation that the rear access to Liggett Street is to remain an emergency access only. He then said that the staff is recommending that the applicant denote that the emergency access gate to Liggett Street not be used by customers, vendors, employees or for any other aspect of the business use (condition #13). He indicated that, should a train block the main entrance for any length of time, it would be appropriate for the rear access to be used. He said that, in the past, the properties to the north on Liggett Street (Melrose/Oak Park Neighborhood Association) were concerned that the emergency gate was being used by the general public, and started blocking it with debris. Mr. Emmons noted that this is an emergency access and needs to remain open and clear of debris for safety.

Mr. Emmons concluded by saying that the staff is recommending approval, subject to the revised conditions previously mentioned.

<u>Planning Commission Questions</u> – Ms. Copeland said that condition #13 speaks to the emergency access, but there is no mention of who will be maintaining it. Mr. Emmons said that the applicant would maintain the emergency access. Ms. Copeland asked if a condition should be added to reflect that the applicant would maintain the emergency access. Mr. Emmons said that the Planning Commission could add a condition to reflect that concern.

Ms. Copeland said that, in the past, there was a nightclub disaster (Beverly Hills Supper Club), in which people were trapped and perished, and asked if the staff had thought of garage doors to allow a "blow through" or perhaps a second floor. Mr. Emmons indicated that sound coming from inside the building would generate less noise compared to sound that is outside. He then said that the interior building is large enough for mezzanines if building codes were met. This would create more floor area, which would require approval by the Planning Commission.

Ms. Copeland asked, if the 5th and 6th pods were removed and a second story was added, if the applicant would need to come to the Planning Commission for approval. Mr. Emmons said that there is the possibility that that type of change could qualify as a minor amendment; however, if the amendment changed the concept of what is being proposed, the staff would refer the request to the Planning Commission for consideration.

Ms. Copeland said that the entrance to the site can be blocked by the train and asked how the railroad is used. Mr. Emmons said that, in his experience with this site, the entrance was not blocked for more than 5 minutes at a time. He then said that this track is used by the RJ Corman dinner train by the rock quarry and other uses. Ms. Copeland then asked if the tracks are servicing the nearby warehouses. Mr. Emmons referred the question to the applicant.

Ms. Roche-Phillips asked if permits were required when subdividing these pods. Mr. Emmons said that he believes that is how the building was originally built. Ms. Roche-Phillips then asked if there have been enhancements to the building. Mr. Emmons said that the site has been cleaned up. Ms. Roche-Phillips said that, given the geography of this property and its proximity to Town Branch Creek, she is disinclined to see more surface paving due to the water quality problems in this area. She said that it is clear that there is no space for storm water improvements and, for this particular case, it would do more harm than good.

Ms. Roche-Phillips said that, with respect to the number of parking spaces, given that there are no proposed uses, there could be up to 196 parking spaces should there be a night club. Mr. Emmons said that a night club is the highest parking generator of the allowable uses. He then said that if a night club were proposed that use would take up a little more that ½ of the square footage of the building before it maxed out the parking on site. The applicant has the opportunity to rent parking spaces from the surrounding areas, if needed. He said that the parking spaces could be shared as well between the different uses. Ms. Roche-Phillips agreed and noted that The Antique Affair has different operating hours than a night club. She then said that she is having a hard time envisioning the proposed use, and the maximum number of parking spaces allowed. Mr. Emmons said that the applicant had applied for a storm water grant through the Division of Water Quality to install pervious pavers; however, that application was not funded with this round of grants, due to another application scoring higher and the lack of available funding.

Ms. Roche-Phillips said that, given there are no physical improvements to the structure or area, 196 parking spaces would be excessive for this location due to the geography and the proximity of Town Branch Creek. Mr. Emmons said that the staff is proposing that the parking lot be done in phases as the occupancy permits are obtained. He then said that Best Management practices for the storm water can be utilized at that time.

Mr. Owens said that he is concerned with the drive aisle around the building, especially if the uses were to become too intense for this area. He asked if a provision for the drive aisle could be placed on this development plan that would reflect this concern. Mr. Emmons said that the Planning Commission could add a condition, but the appropriate phasing needs to be determined. He asked at what point the Planning Commission would require the drive aisle to be installed - when the first pod or the second pod is occupied. Mr. Owens said that it would depend on how quickly the uses would occupy this development and the location of those uses. He then said that if the staff wants one-way traffic, a drive aisle is needed.

