

**Minutes
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

October 8, 2009

- I. CALL TO ORDER** - The meeting was called to order at 1:31 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Frank Penn, Chair; Carolyn Richardson; Joan Whitman; Mike Owens; Lynn Roche-Phillips; Mike Cravens; Marie Copeland; Ed Holmes (arrived at 1:39 p.m.); Derek Paulsen and William Wilson. Patrick Brewer was absent.

Planning Staff Present – Bill Sallee, Barbara Rackers, Tom Martin, Cheryl Gallt, Chris Taylor, Jimmy Emmons and Denice Bullock. Other staff members in attendance were: Steve Parker, Division of Engineering; Bob Carpenter, Division of Building Inspection; Rochelle Boland, Department of Law; Captain Charles Bowen, Division of Fire & Emergency Services; Tim Queary, Streets, Roads and Forestry and Jeff Neal, Traffic Engineering.

- II. APPROVAL OF MINUTES** – None were considered at this time.

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

- a. DP 2009-27: RAMSEY/SULLIVAN PROPERTY (AMD) (12/20/09)* - located at 2663 and 2671 Kearney Ridge Boulevard.
(Council District 12) **(Barrett Partners)**

Representation – Tony Barrett, Barrett Partners, was present representing the applicant, and requested postponement of DP 2009-27 to the November 12, 2009, Planning Commission meeting.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 9-0 (Holmes and Brewer absent) to postpone DP 2009-27 to the November 12, 2009, Planning Commission meeting.

Note: The next two items were heard simultaneously.

- b. PLAN 2009-106P: MAHAN PROPERTY (A PORTION OF) (AMD) (12/10/09)* - located at 4127 Victoria Way (a portion of).
(Council District 9) **(EA Partners)**

- c. DP 2009-65: MAHAN PROPERTY APARTMENTS (AMD) (12/10/09)* - located at 4057 Mooncoin Way.
(Council District 9) **(EA Partners)**

Representation – Rory Kahly, EA Partners, was present representing the applicant, and requested postponement of PLAN 2009-106P and DP 2009-65 to the November 12, 2009, Planning Commission meeting.

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

Action - A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 9-0 (Holmes and Brewer absent) to postpone PLAN 2009-106P and DP 2009-65 to the November 12, 2009, Planning Commission meeting.

Note: Mr. Holmes arrived at this time.

- d. PLAN 2009-74F: HAROLD R. BLACK PROPERTY (AMD) (10/8/09)* - located at 3521 & 3589 Combs Ferry Road.
(Council District 12) **(Wes Witt)**

Staff Comments - Mr. Martin said that the staff had received written communication from the applicant, requesting postponement of PLAN 2009-74F to the November 12, 2009, Planning Commission meeting.

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

Action - A motion was made by Ms. Richardson, seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to postpone PLAN 2009-74F to the November 12, 2009, Planning Commission meeting.

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

- e. DP 2009-60: MILLER BIRD COMMERCIAL PARK SUBDIVISION, BLOCK A, UNIT 1, LOTS 1-6 (CURRY SHOES) (AMD) (11/12/09)* - located at 2555 Nicholasville Road. (Council District 10) **(The Roberts Group)**

Staff Comments - Mr. Martin said that the staff had received written communication from the applicant, requesting postponement of DP 2009-60 to the November 12, 2009, Planning Commission meeting.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to postpone DP 2009-60 to the November 12, 2009, Planning Commission meeting.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, October 1, 2009, at 8:30 a.m. The meeting was attended by Commission members: Marie Copeland, Derek Paulsen and Carolyn Richardson. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Chris Taylor, Tom Martin, Denise Bullock, Barbara Rackers and Cheryl Gallt, as well as Rochelle Boland, Department of Law; Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Paul Hockensmith, Addressing Office; and Bob Carpenter, Division of Building Inspection. The Committee made recommendations on plans as noted.

