

M-I-N-U-T-E-S

of

PIKEVILLE/PIKE COUNTY JOINT PLANNING COMMISSION

held in

Pikeville, Kentucky

on

August 13, 2002



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A meeting of the Joint Planning Commission was held, pursuant to Notice previously been given, conducted by the Joint Planning Commission on Tuesday, August 13, 2002, at the hour of 5:00 P.M., in the City Hall Meeting Room, located in Pikeville City Hall, 188 College Street, Pikeville, Kentucky.

APPEARANCES:

Joint Planning Commission members present were: Bill Blackburn, Chairman, Leon Huffman, John D. Elliott, Tivis Branham, Laythe E. Sykes and David Sanders.

Others present: Hon. Russell Davis, Jr., City Attorney for City of Pikeville, Karen Harris, City Clerk and Stan Haywood.

CHAIRMAN BLACKBURN:

If there are no objections we'll go ahead and call this meeting to order. We have Laythe Sykes present, David Sanders, Bill

Blackburn, Leon Huffman and John Elliott
present on the Commission.

I think the first item on the
Agenda is consider approval of the Minutes from
the June 11, 2002 meeting, if you'll look those
over. Any questions or comments about the
Minutes? Is there a motion to approve the
Minutes?

MR. SANDERS:

I so move.

CHAIRMAN BLACKBURN:

David moves to approve the
Minutes. Is there a second?

MR. SYKES:

I second it.

CHAIRMAN BLACKBURN:

All those in favor of - I guess
we do a roll call, don't we? Laythe, do you
approve?

MR. SYKES:

I approve.

CHAIRMAN BLACKBURN:

David?

MR. SANDERS:

Aye.

CHAIRMAN BLACKBURN:

Tivis?

MR. BRANHAM:

Yes.

CHAIRMAN BLACKBURN:

Leon?

MR. HUFFMAN:

Yes.

CHAIRMAN BLACKBURN:

John?

MR. ELLIOTT:

Aye.

CHAIRMAN BLACKBURN:

And Bill Blackburn, aye.

Let's move on to the financial report. Any questions or comments about the financial report? Is there a motion to approve the financial report as printed?

MR. ELLIOTT:

I so move.

CHAIRMAN BLACKBURN:

John Elliott makes a motion to approve that. Do I hear a second?

MR. BRANHAM:

I second that.

CHAIRMAN BLACKBURN:

All those - I guess we'll take a roll call. Laythe?

MR. SYKES:

Aye.

CHAIRMAN BLACKBURN:

David?

MR. SANDERS:

Aye.

MR. BLACKBURN:

Tivis?

MR. BRANHAM:

Yes.

CHAIRMAN BLACKBURN:

Leon?

MR. HUFFMAN:

Aye.

CHAIRMAN BLACKBURN:

Bill Blackburn, aye.

We'll move on to the business from

the floor. What business from the floor do we have?

MR. HAYWOOD:

I have -

MR. SANDERS:

If I could interrupt just for a minute, Mr. Blackburn. There are some plats that will be approved that's already on the Agenda in just a minute.

I would like to discuss one item if we could. We had some discussion at our last meeting and Rusty Davis, City Attorney, is present and for discussion of the regulations that we are compelled to enforce and to follow and one of the things that's become apparent since we now have regularly scheduled meetings apparently on every other month, every even month, we meet to discuss various and sundry items and one of the items would be business from the floor.

At our last meeting it became a question that since there is an application

required, since there are fees required for plat submittals I guess my question is what business from the floor can we actually entertain? I went back and looked at the regulations and those regulations don't really speak specifically to what modifications are. I think some of you were given the regulations, were you not?

MR. HUFFMAN:

Yes.

MR. SANDERS:

On Page 2-10 there's an item there that's identified as amended plats under Item 231.5.

CHAIRMAN BLACKBURN:

Page 2 what, again?

MR. SANDERS:

2-10. Do you have that, Rusty?

MR. DAVIS:

I do. I have a copy of that.