Mr. Owens then said that in the past the nearby neighbors had expressed a concern with noise from live entertainment, and asked what the distance is between the building and residents. Mr. Emmons said that it ranges between 60 to 70 feet to the residential properties. Mr. Owens said that the required distance is between 100 and 150 feet. Mr. Emmons said that the Zoning Ordinance requires 100 feet; however, due to the topography of this area, the building is 8 to 10 feet lower than the residential area. There is approximately 100 feet from building to building.

Mr. Owens said that he would be concerned with outdoor entertainment, and asked if sound-proofing would be required inside the warehouses. Mr. Emmons replied negatively, noting that the Adaptive Reuse Regulations do not require that type of restriction. He then said that the Planning Commission could restrict that type of use on the subject property.

Mr. Berkley asked if emergency access is incorporated on the development plan, because it does not appear to be on the rendering. Mr. Emmons said that the emergency access is shown on the development plan, but it is not drawn that way. He then said that the emergency access and the subject property are under the same ownership, and the Commission could require it to be incorporated. Mr. Berkley agreed that the applicant would not cut off their own access; but the emergency access needs to be shown on the development plan, considering it is privately owned. Mr. Sallee indicated that having the emergency access as part of the development plan is a reasonable condition.

Ms. Beatty asked if the applicant has contacted the nearby neighborhood about the possible impact of this development. Mr. Emmons said that the staff has not made contact with the nearby neighborhood and the staff has not received any phone calls. He then said that he is unaware if the applicant had contacted them. This plan required the posting of a sign to be displayed, and it was oriented toward Manchester Street.

Ms. Copeland asked if there will be light spillage into the adjacent neighborhood. Mr. Emmons said that an Adaptive Reuse Project only requires what is listed in the regulations for parking lot lighting. He then said that the regulations state that lights are to be directed away from residential areas. Ms. Copeland said that she is

concerned with light spilling into the houses along Liggett Street. Mr. Emmons said that the Zoning Ordinance does require lighting to be directed away from a residential area. Ms. Copeland commented that this development is pretty close to a residential community and could pose a problem.

Representation – Jim Black, J.E. Black, was present, along with Vivian Collins, who is the property owner representative. He said that they are in agreement with the staff's recommendations and requested approval.

Planning Commission Questions – Ms. Beatty asked if the neighborhood had been contacted. Mr. Black referred the question to Ms. Collins. She indicated that they had contacted the property owners within the 400-foot radius when the Adaptive Reuse Project was first initiated; and since that time, they have been in constant contacted with the neighbors along Liggett Street on a variety of issues, such as the emergency access. She noted that the emergency access is gated and it does stay closed. Mr. Black stated that as this property has developed, there has been constant contact with the property owners along Liggett Street; but there has not been a specific reintroduction of the current proposed development plan.

Mr. Owens said that since the drive aisle is one-way traffic, he asked if the applicant would be agreeable to continue the drive aisle around the building. Mr. Black said that the drive aisle condition near and along Manchester Street is better than the drive aisle conditions along Liggett Street. He noted that the applicant will maintain and provide improvements to the drive aisle as necessary. He said that the gravel in this area has been there for a long time and has been compacted. The only practical thing to do is pave along that existing surface; however, this poses a problem from an engineering standpoint because some of the drainage will be blocked due to the thickness of the asphalt. He noted that gravel is the preferable choice versus paving the drive aisle. He said that another issue is from larger vehicles tearing up the pavement.

Mr. Owens asked if live entertainment will be considered as one of the uses in the development. Ms. Collins said that live entertainment would be placed in the first pod at the entrance of the development near the concrete pad. Mr. Black said that the concrete pad is in good condition and it lends itself to that type of use. Mr. Owens asked if the applicant would permit live entertainment near the entrance, which Mr. Black confirmed. Mr. Owens asked if the applicant would permit live entertainment in the other pods. Ms. Collins said that they have provided improvements to the first 3 pods, and those uses would include an antique show, banquet room and art exhibits. She then said that when the last two pods are occupied those would be phased in. Mr. Black illustrated and explained which pods are occupied and the type of uses that would occupy each pod. Mr. Owens asked if the applicant would be willing to limit live entertainment to only one pod. Mr. Black said that the applicant indicated that she is agreeable to that request.