General Notes

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

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

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

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

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

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

1. PLAN 2009-107F: BEAUMONT FARM, UNIT 1, SECTION 5, LOTS 4-10 (AMD) (12/10/09)* - located at 3194 Beaumont Centre Circle (a portion of). (Council District 10) **(EA Partners)**

Note: The purpose of this amendment is to dedicate Monarch Street and easements, and to create seven lots.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and required street tree information.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of any tree protection areas.
 6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote: This property shall be developed in accordance with the approved final development plan.
 8. Correct plan title.
 9. Verify required separation of the sewer line from KU electric line on lots 5, 6 and 7.
2. PLAN 2009-108F: SIKURA-JUSTICE PROPERTY, UNITS 2B & 4 (AMD) (GLENEAGLES) (A PORTION OF) (12/10/09)* - located at Polo Club Boulevard. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to amend the street cross-sections.

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

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. Greenspace Planner's approval of the treatment of greenways and greenspace.
 4. Clarify purpose of amendment note.
 5. Correct plan title.
3. PLAN 2009-109F: RAMSEY/SULLIVAN PROPERTY, UNIT 1B, LOTS 8 – 12 (AMD) (12/10/09)* - located at 2756, 2760, 2764, 2768 & 2772 Sullivans Trace. (Council District 12) **(Foster - Roland)**

Note: The purpose of this amendment is to subdivide one lot into two lots.

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

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and required street tree information.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of any tree protection areas.
 6. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
 7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
 8. Addition of private utilities listing per Article 5-4(e) of the Land Subdivision Regulations.
 9. Correct Engineering's certification per Article 5-4(h)(2) of the Land Subdivision Regulations.
4. PLAN 2008-130F: PATCHEN WILKES, UNIT 1-D (12/14/08)* - located at 1811 Winchester Road (a portion of). (Council District 6) **(EA Partners)**

Note: The Planning Commission originally approved this plan on October 9, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection areas.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
8. This plan cannot be certified until the required Letter of Map Revision (LOMR) for the floodplain is official.
9. Resolve cross-section "D-D."

Note: The applicant now requests a one-year extension.

The Subdivision Committee Recommended: Approval of a one-year extension, subject to the previous conditions.

5. PLAN 2008-86F: LAKEVIEW ACRES, UNIT 3, TRACT 10, LOT 12 (AMD) (11/13/08)* - located at 1545 Lakeview Drive. (Council District 5) **(Endris Engineering)**

Note: The Planning Commission originally approved this plan on July 10, 2008, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Approval of street names and/or addresses per the street addressing office.
5. Urban Forester's approval of tree preservation areas.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Document private street responsibility and add certification.
8. Clarify purpose of amendment note.
9. Remove amended building line from plan (along Lakewood Drive).
10. Resolve access to private street.

Note: The applicant now requests reapproval.

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

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

6. DP 2009-63: ENTERPRISE BUSINESS CENTER (12/2/09)* - located at 817 Winchester Road.
(Council District 1) (Elizabeth Senn)

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 preservation plan.
6. Resolve easement information relative to the 8" sanitary sewer line.
7. Document required parking compliance.

7. DP 2009-64: HOWARD & HEAFEY PROPERTY (AMD #2) (12/10/09)* - located at 1124 Winchester Road.
(Council District 1) (Barrett Partners)

Note: The purpose of this amendment is to increase the buildable area on lot 2 and correct the parking statistics.

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 preservation plan.
6. Addition of adjacent property information.
7. Correct purpose of amendment note to include correct parking statistics.

8. DP 2009-66: WOLF RUN INDUSTRIAL PARK, LOTS 1, 2 & 3 (AMD) (12/10/09)* - located at 2262, 2270, and 2278 Frankfort Court. (Council District 12) (Barrett Partners)

Note: The purpose of this amendment is to increase the buildable area.

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 preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Improve plan legibility by removing extraneous information from plan face and clarify plan features.
8. Denote floodplain and 25' setback.
9. Clarify area of storm and sewer easement to be relocated.
10. Correct plan title.
11. Addition of purpose of amendment note.
12. Kentucky Department of Transportation's approval of improvements and access to Old Frankfort Pike.
13. Resolve possible fill in identified floodplains.

Mr. Sallee said that the staff would like for DP 2009-66 to be removed from the Consent Agenda for further discussion. He then said that the remaining items listed on the Consent Agenda could be considered for conditional approval by the Commission at this time, unless there was a request for an item to be removed for discussion.