MR. SANDERS:

Maybe you can comment on it after we look at it just a second. That seems to indicate on the final plat when we can make changes to final plats and in what I read here it says, "*Final plats, substantial revisions and amendment to an approved final plat as determined by the Planning Commission must be re-filed as a new amended final plat*", as we discussed in our last meeting and as we requested. "*According to the procedures and requirements as set forth in Article II, Section 221.7. Substantial revisions shall be changed and stated in the preliminary plat plus any major revisions in the location specified as required improvements*".

That basically means that we have to make full application, we pay the fees, we go back to the Technical Advisory Committee for comments and then the next sentence says, "*Plat amendments determined not to be substantial*

shall be reviewed by the Planning Commission but may not require filing a new plat".

In my views the intent of the regulation could have been that we can make a determination of whether or not a plat is substantial, a plat amendment is substantial or not and if we first determine it is not, then we can make a determination on its acceptance or its non-acceptance. If we determine it is substantial, then in those cases we would ask them to go back to the Technical Advisory Committee and to have their input to determine whether we should or should not review that plat.

MR. HUFFMAN:

That's what we talked about the last time.

MR. SANDERS:

Actually the last time, Leon, we weren't quite sure because of the question as to whether we had to require all to go to the

Technical Advisory Committee or not and all and I think this may give us some direction a little bit. Do you have a comment, Rusty, as to what you think we can do or can't do?

MR. DAVIS:

I've looked at this particular provision and I think the provision you quoted is the correct provision that addresses this particular question and I also think you are right as the way it's written it does appear as though it gives the Planning Commission the authority to determine whether or not it should be classified as substantial revision.

I went back to try to look to see if there was anywhere else that a substantial revision was defined and I don't see it anyplace.

The only comment I would make is that probably in this Commission's determination of that, you probably need to be a little bit careful because, you know, if it's something that the Technical Advisory Committee has been working on a particular project long

term, I wonder about the merits of this Commission, you know, passing on whether it is a substantial revision because after all the Technical Advisory Committee, it's not that they are more capable of making those decisions but it's set up to where these guys can take these particular problems that are primarily just associated with the City of Pikeville and guys that work on it in more detail so you guys aren't burdened with not only the whole County's work plus the City of Pikeville's subdivision regulations.

We kind of saw that as putting a lot of burden on one body. So we separated it out to what we now call the TAC Committee. I think the way it's written this body has a right to say, "No, we are going to vote it not to be substantial and you don't have to go back in front of them", but what I would say is I just wonder whether you ought to just have a policy that you all in say, "No, I'll tell you what, let's do; let's send it back to the TAC Committee to see if, and let them decide if it's a substantial revision".

If they say it's not a substantial revision, it comes back to you all just to be approved. If they say it is a substantial revision then they will go ahead and work on it and make sure things are done the appropriate way. I think if you all just adopt it as a policy and then whoever contacted the secretary of this body or whatever to get an amendment approved, they could be told, "Well, our policy is it's to go back to the TAC Committee", tell them what you want to do and if they just think it's not substantial they will say, "No, we don't need to act on it" and they give a letter saying or minutes saying it's not substantial and then let you all approve it. That's not exactly what this ordinance says but a lot of times if you try to do an ordinance like this you sometimes miss one thing that I would add but, you know, there may be some cases where it's painfully obvious to everybody that it's not substantial and so maybe there is a reason why you all may still want to reserve the power to do that but I would say in most cases, I

think you would want to send it back to the TAC Committee just to check and make sure.

For instance, the way of the shopping center project over around Lowe's we've been so comprehensively dealing with that, you know, I would feel more comfortable, I don't personally trust myself when asked about that, I want to go back to somebody who worked on that and make sure that it is in compliance with what we've been doing down there as a general scheme.

There's also a problem and I'm not going to say any names of some people that they will tell you, "Well, I've got a new map plat and the only thing I want to do is this on it". Well, they have buried in there curb cuts and utilities stubbing and all this stuff and then later they've come back to us and said, "Well, you approved this plat; you approved the curb cuts". Well, it was submitted to us for another reason so we found that with a particular developer you've got to every time they submit a new map even though they say they are submitting it for this particular purpose,

you've got to look at every daggone thing on there because they are going to want to come back later and say, "No, it was on our map that you all approved and so you approved it". I mean you've got to look at all the lettering and everything, everything.

MR. HUFFMAN:

I've got a suggestion if that's the way you want it done.