Ms. Copeland asked, should the train obstruct the entrance to this site, how that will be handled; and if there is an agreement between the train company and the applicant. Ms. Collins indicated that the RJ Corman train only runs after 10 PM; and if there is an event on site, and the train does block the entrance, the yard master is called. She said that they have a good relationship with the yard master, and the train does not block the entrance for any length of time. She then said that the train transports sand from Louisville to Lexington, arriving around 10 PM. Ms. Copeland asked if the RJ Corman dinner train is the only use on the railroad track. Ms. Collins replied that the train hauls sand, as well. Mr. Black said that there is no sand in Lexington and it must be hauled in for concrete. Ms. Copeland asked where the sand goes after it is taken off the train. Ms. Collins said that the sand is hauled to the rail yard. She then said that they have the yard master's phone number, if they need to contact him. Ms. Copeland said that the train blocking the entrance on Manchester Street concerns her and asked, if there was full occupancy if there is another possible access out of this area. Ms. Collins said that the emergency access is the only other way out of the site. Ms. Copeland asked if access to South Forbes Road had been considered. Ms. Collins replied affirmatively, and said that they had spoken with the property owners, who indicated that they would not have a problem with access going through their land. Ms. Copeland then asked if they believe they could get an easement on those two properties. Mr. Black said that that request could not be guaranteed, since there are two other lots between this site and South Forbes Road. He then said that one of these properties seemed favorable to the possible easement, but the other property owner is currently going through an estate sale and will not make a commitment. Having a permanent access easement through these two properties is not possible at this time.

Staff Rebuttal – Mr. Emmons said that, with regards to the Adaptive Reuse Project, there are no additional requirements for outdoor lighting; however, Article 16-2(b) of the Zoning Ordinance reads: "Any lighting used to illuminate off-street parking areas shall be arranged so as to reflect away from any adjoining residential zone or uses and any public or private right-of-way." He then said that, based upon the Commission's discussion, the staff recommends adding the following conditions:

14. Addition of 1206 Liggett Street as a part of the development plan.
15. Lighting shall be per Article 16-2(b).
16. Live entertainment shall be limited to the 1st 20,000 square feet and the outdoor patio indicated on the development plan.
17. No outdoor live entertainment.

Commission Discussion – Ms. Roche-Phillips said that, from an insurance liability perspective, she agreed that it is a smart business move to phase the parking; but she does not believe the Commission should require enhanced

paving on this site. She then said that adding more gravel to the rear portion would satisfy her, and asked if the applicant would be agreeable to maintaining that area. She said that she would rather see an unimproved surface on this site, independent of a storm water grant. Ms. Roche-Phillips then said that she agreed that the intensity of the uses can change through time and, should the need arise the applicant will enhance the parking area. She believed that 196 parking spaces is more than enough for this property.

Mr. Owens asked if the Planning Commission could limit the live entertainment. Mr. Emmons said that that has always been the concept of an Adaptive Reuse Project, and the Planning Commission could limit the uses through the development plan if found appropriate. He then said that the special provision in the Adaptive Reuse Project section of the Zoning Ordinance acts as a planned unit development, which allows negotiation between the Planning Commission and the developer, as to what is allowed at the time of certification. If the applicant wanted more uses, they would need to amend the development plan and submit a new application to the Commission for consideration.

Mr. Owens said that, from past experience, live entertainment can pose a problem. He then said that he is agreeable to indoor live entertainment in the first pod, but has concerns with outdoor live entertainment. He would be willing to suggest a condition that reads: "Live entertainment shall be restricted to the first 20,000 square-foot pod and no outdoor entertainment." Mr. Emmons said that a note could be added to the development plan to reflect that condition. Ms. Copeland said that she does not understand why the live entertainment would be limited to the first pod considering this is where the houses are closest to the property. She then said that at the rear, near Liggett Street, would be the more appropriate area for live entertainment. Mr. Emmons said that the topography of the area is different at each end; and at the area near the first pod, the elevation is higher than the area near Liggett Street. Ms. Copeland said that she sees no need for condition #16 (no outdoor entertainment).

Ms. Beatty said that it seems the Commission is being picky and should not be so restrictive by limiting the live entertainment to the first pod. She then said that Ms. Copeland gave an example of live entertainment inside the warehouse with garage doors that could be raised. She indicated that she would not have a problem with that type of structure. She said that if the applicant were to amend the plan in the future, and at that time if there was a need for an additional condition that would be fine; but with an Adaptive Reuse Project, the Commission can start to become too picky, preventing those places to be re-used and brought back to life again. Ms. Beatty said that she is in support of live entertainment, but she is not in support of restricting the live entertainment to the first pod.

