

**PLANNING COMMISSION MINUTES**  
**April 6, 2017**

**PUBLIC HEARING**

**CASE NUMBER 16ZONE1077**

Project Name:	Signature Point
Location:	1111 Rose Hill Lane
Owner(s):	PBI Bank, Inc.; Signature Point Development, LLC
Applicant:	Elite Homes, Inc.
Representative(s):	Bardenwerper, Talbott, & Roberts, PLLC – Bill Bardenwerper
Project Area/Size:	88.5 acres (Total); 1.6 acres (Tract 4)
Existing Zoning District:	R-5A, R-6, & PRD
Existing Form District:	N, Neighborhood
Jurisdiction:	Louisville Metro
Council District:	20 – Stuart Benson
Case Manager:	Joel P. Dock, Planner II

Notice of this public hearing appeared in **The Courier Journal**, a notice was posted on the property, and notices were sent by first class mail to those adjoining property owners whose names were supplied by the applicants.

The staff report prepared for this case was incorporated into the record. The Commissioners received this report in advance of the hearing, and this report was available to any interested party prior to the public hearing. (Staff report is part of the case file maintained in Planning and Design Services offices, 444 S. 5th Street.)

**An audio/visual recording of the Planning Commission meeting related to this case is available on the Planning & Design Services website, or you may contact the Customer Service staff to view the recording or to obtain a copy.**

**Agency Testimony:**

**01:37:10** Joel Dock presented the case (see Staff Report and recording for detailed presentation).

**The following spoke in favor of the request:**

Nick Pregliasco, 1000 N Hurstbourne Pkwy., Louisville, KY 40223  
Kevin Young, 503 Washburn Avenue, Louisville, KY 40222

**Summary of testimony of those in favor:**

**01:51:41** There was discussion between Mr. Pregliasco, Mr. Young, and the Commissioners about moving the property line around Tract 4 back from the street and if the variance measurements could be approved by PDS Staff.

**01:59:14** Mr. Pregliasco spoke on behalf of the applicant and showed a brief presentation.

**02:08: 20** Commissioners' deliberation

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**02:09:33** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**Change-in-Zoning from R-5A Multi-Family Residential to R-6 Multi-Family Residential**

**WHEREAS**, the Louisville Metro Planning Commission finds that the existing condos are zoned R-5A, but the applicant is proposing to change the zoning to R-6 in order to dedicate the last remaining private streets in the development as public streets; and the rezoning is required so that, after dedication, the remaining existing condominium property complies with the floor-area ratio requirements of the zoning district, and

**WHEREAS**, the Commission further finds that originally, the entire northern portion of the overall Signature Point development property was included in the condominium regime; after the real estate recession and the condominium market stalled, Elite Homes worked with the 20 condominium owners to partition and remove the remainder of the property from the condominium regime such that it could be developed as a Planned Residential District (PRD) subdivision; Elite is actively building and selling new homes, thus reinvigorating this overall development; at the creation of the condominium regime, all streets were proposed as private streets, but once converted to a subdivision, the remaining streets were converted to publicly dedicated streets; at the time, the only streets that could not be publicly dedicated were the ones immediately surrounding the existing condominium regime as a dedication would cause the condominium regime to violate the required Floor Area Ratio of the existing zoning district, which cannot be waived; and as a result, in order to dedicate these streets, this rezoning is required; and there is no other proposed development or change to the existing condominium regime property other than the dedication of the private streets, and

**WHEREAS**, the Commission further finds that the rezoning plan includes dedicating the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane, which has the corresponding benefit to the condominium owners of eliminating any future maintenance obligations; and no other change to the existing condominium regime is proposed, and

**WHEREAS**, the Commission further finds that the subject property lies within the Neighborhood Form District and is located at the northwest corner of Rose Hill Lane and Signature Point Drive; no proposed changes are being made to the existing townhome style condominium units built over 10 years ago, which will remain as is; these 2-story buildings have garages; gross density will be on the low side of the high density range; the current buildings are constructed with attractive durable building