MR. DAVIS:

Mine is just a suggestion. It's up to you all how you do it.

MR. HUFFMAN:

If that's the way you want it done, that's the way we ought to do it. If it's going to be done that way, I think the engineer that's in charge of the thing needs to take it to the Technical Advisory Committee before he comes to us.

MR. DAVIS:

I think you're right.

MR. HUFFMAN:

That's the way it was done in the first place and when it comes to us it's already been to them and we can act on it and forget it.

MR. DAVIS:

I think you are right if that's your general policy to send it there first and then let it be known. The engineers that are typically working on these projects they know that and they will just go and tell them that they think it's not substantial and they can send it back to you all just to act on. If they think it is they are going to tell them, "No, we think we need to keep it here and do some more work on it".

MR. HURRMAN:

The plats originally didn't have lot lines on their print and they didn't make

it a little bit bigger and survey it and go with that if that's the way you want to go.

MR. SANDERS:

I can understand the recommendation, Rusty, and that may well be what this Commission will adopt and that could be correct. I would like to preface that with the other question why are we meeting every other month if there is not an opportunity to take up business from the floor and, if so, what business from the floor can we take up?

MR. DAVIS:

One of the reasons is that basically public bodies are basically required or at least strongly encouraged to have at least some regular meetings and once every other month was about the minimum that could be suggested.

You mentioned before and I think there are things from the floor that still could be considered but I do keep in mind that this particular body because of the nature of

what you do and a lot of things have to be done by application but I think there's going to be a lot of people wander in here and just say, "Hey, I've got an idea. This is what I want to do. How do I do it?" And you folks are going to have to tell them, "Well, here's what you do: you start by filing an application and go see this person and then you'll come back to us at another meeting that we've scheduled". So it's not a total loss. There could be somebody that comes in here that has already found out and they have filed their application and they've got the application ready for you all to approve and they just show up at one of your regular scheduled meetings and a lot of times they are just going to wander in.

The other thing I guess is even though if you have a regular meeting every other month you might have somebody you've been working on a particular project and they've already got their application and everything in but they are ready for you to take another look at something. So they know that you meet every other month and they just plan to come in and

not be particularly on the agenda but they want you to look at something you've looked at the last meeting and they say, "Well, you asked me to do this. You said you wanted some more lot lines drawn on there and I've done it, now look at it." So I think there are things that you can do from the floor but there's a lot of things you are probably not going to be able to do because they haven't really started the application process. Does that make sense?

MR. HUFFMAN:

Out in the County we probably could do a whole lot since it's not as restricted.

MR. SANDERS:

We could but we don't get very many of those, but we could. You are right.

MR. HUFFMAN:

We've got some out in the County.

MR. SANDERS:

I mean as long as the Clerk will continue to record documents, there will be documents recorded.

MR. DAVIS:

As long as the City folks are helpful they usually are --

MR. SANDERS:

Yes, very much.

MR. DAVIS:

And steer them in the right way then hopefully there will be less people just show up that haven't filed an application. Either they may call here and either Dickie Huffman or Karen Harris would have told them this is the procedure, "*You need to file this application first; you need to do this first*", and if they do that they may show up ready to take action but there probably is going to be times people show up because they know you all

have something to do with them and they are going to show up and say, "How do I do this?".

So you haven't wasted anybody's time. They have taken the time to come up here and it's after work and they've got all of you all in front of them and they can ask you, "How do I do this", and you get to tell them that they can start by filing the application and this is what we've done. I think there's still a lot of things that can be done or there may be times that you'll come in here and call the meeting to order and there's no business and you can close and go home but in theory because you make yourself available to the public you have done a good public service. Just because the citizens don't show up is not necessarily a bad thing. If you guys show up and make yourself available and you've been a good board member to make yourself available, it's probably not a big inconvenience except for Mr. Sykes who probably lives up Elkhorn and you've go the farthest trip but Leon is running around town here all the time.

CHAIRMAN BLACKBURN:

Can we take action on this as a
policy?