Ms. Copeland suggested adding a condition to the improvement list that reads: "When full development (up to 120,000 square feet) of this property occurs, a permanent access easement will be installed leading to South Forbes Road." Mr. Emmons said that the staff does not disagree that this site would be well served with an access to South Forbes Road; however, there are two additional properties that are under different ownership and staff is concerned about such a limiting condition that would not be under the applicant's control. Ms. Boland said that the Commission cannot require the applicant to acquire property that is under a different ownership. She said that if this property becomes fully developed, and the applicant goes to those property owners requesting access, those two property owners can reject the applicant's request. She asked if those businesses will then be penalized and closed. She said that adding this type of condition may be impossible for the applicant to comply with, because they do not own those properties. Ms. Copeland said that a condition could be added that would restrict the last pod from being occupied. Ms. Boland said that the Commission is suggesting that a condition be added that would restrict the development to 5 pods unless another access is acquired. Ms. Copeland said that there could be 5 rentable pods, and the last pod would be serviceable. Ms. Boland said that if the Commission feels that there is a safety issue, and the applicant cannot expand unless there is another access, could be a legally justified condition. Ms. Copeland agreed this is due to a safety issue. Ms. Boland said that if the Commission wanted to limit the development to 5 pods until additional access could be acquired, that would be legally possible.

Mr. Berkley said that he agreed that the access should be installed in the future, but adding a condition may not be feasible to the developer and could go against what they are trying to do.

Representation Rebuttal – Mr. Black said that if an upscale restaurant wanted to use a center pod for a piano bar, adding note #16 would not allow that use. He then said that he did not believe this is the Commission's intention and asked if the live entertainment could be restricted to no outdoor live entertainment. This would allow indoor entertainment, such as a piano player. Mr. Owens agreed and asked if the staff could rewrite note #16.

Ms. Roche-Phillips believed that condition #16 should be stricken and replaced with a condition that reads "No outdoor live entertainment." Ms. Copeland agreed. Ms. Roche-Phillips said that she would prefer that no speakers face the outdoors since the idea is to protect the surrounding neighbors.

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

Action - A motion was made by Mr. Owens to approve DP 2011-97, 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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
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 Waste Management's approval of refuse collection.
9. Addition of tree protection notes.
10. Submit details regarding provision of public art.
11. Denote the timing of storm water improvements at phase 2, to the approval of the Division of Engineering.
12. Denote phasing of development notes, as presented to the Planning Commission.
13. Denote: Emergency access gate to Liggett Street will not be used by customers, vendors, employees or for any other aspect of the business.
14. Addition of 1206 Liggett Street as a part of the development plan.
15. Lighting shall be per Article 16-2(b).
16. No outdoor live entertainment and live entertainment shall be limited to the 1st 20,000 square-foot pod, except the outdoor patio indicated on the development plan.

Mr. Owens then added that as far as the improvements of the development, the drive aisle should be added when the development is up to 40,000 square feet (Phase I).

The motion died due to lack of a second.

Discussion – Ms. Beatty said that, as far as condition #16 is concerned, this area is right on the heel of the Art and Entertainment District and to not allow live entertainment doesn't make sense, unless it is a safety issue.

Action - A motion was made by Ms. Beatty, seconded by Ms. Blanton, to approve DP 2011-97, 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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
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 Waste Management's approval of refuse collection.
9. Addition of tree protection notes.
10. Submit details regarding provision of public art.
11. Denote the timing of storm water improvements at phase 2, to the approval of the Division of Engineering.
12. Denote phasing of development notes, as presented to the Planning Commission.
13. Denote: Emergency access gate to Liggett Street will not be used by customers, vendors, employees or for any other aspect of the business.
14. Addition of 1206 Liggett Street as a part of the development plan.
15. Lighting shall be per Article 16-2(b).

Discussion of Motion – Ms. Roche-Phillips asked if the motion can be amended to change the phasing of the parking lot improvements to not require the paving of the drive aisle.

Ms. Beatty agreed to amend her motion to reflect Ms. Roche-Phillips's request.

Mr. Owens asked if the motion included outdoor live entertainment. Ms. Beatty said that she is suggesting that condition #16 be stricken. Mr. Owens then asked if the motion on the floor would allow indoor and outdoor live entertainment. Ms. Beatty replied affirmatively.

The motion failed by a vote of 4-4 (Berkley, Copeland, Owens, Wilson opposed; Brewer, Cravens and Penn absent)

Discussion – Ms. Copeland indicated that she would support this request if there was a note reflecting when full occupancy occurred, an additional access would be required due to safety concerns and the possibility of the entrance being blocked.

Ms. Roche-Phillips asked if the Fire Department had any thoughts or concerns regarding this request. Captain Bowen said that they do not have any issues with the site as it is being proposed, and they cannot request an additional access. Ms. Roche-Phillips then asked the proximity of the nearest hydrant. Captain Bowen said that there are 6 hydrants on site, and they are working with the applicant to have those operational.