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

Action - A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 10-0 (Brewer absent) to approve the remaining items identified on the Consent Agenda, removing DP 2009-66 for further consideration.

- 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

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

1. DEVELOPMENT PLANS

- a. DP 2009-66: WOLF RUN INDUSTRIAL PARK, LOTS 1, 2 & 3 (AMD) (12/10/09)* - located at 2262, 2270, and 2278 Frankfort Court. (Council District 12) **(Barrett Partners)**

Note: The purpose of this amendment is to increase the buildable area.

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 preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Improve plan legibility by removing extraneous information from plan face and clarify plan features.
8. Denote floodplain and 25' setback.
9. Clarify area of storm and sewer easement to be relocated.
10. Correct plan title.
11. Addition of purpose of amendment note.
12. Kentucky Department of Transportation's approval of improvements and access to Old Frankfort Pike.
13. Resolve possible fill in identified floodplains.

Staff Presentation – Mr. Taylor directed the Commission's attention to an aerial photograph that showed the general vicinity of the subject property located at 2262, 2270, and 2278 Frankfort Court. He said that the subject site is located off Old Frankfort Pike, outside of New Circle Road, near the LFUCG Detention Center and the LFUCG Fleet Services Facility. He then oriented the Commission to the rendering of the proposed final development plan, noting the location of the existing mini-warehouse storage areas, as well as the proposed storage areas.

Mr. Taylor said that the purpose of this amendment is to increase the buildable area for the self storage facility; and in reviewing the development plan rendering, it depicts two additional gated access points into the parking area. He then said that one of the accesses will be located off Frankfort Court and the second access will be located off Old Frankfort Pike. He noted that the access off Old Frankfort Pike will be widened to provide a right turn lane into the property.

Mr. Taylor then said that the Subdivision Committee had recommended approval of this request, subject to the 13 conditions listed on the agenda. He noted that condition number 13 relates to an area of the property that has been designated as a "zone AE" floodplain. He said that in the southwest portion of the property the floodplain area runs toward and along Old Frankfort Pike. He then said that the applicant has illustrated on the development plan that the rear buildings will be outside the floodplain area; however, the buildings along Old Frankfort Pike will be within the required 25-foot setback from the floodplain. The staff was concerned with the possible need for additional fill being placed in the existing floodplain area; and if that were to happen, the applicant would need a special use permit from the Division of Engineering. He said that if the applicant wanted to build within the 25-foot setback, the applicant would first need to obtain a variance to modify that setback requirement through the Board of Adjustment.

Planning Commission Questions – Ms. Roche-Phillips said that the staff had mentioned the local government's regulatory standard for fill in the floodplain, and asked about the regulations for the Clean Water Act Section 404 permit. She asked if the staff had been on site to see whether or not there is hydrologic wetland vegetation in this area. Mr. Taylor said that to the staff's knowledge there is no encroachment into the actual floodplain; and if there were a proposed encroachment, the Division of Engineering would inform the staff.

Mr. Owens said that there is already a considerable amount of fill on the property, and asked if any of this fill had encroached upon the floodplain. Mr. Taylor said that it is unknown as to whether or not there will be new fill placed in the floodplain; and if any additional fill was to be placed in this area, the Division of Engineering would need to approve a special use permit. Mr. Owens asked if the existing fill in the floodplain has been approved by the Division of Engineering. Mr. Taylor said that he would need to refer that question to the Division of Engineering or to the applicant.

Ms. Copeland clarified that the area shown in blue on the rendering represents the area of encroachment. Mr. Taylor said that the area highlighted in blue is the area where the encroachment of the building occurs in the required 25-foot setback, not into the floodplain itself. Ms. Copeland asked how much of the building will be encroaching into the setback. Mr. Taylor said that the area of encroachment would be an area of 10'-15' by 150'-200'. Ms. Copeland commented that the area of encroachment would then be about the same size of the Council Chambers. Mr. Taylor said that he could not guess at the size, but it is a considerable amount of area.

Mr. Holmes asked if the reason for the building encroaching into the 25-foot setback was due to there not being enough room, and then asked if the building layout could be reconfigured. Mr. Taylor said that if the layout of the new building were to be moved out of the 25' floodplain setback the approval of the Board of Adjustment would no longer be needed for the variance.