MR. DAVIS:

Yes. You can do it as a policy
or, you know you could even try it for awhile
and you might want to change the policy; that's
just my suggestion. I think you guys you may
want to change. That's a good thing about
adopting a policy if you do it by resolution
right here, next week you can change it if you
find it's not workable. If you find that most
of the people come in here and most of it is
minor and the TAC Committee always sends it
back to you, you may find that you know better
than I do, you know, that that's really a waste
of their time. To start out my gut reaction
and not having looked at any of these is
probably going to be a better thing to do it
that way but over time you guys might find out
that that's not going to be necessary. One of
these on here for tonight because I know the
situation seems painfully obvious that it

doesn't need to go back in front of the TAC Committee but, you know, if you make a mistake with it, you know, I don't know.

CHAIRMAN BLACKBURN:

Any other discussion?

MR. SANDERS:

No. I think Leon has got a very good suggestion that rather than add a burden to the City staff if we adopt the policy then the developer himself or herself should have the responsibility -

MR. HUFFMAN:

The engineer.

MR. SANDERS:

Well, if they want to assign it to the engineer that's fine but the developer is the ultimate one responsible for providing the plat, providing the document, providing the process for us to make those decisions, so I

would think -

MR. HUFFMAN:

But he has to have an engineer to do that.

MR. SANDERS:

Generally that is correct but then they should be the one that takes the information to the Technical Advisory Committee to get their acknowledgement and bring that here.

MR. HUFFMAN:

Then bring it to us.

MR. SANDERS:

So in that regards theoretically we could still take business from the floor that if in your case the engineer takes the documents to the Technical Advisory Committee for approval and he brings that approval letter and he brings his check to the City Clerk for the lot fees and I don't see why they couldn't

even bring them here and say, "Here's my letter from the TAC Committee. Here's my map; here's my check and could you approve this".

Now if he wants to go the other route and say, you know, "Here's my letter" and send them back to the City Clerk, he can do that with the fees and she can bring the documents to the hearing. I could see either of those working and I can in that regard Rusty's suggestion is probably one that we should adopt.

MR. HUFFMAN:

But they need to know that they need to take it back to the Technical Advisory Committee before it comes to us.

MR. SANDERS:

Yes, and the City Clerk because I think the fees need to be paid. If the fees are in the regulations then I think they need to go through the Clerk and the fees need to be paid and I think maybe that's the procedure that we ought to consider adopting.

CHAIRMAN BLACKBURN:

I think our goal is - I would like to hear from the rest of you - our goal is we feel like that we are entrusted here to look out for the welfare of the public and that's part of our purpose here to make sure that things are done honest and straightforward and correct but at the same time we don't want to hold up progress and development and, you know, this is America; we believe in the free enterprise system. We want more and more of it and see our City grow and I understand the initiative of the developer wanting to get things moving so we don't want to hold them up either. So we want to balance that. We want to expedite things but do it right.

MR. HUFFMAN:

If he knows he's going to take it to the Technical Advisory Committee-

CHAIRMAN BLACKBURN:

Ahead of time and he gets that done, we can do that night.

MR. HUFFMAN:

We can speed it up that way.

MR. SANDERS:

That's correct.

CHAIRMAN BLACKBURN:

Any other discussion? Do I hear a motion that we adopt this as a policy? I guess we'll need to state it clearly that it will be the policy of the Joint Planning Commission that any changes go before the Technical Advisory Committee.

MR. HUFFMAN:

The City only.

MR. SANDERS:

And that the application and fees are paid prior to our consideration.

CHAIRMAN BLACKBURN:

Why do you say "The City only"?

MR. SANDERS:

The City doesn't have any
regulation.

CHAIRMAN BLACKBURN:

So that Technical Advisory
Committee just deals with the City?

MR. HUFFMAN:

Yes.

CHAIRMAN BLACKBURN:

Any other questions or comments
before we take the vote? All those in favor or
we'll do by roll call. Are you in favor of
this policy? Laythe?

MR. SYKES:

Yes.

CHAIRMAN BLACKBURN:

David?

MR. SANDERS:

Aye.

CHAIRMAN BLACKBURN:

Tivis?

MR. BRANHAM:

Aye.

CHAIRMAN BLACKBURN:

Leon?

MR. HUFFMAN:

Aye.

CHAIRMAN BLACKBURN:

John?