Action - A motion was made by Mr. Owens, seconded by Mr. Wilson, to approve DP 2011-97, 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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
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 Waste Management's approval of refuse collection.
9. Addition of tree protection notes.
10. Submit details regarding provision of public art.
11. Denote the timing of storm water improvements at phase 2, to the approval of the Division of Engineering.
12. Denote phasing of development notes, as presented to the Planning Commission.
13. Denote: Emergency access gate to Liggett Street will not be used by customers, vendors, employees or for any other aspect of the business.
14. Addition of 1206 Liggett Street as a part of the development plan.
15. Lighting shall be per Article 16-2(b).
16. No outdoor live entertainment.

Discussion of Motion – Ms. Roche-Philips asked if the motion on the floor included paving. Mr. Owens said that his motion did not include the paving of the drive aisle. Mr. Paulsen confirmed that the drive aisle was not included. Ms. Roche-Phillips asked if Mr. Owens would amend the motion, noting that there should not be any paved drive aisle and that there should be on-site maintenance to the existing infrastructure. She then said that gravel should be used to prevent mud and pot holes in order to have the area driveable and passable. Mr. Owens responded that his motion included the information that staff had presented from the handout. Ms. Roche-Phillips said that the staff is recommending that the area be paved with asphalt, and she does not want that to happen. She then said that this would save the developer the expense, and it would compromise storm water. Mr. Sallee said that the staff is recommending that paving be done at full development, but not prior to full development. Ms. Roche-Phillips said that she believes there should be no paving. Mr. Owens said that he prefers to leave the motion on the floor "as is" without the amendment.

The motion carried 6-2 (Copeland and Roche-Phillips opposed; Brewer, Cravens and Penn absent)

b. DP 2012-6: ANGLIANA AVENUE – TRINITAS HOUSING PROJECT (4/2/12)* - located at 474, 497 and 498 Angliana Avenue. (Council District 3) **(Brandstetter Carroll)**

Note: The purpose of this amendment is to depict apartment development for the property.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Provided the Urban County Council rezones the property R-5; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Building Inspection's approval of landscaping and landscape buffers.
5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree protection plan.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Amend title to include "Amended" Final Development Plan.
10. Denote elements of compliance with Article 15-7(a) of the Zoning Ordinance (I/R area).
11. Provided the Planning Commission grants a waiver for proposed access northeast of building #3.
12. Denote timing and details of 4-way stop intersection (at Curry/Angliana).

Development Plan Presentation – Mr. Martin directed the Commission's attention to a rendering of the Final Development Plan for Angliana Avenue/Trinitas Housing Project. He oriented them to the surrounding area and said that the subject property is located on Angliana Avenue between Versailles Road and South Broadway. He noted that the Planning Commission recently approved an amendment for adjacent property to the north.

Mr. Martin directed the Planning Commission to the layout of the proposed development, and explained that there are two distinct sections to this proposal. The primary section is north of Angliana Avenue and consists of three buildings. Two of these buildings will have open courtyards and the third building will be near a pool. He said that there will be off-street parking provided to the rear of these buildings. He indicated that the applicant is proposing a maintenance building to the rear of the property near the detention basin. He said that there are three access points being proposed from Angliana Avenue into the apartment complex. He then said that the main entrance will be open to two-way traffic, while the two secondary access points will be gated and will only allow outgoing traffic.

Mr. Martin then directed the Commission's attention to the 4th building proposed, which is located directly across Angliana Avenue to the south. He said that this building abuts Curry Avenue and Angliana Avenue, and the only access being provided to it will be from Angliana Avenue. The associated parking for this building will be to the rear along Curry Avenue.

Mr. Martin said that this revised development plan has been submitted by the applicant since the last time the Commission had reviewed it. He noted that the proposed improvements include the alignment of the Curry Avenue and Angliana Avenue intersection, which would allow appropriate signage and traffic calming improvements to be installed. He said that the applicant is also showing a crosswalk, as well as a median being installed on Angliana Avenue.

Mr. Martin said that all of the proposed buildings will be 4 stories and will be 48 feet in height. There will also be a 68-foot tower. He noted that the tower is an architectural feature that has been added to this development. He then said that this development contains approximately 360,200 total square feet and will consist of 278 units, 699 bedrooms and 544 total parking spaces. He noted that the total footprint of these buildings is 93,800 square feet, which is well within the requirements for the R-5 zone.

Mr. Martin directed the Commission's attention to the Subdivision Committee's recommendation on today's meeting agenda, and gave a brief explanation of each condition. He noted that the Planning Commission recently approved a zone change request (MAR 2012-18) for this property, which is scheduled to be heard by the Urban County Council on February 17, 2012. He noted that the Urban County Council will need to grant the requested zone change for the proposal to meet condition #1. He then said that conditions #2 through 8 are standard conditions from the different government divisions. He said that since this request is an amendment, the applicant will need to amend the title to include "Amended" Final Development Plan (condition # 9).