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materials and feature high-end architectural details; the existing buildings blend compatibly with the remainder of the Signature Point development, and the rezoning will not result in any additional residential units from the 20 condominium units currently existing on the property, and

**WHEREAS**, the Commission further finds that perimeter setbacks and landscape buffer areas are provided along all property lines as required by the Land Development Code (LDC); and all buffering and other compatibility issues were addressed during the original development plan approval as part of the original rezoning and as constructed, and

**WHEREAS**, the Commission further finds that the application complies with the overall Intents of and specifically with Policies 1, 4, 5, 7, 11, 13, 14 and 15 of Guideline 2 of the for all the reasons listed above and because no changes are proposed to the existing condominium regime property as built and as approved as part of the original rezoning of this property; further, dedicating the streets to public use will make efficient use of available property that lies within the Neighborhood Form District; this existing development is located in an extremely popular, very robust new residential development where residents currently seek new housing options that have easy access to the Shelbyville Road commercial center and such nearby workplace areas as along Shelbyville Road and North English Station Road; future residents will also support the businesses and services in nearby activity centers east and these also nearby west of the Snyder Freeway along Shelbyville Road; parking is compact and shared, and walking and biking are convenient; and internal open space focal points are included on the overall development plan, and

**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 21, 22, 23, and 28 of Guideline 3 for all the reasons described above and because this existing condominium community is in a density range and design comparable to other nearby communities and the balance of the Signature Point development; buildings were constructed with attractive building materials comparable to residential communities in the area; and buildings are oriented toward the street, and

**WHEREAS**, the Commission further finds that sidewalks are provided where required, and accommodations are made for pedestrian and bicycle transportation as well as the handicapped and elderly; odors won't exist as they might in a commercial or industrial development; air quality concerns related to traffic congestion or delay will be mitigated by the fact that this is an existing residential development and that roads and sidewalks in the overall Signature Point development are efficiently organized to control traffic flow and prevent delays; refuse is picked up on a regular basis; lighting is residential in

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character with LDC regulations; and all signage is and will be in conformance with LDC regulations, and

**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 3, 5, 6 & 7 of Guideline 4 and with the Intents of Guideline 5 for all the reasons described above and because it features open space for this development as part of the overall Signature Point development with a pool, clubhouse, dog park, etc. for which the condominium owners have access and contribute monthly; that open space area is available for the passive recreational enjoyment by residents and serves as a gathering and recreation area by the residents; landscaping is also provided and trees installed around the buildings; setbacks and buffers along property lines will ensure good transitions between the proposed community and existing land uses; maintenance of landscaping, natural and open space areas will be performed by the condominium association on behalf of the condominium owners as set forth in the Master Deed for the condominium community; the common Signature Point development community features are maintained by a master association created to maintain same; and this maintenance arrangement results in a higher and more consistent level of maintenance of the open spaces, and

**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents of and specifically with Policies 1, 2 and 6 of Guideline 6 because, as noted above, the existing residents support the businesses, services, schools and churches in and around the nearby activity center of the very robust City of Middletown, an increasingly popular place to work, live and play; this proposal will create a unified system of public streets in the overall development instead of having four private streets in a development with all public streets; the current situation provides serious issues and concerns as to maintenance and access rights that will be solved with this rezoning and the dedication as public streets; the applicant will bond the remaining work to be performed on the streets prior to dedication and acceptance of same; and this development has easy access to Shelbyville Road and I-265 and several other roads in the area, and from there to other Louisville employment and commercial centers, and

**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 7, 8 and 9 because the proposed Detailed District Development Plan (DDDP) has been designed in conformance with all Metro Public Works and Transportation Planning design policies; good internal circulation, appropriate access, sight distances, corner clearances and parking are provided and have been built for some time; and S. English Station and Shelbyville Roads continue to have adequate traffic-carrying capacity, and