MR. ELLIOTT:

Aye.

CHAIRMAN BLACKBURN:

And the Chairman votes aye. So

it's unanimous.

I need to ask a question here just as a matter of procedure and policy. If someone comes to us and everyone has signed off on it, the Technical Advisory Committee, the fire chief and all the parties involved - I may have made a mistake. Mr. Chrisman came to me a few weeks ago and I called Karen about this. He had been before the Technical Advisory Committee. He got a plat revised on Cedar Creek that was already commercial. He had got it revised and I asked him had it been before them and he had and it was on the plat and so forth. He needed the Joint Planning Commissioner's or Chairman or the Secretary to sign off and I did.

After I did that I had second thoughts about it. I thought probably technically that should have come before this total Committee. I don't have the power to do that without this Committee's vote, is that correct?

MR. DAVIS:

That's right. The Chairman can only do what he's been authorized to do in those plats and, you know, it is sometimes - what we do here is very unusual for Eastern Kentucky but it's not unusual for well-developed cities and you are right. Sometimes I wonder if we go too far but we probably want to go right up to that line but there's a lot of different signatures that have to be on there and people signing off if they've done this fire protection is okay and code is okay, zoning is okay.

Then the last thing that has come up lately that you folks may not hear much about but there's one place on there that you have to sign showing that actually before you all give your final signature and that plat gets recorded over there is that they have completed the infrastructure that they've said that they are going to do, sewer lines, water lines, streets and all that. The plat technically is not supposed to be recorded until they do those infrastructures but we

recognize that that's not always real workable and so we kind of have adopted the procedure with the City and that's fine with us and we'll go ahead and sign off if they will post a bond. Say for instance they want to do it in phases. I've told people they probably ought to do these developments in phases so you don't have to start all your utilities in the front and work you way back in phases and that solves a lot of problems but if you've done a whole big one but you can't build all your utilities at one time and it's not practical for all your streets, what we have been doing is say we'll sign off if you'll post a bond for the cost of what it would take to finish the rest of the utilities and we ask them how long will it take you and if it's going to take a year or two and be a two-year project, you know, then the bond would have to be a two-year bond and we'll go ahead and sign off on our portion of it saying that they completed the infrastructure.

So back to your question. Before you ever sign one of those plats, you probably need to tell them to actually come to a meeting

and ask them to approve you executing it finally.

If you know they have already done that - in other words, if you all meet up here and they say, "Okay, we are going to vote to approve the plat with this change". You can't sign it that night but they have already done it and Mr. Chrisman comes back by and says, "I've made the change", you know, if you are pretty comfortable that they've made the change, you all can recommend it. I mean you can sign - we do that in the City a lot; you can say, "The Mayor has got the authority to sign it with these changes", and we do that out of practicability but, you know, if it's never been before them, they would have to approve it and authorize it.

CHAIRMAN BLACKBURN:

This was Dr. Beretta Casey applying Cedar Creek in an area that is zoned for that to put a medical office and I think there was needed to be a revision there on the - and really the thing I focused in on was the

fact the Technical Advisory Committee had okayed it but then after I did it I started thinking and I thought I think really technically it probably should have come before this whole body.

I apologize to the Committee for acting out of line on that and I'll be sure in the future to tell them that even though they've got all the signatures they still need to come before this Committee and get its okay and encourage them, you know, to be sure that they have all of that of what you mentioned there.

MR. DAVIS:

There could be something, you know, the Technical Advisory Committee really and working with you all, you all could finally see something that they could do on the plat that you all don't like or that you all want to change and you couldn't do that and that's the purpose of that. That's why this process can be different in Pikeville or Lexington or Louisville at any place because any person has

to sign off on it could make them go back and start the process again and say, "No, you need to do this", but what in reality happens is as these people go to engineers and sometimes the Board would force them to do that which is going to make them a better project. If they go to engineers that are familiar with the process the engineers are going to tell them, "Well, this is what's been approved. This is what they will approve. This is what they won't approve". So in practicality the system works pretty good.