Mr. Martin said that, since the subject property is within the Infill and Redevelopment Area, the staff is requesting that the applicant denote the elements of compliance with Article 15-7(a) of the Zoning Ordinance (I/R area - condition #10). He said that the architectural feature will need to be clearly denoted on the development plan. He said that this request is both a preliminary subdivision plan and a final development plan; therefore, the Land Subdivision Regulations also apply. The applicant has requested a waiver for the proposed access northeast of building #3 (condition #11), which will be presented later in the meeting. He said that the staff would like the detail features and timing to be clearly noted on the development plan for this proposed intersection (condition #12).

Waiver Report – Mr. Martin directed the Commission's attention to the previously distributed waiver report, and said that the applicant is requesting a waiver to Article 6-8(q)(3) of the Land Subdivision Regulations that governs the minimum spacing requirement for access into a high density residential area on a collector street. He said that the applicant is proposing three access points from Angliana Avenue, and the access point in question is the secondary access directly across from Lot 2. He then said that the minimum required spacing for high density residential area is 250 feet; however, the distance between the primary access point and the secondary access point is approximately 220 feet. This is a difference of 30 feet less than what is required.

Mr. Martin said that the applicant has cited hardship due to the need to align the primary entrance on Angliana Avenue with Curry Avenue. He then said that, from the staff's perspective, this alignment will allow traffic calming and will provide for pedestrian safety in this area. He then said that the staff has reviewed the applicant's request, and recommends approval of the requested waiver, for the following reasons:

1. The waiver will have no impact on public safety -- consistent with the intent of the Land Subdivision Regulations.
2. Strict enforcement of the access spacing regulations would constitute a hardship for the applicant and potentially could have a negative impact on public safety if it affected the planned access alignment and intersection improvements planned for Curry Avenue.
3. The waiver request meets the standards set under Article 1-5(c) for Infill & Redevelopment Facilitation.

This recommendation is made subject to the following additional requirement:

a. The proposed secondary entrances be clearly designated as exits only and the gates designed so as prevent two-way traffic, to the approval of the Divisions of Traffic & Public Safety and Fire & Emergency Services.

Representation – Nick Nicholson, attorney, was present representing the applicant, and said that they are in agreement with the recommendations of the staff and requested approval.

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

Action - A motion was made by Ms. Blanton, seconded by Mr. Berkley and carried 8-0 (Brewer, Cravens and Penn absent) to approve DP 2012-6, subject to the conditions as outlined by the staff.

Action - A motion was made by Ms. Blanton, seconded by Mr. Berkley and carried 8-0 (Brewer, Cravens and Penn absent) to approve the waiver to Article 6-8(q)(3) of the Land Subdivision Regulations, for the reasons cited by the staff, including requirement "a" as noted.

c. DP 2012-8: GLENN CREEK (DOVE CREEK) (AMD) (4/2/12)* - located at 1145 Appian Crossing Way. (Council District 8) **(Barrett Partners)**

Note: The purpose of this amendment is revise development on Lot 8 for elderly housing.

The Subdivision Committee Recommended: **Postponement**. There were questions regarding possible development in the floodplain and on Lot 7, and the extent of the improvements necessary to Jones Trail.

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

1. Urban County Engineer's acceptance of drainage, storm, 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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
10. Addition of 25' floodplain setback that reflects the proposed CLOMR, or revise building location.
11. Denote the need for the approval of a Special Use Permit or a CLOMR for garages and parking on Lot 7.
12. Denote areas of tree preservation along north and east property lines.
13. Clarify off-site improvements to Jones Trail and status of access easement (if necessary) are approved by the adjoining property owner.
14. Resolve conflict in preservation notes #5 & #6.
15. Discuss whether Jones Trail is a public street, or private.
16. Discuss development proposed on and ownership of Lot 7.
17. Revise CLOMR and configuration of floodplain or revise building locations as necessary.

Development Plan Presentation – Mr. Taylor directed the Commission's attention to the amended Final Development Plan and Preliminary Subdivision Plan for Glenn Creek (Dove Creek). This property is located at 1145 Appian Crossing Way, just off Appian Way, which is off Tates Creek Road. He indicated that the purpose of this amendment is to revise development on Lot 8 to permit an elderly complex.