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**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guidelines 10, 11 and 12 because all drainage will run to internal catch basins and then to sufficiently sized detention basins, and from there to an existing drainage channel and in that way will comply with all MSD storm water management requirements; this DDDP received the preliminary stamp of approval by MSD prior to docketing for LD&T and Planning Commission review; Louisville Water Company provides water to the site; MSD water quality regulatory requirements have been addressed; and air quality is addressed by virtue of the referenced shorter commuting distances explained hereinabove, and

**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guideline 13 for all the reasons described above and because landscaping has been installed and trees planted; open space within the larger development is preserved for a positive natural appearance and for passive recreational enjoyment by residents; and tree canopy requirements have been met as part of the overall development of the site, and

**WHEREAS**, the Commission further finds that the existing condominium community conforms with the overall Intents and applicable Policies of Guideline 14 because, as noted above, water, sewer, electric, phone and cable service connections are available by nearby connection to ensure a reduced cost for infrastructure, and

**WHEREAS**, the Commission further finds that the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Commission further finds that the Louisville Metro Planning Commission does hereby **RECOMMEND** to the Louisville Metro Council that the change in zoning from R-5A Multi-Family Residential to R-6 Multi-Family Residential be **APPROVED**.

**The vote was as follows:**

**Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe**

**Absent: Smith, Gazaway, and Lewis**

**Abstain: None**

**No: None**

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**02:10:30** On a motion by Commissioner Brown, seconded by Commissioner Howard, the following resolution was adopted:

**Revised General District Development/Major Preliminary Subdivision Plan & Revised Detailed District Development Plan**

**WHEREAS**, the Louisville Metro Planning Commission finds that soil erosion and sedimentation control plan will be implemented as recommended by MSD and USDA Soil Conservation Service. No additional natural resources appeared to be present on the subject site. Tree canopy will be provided as required by the Land Development Code, and

**WHEREAS**, the Commission further finds that provisions for safe and efficient vehicular and pedestrian transportation within and around the development and the community has been provided. An interconnected system of public walks and open space will allow for the safe movement of pedestrians throughout the development and provide outdoor recreation. The subject site contains both public and private roads. A perpetual easement of record in DB 10183, PG 535 allows for the movement of vehicles and pedestrians across all tracts shown on the development plan. Connection to the public walk will be provided and sidewalks will be completed across the frontage. Additionally, an easement for a TARC boarding area will be provided to accommodate future connection to public transit service, and

**WHEREAS**, the Commission further finds that open space is being provided in excess of the minimum requirements of the Land Development Code. The site offers internal walking paths, a combination of recreational amenities, open space, yards, dog parks, and common areas that benefit residents, guests, and the overall well-being of the community, and

**WHEREAS**, the Commission further finds that the Metropolitan Sewer District has approved the preliminary development plan and will ensure the provisions of adequate drainage facilities on the subject site in order to prevent drainage problems from occurring on the subject site or within the community, and

**WHEREAS**, the Commission further finds that the overall site design and land uses are compatible with the surrounding area in both scale and design. The subject site abuts a school and is adjacent to a mixture of single-family and multi-family developments. The development provides a variety of housing types and options for potential residents within proximity to an activity center located at Shelbyville Road and the Parklands of Floyds Fork, and

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**WHEREAS**, the Commission further finds that the development plan conforms to applicable guidelines and policies of the Comprehensive Plan as Guideline 3, Policies 1, 3, 10, & 11 encourage that all new residential development having a mixture of densities be compatible with the surrounding area, provide a variety of housing options, and be appropriately located along transit corridors. The proposed development will provide a variety of housing types and options for both renters and potential home-owners within a connected community along a collector level roadway, and

**Variances:**

**LDC section 5.3.1.C to encroach into the required 15' Front and Street Side yards**  
**LDC section 4.4.3.A.1.a.i to allow a fence in the street side/front yards to exceed 48", but to not exceed 5'**