When we first started this I guess Stuart Adams probably had one of the first big projects and his project went from a lot of problems to what he's done up there at Dark Hollow and Keyser Heights now is a good solid project and I've been up there both pre and post with the Technical Advisory Commission involved in that and there was times that I would be concerned about buying a lot up there. Now you drive up there and there's nice big roads, nice drainage. The water has been diverted, a controlled diversion and most of it

is out of Dark Hollow and some in Keyser but it's all controlled and planned and that's a good thing. You can build a house up there and it's going to stay on the hill I believe and the road is going to stay up there and it's a good base.

So I see there how this Committee had worked with Stuart and made a bunch of compromises to where he was able to do a project and it's good for the community and good for the people that buy and that hopefully 15 years from now you are not going to have like you drive upon a little hillside development that's done in 70 or 100 years and the streets aren't wide enough, no parking and things like that. The streets have been failing in some of those places for, you know, the last 50 years and you patch them as you go along. Whereas, if they had been done differently to begin with, you probably wouldn't have had that problem.

CHAIRMAN BLACKBURN:

An ounce of prevention is worth a

pound of cure and everybody is much better off in the future, isn't that right?

MR. DAVIS:

That's right, and, you know, the developers complained about it but in the long run it's been to their benefit because I think hopefully they are more secure in what they've done and they've had somebody to look at it and it's still - we've still got the old standards kind of like the housing code, the building code. The Kentucky Building Code people complained but it's a very minimal standard. It's not the best standard. It's a minimal standard. I had people call me and ask why they have been required to use three-quarter inch sheetrock in attached garages, you know, because it's going to cost another two hundred bucks to do that and I tell them that's a very minimal standard. You call me up and tell me you don't want to do that and don't want to put a carbon monoxide monitor in there to keep from suffocating your family I just don't have any sympathy for them.

MR. BLACKBURN:

Any other questions or comments on
this subject? Other business from the floor?

MR. HAYWOOD:

I've got two plats I would like to
submit. The first being Big Sandy/Pikeville
Limited Partnership. I have maps to
distribute.

CHAIRMAN BLACKBURN:

That's what we have here under
"old business".

MR. HAYWOOD:

I assume.

CHAIRMAN BLACKBURN:

We'll move on to old business.
David has a funeral to go to and I appreciate
your service.

MR. HAYWOOD:

This plat was submitted at the

last regular meeting and at that meeting we were told we had to file the application and take it before the Technical Advisory Committee and pay the fees and all of that has been done.

This map again is on the Big Sandy/Pikeville Limited Partnership. Since this map's last approval what has been added to this map is an Arby's parcel land, a McDonald's parcel and it's showing those buildings and parking on this plat and the reason we were requested to do this is for his property tax burden in Pike County that Arby's and McDonald's and Neighborhood Hospitality—Applebee's—is responsible for paying the taxes on this property and he's responsible for the remaining acreage.

CHAIRMAN BLACKBURN:

I've got just a question of clarification here that Rusty can probably help us with. Our main job here is to look at the plat re-division. As far as who pays what taxes, we really don't have anything to do with that whatsoever?

MR. DAVIS:

No.

MR. HUFFMAN:

These are the ones you changed
the lot lines on?

MR. HAYWOOD:

The addition of again Applebee's
and Arby's and McDonald's. Those areas were
leased to those people and he wanted to show
those on this plat.

MR. HUFFMAN:

It has been to the Technical
Advisory Committee. I move they be approved.

CHAIRMAN BLACKBURN:

Motion has been made to approve
this revised plat which has been through the
Technical Advisory Committee and the
appropriate channels. Is there a second?

MR. BRANHAM:

I second it.

CHAIRMAN BLACKBURN:

Motion has been seconded. Motion
made by Leon and seconded by Tivis. Any other
discussion? Laythe?

MR. SYKES:

Aye.

CHAIRMAN BLACKBURN:

Tivis?

MR. BRANHAM:

Aye.

CHAIRMAN BLACKBURN:

Leon?

MR. HUFFMAN:

Yes.

CHAIRMAN BLACKBURN:

John?

MR. ELLIOTT:

Aye.

CHAIRMAN BLACKBURN:

The Chairman says aye.

MR. HAYWOOD:

Will you sign the original map at
the end of the meeting?

CHAIRMAN BLACKBURN:

Yes.