Mr. Taylor directed the Commission's attention to an aerial photograph, and briefly described the surrounding area. He said that Appian Crossing Way ends in a cul-de-sac that joins to an existing access easement where townhouses have been constructed. He indicated that the area between Old Jonestown Lane and the townhouses is an open space and floodplain area. This section of Old Jonestown Lane was closed years ago through an Urban County Ordinance. He said that when Appian Crossing Way was constructed and dedicated the remainder of Old Jonestown Lane was converted to an emergency access and pedestrian easement.

Mr. Taylor said that this proposed development plan will be for an approximately 114,000 square-foot, which consist of 3 stories, 148 units and 120 total on-site parking spaces. He said that there will be two accesses to the subject property, with the primary access being off Appian Crossing Way and Jones Trail. The second access is proposed to the rear of the facility and will act as a relief access.

Mr. Taylor said that the Subdivision Committee had recommended postponement of this request due to questions regarding the possible development in the floodplain, and the extent of the improvements that might be necessary to Jones Trail. He then said that the staff had met with the applicant and had received a revised Development Plan addressing some of the issues previously identified. He directed the Commission's attention to the revised staff recommendation, and gave a brief explanation of each condition. He directed the Commission's attention to the rear portion of the subject property, and said that a portion of it is within a floodplain. He then said that the applicant will need approval of a Special Use Permit and/or CLOMR or LOMA (from FEMA) for the construction of the rear garages and parking that is associated with this development (condition #10). He noted that the Special Use Permit is required under Article 19 of the Zoning Ordinance and is handled through the Division of Engineering. The approval of the LOMA would remove the floodplain from the proposed building site and create a 25 foot setback to allow the parking and drive aisles to be created at the rear of the property. He said that the 25 foot floodplain setback could not be graded nor fill placed in this area. He then said that condition #14 was added to allow some flexibility for the applicant to move the building out of the floodplain, which could allow the development plan to be certified. If the LOMA is approved, the applicant could then reconfigure the floodplain or revise the building locations through a minor amended development plan.

Mr. Taylor said that there is an area of trees along the north and east property line and the applicant will need to denote this area on the plan (condition #11) as such. He then said that the applicant will need to clarify the off-site improvements to Jones Trail are to be approved by the adjoining property owner (condition #12). It is the staffs understanding that the applicant owns the subject property and one of the adjacent properties.

Waiver Report – Mr. Taylor directed the Commission's attention to the previously distributed waiver report, and said that the applicant is requesting a waiver to Article 6-8 of the Land Subdivision Regulations. He then said that this waiver is in regards to the half section improvements to Jones Trail along the entire frontage. Jones Trail is a rural street (formerly a portion of Jonestown Lane) that serves four additional properties, which do not have frontage on Appian Crossing Way. Jones Trail terminates at an entrance to private property, and there were no other opportunities for a connection to another existing public street in the future.

Mr. Taylor said that the waiver would relieve the applicant of their obligation to construct approximately 320 feet of widening and improvements along the frontage of Jones Trail. The applicant has cited their desire to protect a significant tree line along the western edge of the existing pavement. He noted that the limited use of the street and the lack of available connections limit the need to improve a street that is functioning similarly to a private access for those properties. In addition, there is a significant grade change in this area and the improvements would require considerable amount grading that would impair access to the proposed development, and other adjacent properties.
Mr. Taylor said that the applicant is proposing to dedicate a small portion of additional right-of-way for Jones Trail that would be adjacent to the tree protection area. He then said that the applicant is also proposing to fully widen the first 60 feet of Jones Trail (north of Appian Crossing) in order to provide adequate and safe ingress and egress to their proposed development.

Mr. Taylor said that the staff is recommending approval of the requested waivers, for the following two reasons:
1. Granting these waivers will not negatively impact public health and safety due to the limited use of Jones Trail, the lack of future street connection to that street, and the need to keep this street open at all times to serve four properties.
2. Construction of full improvements would impose a significant hardship on the developer and area residents due to existing street grade issues on Jones Trail. Furthermore, the protection of the existing trees along the western frontage of Jones Trail would be compromised.

This recommendation is made subject to the following additional requirement:
a. Denote: The additional right-of-way along Jones Trail shall be dedicated prior to issuance of a building permit.
b. Clarify bollards or other access control to former Jonestown Lane (now pedestrian/emergency access) on plan.
c. Addition of pedestrian connection to the existing pedestrian access easement to the approval of the Pedestrian Planner.
d. Revise cross-section "C-C" and "D-D" to indicate minimum 5' from curb or edge of pavement to property line.