**WHEREAS**, the Louisville Metro Planning Commission finds that the variance will not adversely affect the public health, safety or welfare because this is an existing condominium community that was previously approved; the only change now is to allow the existing condominium townhome building to remain only under a different zoning regulation for the sole purpose of dedicating the last remaining private streets in the overall development; and the variance is only required due to the creation of a lot line that wouldn't exist if the streets remain private, and

**WHEREAS**, the Commission further finds that the variance will not alter the essential character of the general vicinity because as stated above, the development will remain the same, utilizing the infrastructure and buildings already in place; and there are no proposed changes to the buildings, layout, etc. only to dedicate the streets, and

**WHEREAS**, the Commission further finds that the variance will not cause a hazard or a nuisance to the public because this variance does not involve a hazard or nuisance issue, but rather involves the same buildings remain as they have been since they were originally constructed as the first buildings in the development, and

**WHEREAS**, the Commission further finds that the variance will not allow an unreasonable circumvention of the requirements of the zoning regulations because as stated, this application pertains to use of a different regulation to address a floor-area ratio issue which prohibits the roads being publicly dedicated; once publicly dedicated the remaining condominium property would violate the existing zoning floor area ratio, which cannot be waived; and the sole purpose is to dedicate the private streets around the buildings to avoid future issues with maintenance, snow removal, etc.; rezoning this small, existing development within Signature Point and removing the portions of Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, eliminates future maintenance obligations by the condominium regime, whereas the remaining roads are publicly dedicated; and these roads will be

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bonded until completed; and no other change to the existing condominium regime is proposed, and

**WHEREAS**, the Commission further finds that the variance arises from special circumstances, which do not generally apply to land in the general vicinity because, as stated, this project involves rezoning the existing multi-family zoned condominiums in order to address a floor-area ratio issue that otherwise maintains a short stretch of roads as private where the rest are public, and

**WHEREAS**, the Commission further finds that strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create unnecessary hardship because the applicant would otherwise be unable to dedicate the only remaining privately maintained streets within the entire Signature Point development, and

**WHEREAS**, the Commission further finds that the circumstances are not the result of actions of the applicant taken subsequent to the adoption of the regulation but rather is the result of addressing the floor-area ratio issue that by rezoning this small portion of the overall development, removes Signature Point Drive, Stony Point Lane, Tulip Hill Way and Rose Hill Lane from the condominium regime, which has the corresponding benefits of eliminating future maintenance obligations of the condo owners, and

**WHEREAS**, the Commission further finds that, based the staff report, the applicant's findings of fact distributed at today's meeting, and the evidence and testimony presented today, that all of the applicable Guidelines of Cornerstone 2020 and the Comprehensive Plan are being met; now, therefore be it

**RESOLVED**, the Louisville Metro Planning Commission does hereby **APPROVE (1)** the Revised General District Development/Major Preliminary Subdivision Plan, **(2)** the Revised Detailed District Development Plan, **(3)** the Variance from Land Development Code (LDC), section 5.3.1.C to encroach into the required 15' Front and Street Side yards, and **(4)** the Variance from LDC, section 4.4.3.A.1.a.i to allow a fence in the street side/front yards to exceed 48", but to not exceed 5', noting that the final location of the property lines will be adjusted and reviewed at the Record Plat stage and will comply with all the floor area ratio requirements of the R6 zoning district, **SUBJECT** to the following binding elements:

**Binding Elements**

1. The development shall be in accordance with the approved district development plan and agreed upon binding elements unless amended pursuant to the Zoning District Regulations. Any changes/additions/alterations of any binding element(s) shall be



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submitted to the Planning Commission for review and approval; any changes/additions/alterations not so referred shall not be valid.