Move on to Item B under "old
business" -- that's the one we just did.
Let's look back at "A - Consider a request from
Hagan Draughn for a revision on his Shelbiana
subdivision plat", and he has been through the
proper channels. I think you've got a small
copy in your Agenda here of what he's doing if
I'm not mistaken.

MR. BRAANHAM:

Yes.

CHAIRMAN BLACKBURN:

Any discussion about this
revision? Is there a motion to approve it? Do
you all need to look at it more?

MR. ELLIOTT:

He's just changing the easement
and streets is all he's doing. Has it been to
Technical on that?

MR. HUFFMAN:

Yes.

MR. ELLIOTT:

I make a motion that we approve
it.

CHAIRMAN BLACKBURN:

John Elliott makes a motion to
approve this. Is there a second?

MR. SYKES:

I second it.

CHAIRMAN BLACKBURN:

Seconded by Laythe. Roll call.

Laythe?

MR. SYKES:

Aye.

CHAIRMAN BLACKBURN:

Tivis abstains. Leon?

MR. HUFFMAN:

Yes.

CHAIRMAN BLACKBURN:

John?

MR. ELLIOTT:

Aye.

CHAIRMAN BLACKBURN:

And Bill Blackburn, aye.

Next we'll take up the other
item listed here.

MR. HAYWOOD:

This is Lover's Leap Subdivision
Phase One. Again last month at the regular
meeting we had to take the map back and Rusty
advised us we didn't have to go through
Technical review that it was a very minor
revision and the revision is a division of Lot
5 into Lot 5A and 5B. Again, the application
was completed and fees paid to the City of
Pikeville for this.

MR. DAVIS:

Is that Gary Johnson?

MR. HAYWOOD:

It's Gary Johnson I understand is
maybe wanting to purchase 5A and some doctor
is wanting to purchase 5B.

MR. DAVIS:

Is it my understanding that they

are going to agree that they won't build on?

MR. HAYWOOD:

I think that was the agreement;
that's what I have heard it is.

MR. DAVIS:

That's what Gary Johnson told me was that they wanted to take this lot between them and divide it and each of them buy half of it and they weren't going to try to built on it and that would be one of those problems if you take re-subdividing smaller lots in subdivisions, so I think if the plat doesn't show it probably ought to show in some way to reflect on the plat that they can't take that separate little parcel and build a house. It doesn't make any difference if they go out there and extend and use it to combine with their other lot but I don't think they can put a separate house on that lot.

MR. ELLIOTT:

Wouldn't that be accomplished

maybe if they were doing that to come up with a 6A and a 4A and 4B and eliminate 5 altogether?

MR. HAYWOOD:

Everything you've said has been discussed at our office and the easiest way, Rusty, we came up with to alleviate this problem. We could do away with 5 altogether and make 6 bigger or whatever but again we wanted to show on the plat what had actually happened for future reference down the road. There's going to be a restriction in the deed, you know, the area up there is full of restrictions but it's just going to be another restriction in that deed where these lots cannot be sold by themselves.

CHAIRMAN BLACKBURN:

They are going to have to be revised deeds made up because they are splitting this maybe. There's going to have to be new descriptions.

MR. HAYWOOD:

There's been new descriptions
and those were given to Johnny Rasnick.

CHAIRMAN BLACKBUKRN:

So we can stipulate in there that
there have been prior deed descriptions and
there will be no buildings on either of these
lots.

MR. DAVIS:

I think that probably will work.
I wouldn't see a problem 10 years from now with
somebody buying half those lots and putting it
back together and want to build a house on it.
They would have to come back to redo it but
that's in the future.

I know these people don't want to
do that but you wouldn't want anybody to come
back -

CHAIRMAN BLACKBURN:

I think they aren't objecting to
it because their engineer's mentioning that.

MR. HAYWOOD:

Gary Johnson may not live there forever and the doctor is not going to live there forever and someone could and the lot is big enough to build on and again we want to depict on the plat what is being done there now but, again, we thought the easiest way would be to put the restriction in the deed. This is not the smallest lot in the subdivision.

MR. DAVIS:

But where those lots were sold people bought lots based on that they were big lots and so if I was across the street from Mr. Johnson and those people and if they want to take a lot out that's great but now if they were doing it to build two houses rather than one even though legally you could do it I think the lot size that people buy on - in fact I'm not even sure we could even approve it if somebody wanted to do that.