Planning Commission Questions – Ms. Roche-Phillips asked what are the contour intervals appear on the development plan. Mr. Taylor said that the development plan has identified 1-foot contour lines. Ms. Roche-Phillips then asked how it will it be ensured there will be no fill to the floodway. Mr. Taylor said that through previous developments it appears that there has already been some grading and fill to the rear of this site. He said that the Letter of Map Amendment will need to match the elevations and the land contours of this area. Mr. Sallee added that the subject property is not in the floodway; rather it is at the edge of the floodplain, and that the floodway is located further to the west of this site. Ms. Roche-Phillips said that she is concerned with the wetlands and the potential issues that this development will cause, and that she wanted to make the applicant aware of this concern. Mr. Taylor said that the applicant will need to follow the procedures as stated in the Zoning Ordinance for a Special Use Permit for any additional fill and parking, as well as obtain FEMA's approval for the LOMA.

Mr. Owens asked if condition #10 (Denote the need for the approval of a Special Use Permit and/or a CLOMR or LOMA for garages and parking on Lot 7) refers to garages in this area. Mr. Taylor said that the garages are being proposed under the building.

Ms. Copeland asked if the fill is located in the current floodplain according to the map. Mr. Taylor replied affirmatively. Ms. Copeland asked where the bollards on Old Jonestown Road are. Mr. Taylor said that that decision will be based upon the signoff approvals, and said that the bollards could be located closer to the bridge. Ms. Copeland then asked if the both entrances will be kept open. Mr. Taylor said that that was correct and it will be for pedestrian use. Ms. Copeland asked how many residents will be in the facility. Mr. Taylor referred the question to the applicant's representative.

Representation – Tony Barrett, Barrett Partners, was present representing the applicant. He noted that this facility will have 80 dwelling units and is geared toward senior residents 55 years of age and older. He then said that that they are in agreement with the revised recommendations and requested approval.

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

Discussion – Ms. Copeland noted that she appreciated that there are two entrances given the amount of residents for this facility.

Action - A motion was made by Ms. Beatty, seconded by Mr. Owens and carried 8-0 (Brewer, Cravens and Penn absent) to approve DP 2012-8, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, 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 landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
10. Denote the need for the approval of a Special Use Permit and/or a CLOMR or LOMA for garages and parking on Lot 7.
11. Denote areas of tree preservation along north and east property lines.
12. Clarify off-site improvements to Jones Trail are approved by the adjoining property owner.
13. Provided the Planning Commission grants a waiver to Article 6-8 of the Land Subdivision Regulations.
14. Revise configuration of floodplain or revise building locations as necessary.

Action - A motion was made by Ms. Beatty, seconded by Mr. Owens and carried 8-0 (Brewer, Cravens and Penn absent) to approve the waiver to Article 6-8 of the Land Subdivision Regulations, for the following reasons:

1. Granting these waivers will not negatively impact public health and safety due to the limited use of Jones Trail, the lack of future street connection to that street, and the need to keep this street open at all times to serve four properties.
2. Construction of full improvements would impose a significant hardship on the developer and area residents due to existing street grade issues on Jones Trail. Furthermore, the protection of the existing trees along the western frontage of Jones Trail would ne compromised.

This recommendation is made subject to the following additional requirement:

a. Denote: The additional right-of-way along Jones Trail shall be dedicated prior to issuance of a building permit.
b. Clarify bollards or other access control to former Jonestown Lane (now pedestrian/emergency access) on plan.
c. Addition of pedestrian connection to the existing pedestrian access easement to the approval of the Pedestrian Planner.
d. Revise cross-section "C-C" and "D-D" to indicate minimum 5' from curb or edge of pavement to property line.

C. PERFORMANCE BONDS AND LETTERS OF CREDIT – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Blanton, and carried 8-0 (Brewer, Cravens and Penn absent) to approve the release and call of bonds as detailed in the memorandum dated February 9, 2012, from Ron St. Clair, Division of Engineering.

V. COMMISSION ITEMS – The Chair asked if there is any item a Commission member would like to present at this time. Ms. Copeland said that the newest issue of National Geographic International Travel list Lexington, Kentucky as a great place to bring children. She then said that the article also mentions Kentucky's countryside, the Arboretum and the Horse Park, as well as the Keeneland horse race meets.

Mr. Wilson congratulated Mr. Paulsen on being selected to serve as the Commissioner of the new Department of Planning.

VI. STAFF ITEMS – The Chair asked if there is any item a Staff member would like to present at this time. There was no response.

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 ..... February 16, 2012
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) ..... February 22, 2012
Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers ..... **February 23, 2012**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) ..... March 1, 2012
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) ..... March 1, 2012
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers ..... **March 8, 2012**

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

IX. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 3:42 PM.

_____
Derek Paulsen, Chair

_____
Lynn Roche-Phillips, Secretary

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