2. The development shall be in accordance with the approved Preliminary Subdivision Plan. No further subdivision of the land into a greater number of lots than originally approved shall occur without approval of the Planning Commission.
3. The signature entrance shall be submitted to the Planning Commission staff for review and approval prior to recording the record plat.
4. Lighting shall be maintained on the property in accordance with Chapter 4 Part 1.3 of the land development code.
5. Outdoor lighting in driving areas and parking lot illumination shall be either standard residential coach style lighting or of a type that directs light down and away from surrounding residential properties, which later type lighting fixtures shall have a 90-degree cutoff and height of the light standard shall be set so that no light source is visible from residential areas off-site. Building mounted fixtures shall be similar coach lamp style or porch lights with no wattage in excess of 75 watts. Light levels due to lighting on the subject site shall not exceed 0.5-foot candles measures at the property line. The applicant shall obtain certification by a qualified expert in measurement of lighting levels prior to requesting a certificate of occupancy. Such certification shall be maintained on site at all times thereafter.
6. Construction fencing shall be erected when off-site trees or tree canopy exists within 3' of a common property line. Fencing shall be in place prior to any grading or construction to protect the existing root systems from compaction. The fencing shall enclose the entire area beneath the tree canopy and shall remain in place until all construction is completed. No parking, material storage or construction activities are permitted within the protected area.
7. A Tree Preservation Plan (TPP) shall be approved by Planning Commission staff prior to transmittal to the office responsible for permit issuance. No clearing and/or grading activities may take place until a Tree Preservation Plan has been approved. The Tree Preservation Plan shall identify and submit for approval by designated DPDS staff, a plan showing the location of Tree Preservation Areas on site (exclusive of areas dedicated as public right-of-way) prior to beginning any construction procedure (i.e., clearing, grading, demolition). All construction shall be conducted in accordance with the approved Tree Preservation Plan. A partial plan may be submitted to delineate clearing necessary for preliminary site investigation. All Tree Preservation Plans must be prepared in accordance with the standards set forth by DPDS.

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8. Before any permit (including but not limited to building, parking lot, change of use or alteration permit) is requested:
  - a. The development plan must receive full construction approval from Louisville Metro Department of Public Works and the Metropolitan Sewer District.
  - b. Encroachment permits must be obtained from the Kentucky Department of Transportation, Bureau of Highways.
  - c. The property owner/developer must obtain approval of a detailed plan for screening (buffering/landscaping) as described in Chapter 10 prior to requesting a building permit. Such plan shall be implemented prior to occupancy of the site and shall be maintained thereafter.
  - d. A major subdivision record plat creating the lots and roadways as shown on the approved district development plan shall be recorded prior to issuance of any building permits.
  - e. A Tree Preservation Plan in accordance with Chapter 10 of the LDC shall be reviewed and approved prior to obtaining approval for site disturbance.
9. A certificate of occupancy must be received from the appropriate code enforcement department prior to occupancy of the structure or land for the proposed use. All binding elements requiring action and approval must be implemented prior to requesting issuance of the certificate of occupancy, unless specifically waived by the Planning Commission.
10. If a building permit is not issued within two years of the date of approval of the plan or rezoning, whichever is later, the property shall not be used in any manner unless a revised district development plan is approved or an extension is granted by the Planning Commission.
11. The applicant, developer, or property owner shall provide copies of these binding elements to tenants, purchasers, contractors, subcontractors and other parties engaged in development of this site and shall advise them of the content of these binding elements. These binding elements shall run with the land and the owner of the property and occupant of the property shall at all times be responsible for compliance with these binding elements. At all times during development of the site, the applicant and developer, their heirs, successors; and assignees, contractors, subcontractors, and other parties engaged in development of the site, shall be responsible for compliance with these binding elements.