MR. SYKES:

If they so deemed and wanted to do

that in the future, would it not have to come back before this Committee before it could be done anyway?

MR. DAVIS:

If they were going to put the lots back together and that wouldn't be a problem I wouldn't think in the future because if I was a neighbor and they put them back together 10 years from now and build one house I don't see what gripe I would have because when I bought my lot it was supposed to be a lot for a house, you know. That may happen in the future. They may want to undo it and I don't think that would be a problem but what they want to do now is a good thing for the neighborhood because they are taking one lot and - I guess that's a good thing.

CHAIRMAN BLACKBURN:

Let me again just state what I think we are saying and then we'll have some more discussion. The motion would be then that we allow this through private deed restrictions

in new revised deeds written up to reflect this change and that Rusty be able to read those deed restrictions and approve them and you could even put in there some language with the deed restriction that says in the future if the owners of these two lots desire to join the lots again and go back to whatever plat would be on record, you may or may not put that in there. Is the basically what we are saying?

MR. DAVIS:

Yes, that's fine.

MR. HUFFMAN:

I don't know if you could do that or not. One of them has a power easement that goes between them.

CHAIRMAN BLACKBURN:

Well, even divided up it still recognizes the easement. I mean the easement if the easement is on record it would still be subject to the easement.

MR. DAVIS:

Right. The revised plat is not
doing away with the easement.

MR. HAYWOOD:

The easement is still there.

MR. DAVIS;

The easement is still there so
everything else would still be applicable.
They are just changing - all the easements
would still be applicable.

MR. HAYWOOD:

Say you take it back to where they
decided to sell or given each party, you know,
the two parties sell it to one individual with
two tracts and maybe it can get a little
complicated.

MR. DAVIS:

You don't have to put that in
there because that's not a big problem because
I think they have to come back here to be it

reinstalled but actually in the subdivision regulations it defines that. So it could be actually considered a line revision.

CHAIRMAN BLACKBURN:

Right now what they will be doing is dividing that up with this restriction in each one of them.

MR. DAVIS:

Who owns that lot now? Does the developer still own that lot?

MR. HAYWOOD:

Yes.

MR. DAVIS:

So when the developer deeds it out there'll be a restriction.

MR. HAYWOOD:

I'll write the descriptions for the lots and put it in there for whoever prepares the deed.

CHAIRMAN BLACKBURN:

Is there any other discussion
or question on this? Does everyone understand
it? All those in favor of the motion. Laythe?

MR. SYKES:

Aye.

CHAIRMAN BLACKBURN:

Tivis?

MR. BRANHAM:

Yes.

CHAIRMAN BLACKBURN:

Leon?

MR. HUFFMAN:

Yes.

CHAIRMAN BLACKBURN:

John?

MR. ELLIOTT:

Aye.

CHAIRMAN BLACKBURN:

Bill Blackburn, aye.

Is that all of our business this evening? Do I hear a motion for adjournment?

MR. HUFFMAN:

I make a motion we adjourn.

CHAIRMAN BLACKBURN:

All those in favor say aye?

ALL MEMBERS:

Aye.

MEETING CONCLUDED AT 5:50 P.M.

STATE OF KENTUCKY)
)
COUNTY OF PIKE)

C-E-R-T-I-F-I-C-A-T-E

I, **Judy Ann Ison**, a Registered Professional Reporter and a Notary Public for the State of Kentucky at Large, do hereby certify that the foregoing Minutes of were taken at the time and place specified therein and was completed without adjournment; that the Minutes were taken by me in shorthand notes with electronic backup and reduced to typewriting; that the foregoing transcript is a true and accurate transcript of the proceedings to the best of my ability.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties or any attorney or counsel in the foregoing deposition and further that I am not financially interested in the outcome of this litigation.

GIVEN UNDER MY HAND, at Pikeville, Kentucky, this
the 27th day of August, 2002.

My Commission expires: June 20, 2006.



JUDY ANN ISON
REGISTERED PROFESSIONAL REPORTER
NOTARY AT LARGE, STATE OF KENTUCKY