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12. If work is required within the easements causing removal or damage of landscape materials, the property owner shall be responsible for replacement of materials according to the approved landscape plan.
13. The dumpster/compactor(s) shall not be emptied between the hours of 10 p.m. and 7 a.m.
14. The materials and design of proposed structures shall be substantially the same as depicted in the photos/rendering as presented at the 12/14/17 Development Review Committee hearing.
15. A 75-foot building setback shall be provided along S. English Station Road. No structures, except for approved signature entrance and fences shall be permitted.
16. The developer shall, at its expense, construct a 7-foot chain link fence with black vinyl coating with a variety of deciduous and evergreen trees planted along this fence line on 10-foot centers along the entire property line common to Christian Academy of Louisville property. The fence shall be constructed at the earliest of the following times: (A) before construction begins on the buildings along the north line of the subject property; or (B) one year after site work begins anywhere on the subject property. The fence shall be perpetually maintained by the developer or its successor (Condominium Council, Homeowner Association, etc.).
17. Construction fencing at least 6 feet tall shall be erected at the developer's expense along the entire common property line with Christian Academy of Louisville before any site work or construction work begins on the subject property. That fence shall be maintained thereafter by the developer until the fence described in the Binding Element No. 17 is constructed.
18. Developer shall reserve for Kentucky Department of Transportation acquisition up until December 31, 2007 the undeveloped land shown on the District Development Plan as presented at the October 17, 2002 Planning Commission meeting. Developer shall not file for any development plan approval, and KDOT shall have the right, but not the obligation, to acquire said land, Developer stating its intention in these signed binding elements to reach an agreed upon price with KDOT for the land, said land being further reserved in accordance with the District Development Plan by the developer for future KDOT improvements in the I-64/I-265 interchange.
19. Developer shall provide detention on site unless MSD decides that detention is not necessary or agrees to accept payment of the regional facility fee in lieu of detention or unless detention can be provided and reserved on future KDOT right-of-way as approved by MSD and KDOT.

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20. Before this Developer seeks a certificate of occupancy for its first building, if the road improvements previously required in Docket 9-28-01 and 9-20-01LW have not been made along U.S. 60 and South English Station Road as required by those two projects, then this Developer shall be responsible for making those South English Station Road and U.S. 60 road improvements, if any yet to be made. Provided, however, that the Planning Commission shall use its best efforts (with the assistance of the Public Works Department) to assist this Developer in obtaining reimbursement from the developers of the referenced projects for the costs of the road improvements previously imposed upon the developers in the referenced cases, prior to Public Works approval of construction plans for either of those two projects. Such improvements shall be made prior to issuance of the first certificate of occupancy.
21. In addition to the third (center turn) lane across the frontage of the development which this Developer is obligated to construct by virtue of a note on the approved district development plan, Developer shall also be responsible for constructing the third (center turn) lane from its property line north (in front of Christian Academy) along South English Station Road to the point along South English Station Road where the two lanes become three lanes in front of the Landis Lakes subdivision. Said improvements shall be completed prior to requesting the first certificate of occupancy for the development.
22. A noise study and mitigation measures, if any, as identified by the study shall be required prior to building permits for any residential structure within 250 feet of driving lanes along I-64 or I-265.
23. All new street name signs shall comply with the manual on Uniform Traffic Control Devices (MUTCD). The address number shall be displayed on a structure prior to requesting a certificate of occupancy for that structure.
24. At the time the developer turns control of the homeowner's association over to the homeowners, the developer shall provide sufficient funds to ensure there is no less than \$3,000 cash in the homeowner's association account. The subdivision performance bond may be required by the Planning Commission to fulfill this funding requirement.
25. Prior to the recording of the record plat, copies of the recorded documents listed below shall be filed with the Planning Commission:

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- a. Articles of Incorporation filed with the Secretary of State and recorded in the office of the Clerk of Jefferson County and the Certificate of Incorporation of the Homeowners Association.
- b. A deed of restriction in a form approved by Counsel to the Planning Commission addressing (responsibilities for the maintenance of common areas and open space, maintenance of noise barriers, maintenance of WPAs, TPAs) and other issues required by these binding elements / conditions of approval.
- c. Bylaws of the Homeowner's Association in a form approved by the Counsel for the Planning Commission.

**The vote was as follows:**

**Yes: Carlson, Ferguson, Tomes, Brown, Howard, Peterson, and Jarboe**

**Absent: Smith, Gazaway, and Lewis**

**Abstain: None**

**No: None**