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

Petitioner's Presentation – Tony Barrett, Barrett Partners, along with Burgess Carey (developer) and Scott Guyon (architect) was present. In regards to the floodplain issue, he said that they are in the process of reevaluating this area, and they are requesting a Letter of Map Amendment (LOMA) to remove a portion of floodplain area that connects to the ditch along Old Frankfort Pike. Directing the Commission's attention to the rendering, Mr. Barrett pointed out the area where the bulk of the floodplain is located. He noted that this area is adjacent to the buildings, and it extends from Old Frankfort Pike to the back of the property. He indicated on the rendering the area where the encroachment will take place.

In conclusion, Mr. Barrett said that their options are to obtain a variance from the Board of Adjustment, if the Letter of Map Amendment is denied; or reconfigure the rear building. He then said that based upon the preliminary evaluations from FEMA and the Division of Water, they are positive that the LOMA will be granted. With that being said, he requested approval of DP 2009-66.

Planning Commission Questions – Ms. Roche-Phillips asked what the proposed uses are for these buildings. Mr. Barrett said that these buildings will be self storage units. Ms. Roche-Phillips then asked if they have reviewed the vegetation in the area to see if a 404 Permit would be necessary. Mr. Barrett said that the area near Old Frankfort Pike has a steep embankment, and he does not believe there would be any wetland vegetation in this area.

In reference to a previous question asked by Mr. Owens, Mr. Barrett said that there was existing fill already on the property prior to the applicant purchasing it. He then said that in reviewing the delineation of the floodplain, they suspect that these conditions have not changed since the FEMA maps were updated on September 17, 2008.

Developer's Presentation (cont.) – Mr. Carey said that he is aware that this property is the gateway to this community, and the goal of this project is to become the first Leadership in Energy and Environmental Design (LEED) certified facility for a self storage in the country. He noted that this property will function as it has always functioned in the past; and in speaking with FEMA and the Division of Water, it is believed that the water quality and storm water collection will improve for the adjacent subdivision by using permeable pavement.

Mr. Guyon directed the Commission's attention to a series of pictures and rendering for the subject property. He noted that these photos are purely fantasy, and only represent what could happen if the property is not developed. He noted that the first exhibit showed the subject property near Old Frankfort Pike; the second exhibit depicted the front façade of the property, showed a collage of units behind the fence line; the third and forth exhibits depicted what could happen if this property remains as is. He said that the remaining two exhibits (5 and 6) depicted their vision for the property. (A copy of these photographs is attached as an appendix to these minutes). Mr. Guyon explained that their vision will retain the fencing along the property with additional landscaping being added along Old Frankfort Pike. He then said that they will become a LEED certifiable facility by implementing several elements for both the technical aspects and the economic portion of the project. Mr. Guyon said that there was concern with the viewscape from Old Frankfort Pike; and as an architect, he could verify that the integrity of Lexington will not be compromised.

Planning Commission Questions – Mr. Penn asked for clarification to the location of the proposed highway round-about in relation to the subject site. Mr. Carey pointed out the location of the LFUCG recycling center, Wolf Run creek, as well as the pending self storage site. He noted that the round-about is just past these items. He said that the only proposed advertising for self storage facilities is byway of the large doors seen from the street, and with their design those units will be hidden from public view.

Ms. Roche-Phillips asked if a Letter of Map Amendment will be requested for the floodplain. Mr. Barrett said that they are in the process of preparing that request.

Audience Comment – Mr. Penn asked if anyone in the audience wished to discuss this request for approval. Valynn Danielle, University of Kentucky student, was present. She asked if the applicant had considered the following: 1) using reclaimed/recycled materials; 2) using a photovoltaic array to power the structures; and 3) if permeable concrete were to be used inside the storage units, what ramifications would there be to the ground water system if toxins were stored. Mr. Guyon said that they are considering using renewable, recycled and salvage material. Mr. Barrett said that the permeable paving will not be used inside the storage units, only on the outside of the units. He then said that the natural filtration of the permeable paving will help reduce the toxins seeping into the ground water. He commented that this type of method acts no differently than using an impermeable pavement on the site. Mr. Carey said that using renewable, recyclable, salvage material is a large part of the LEED certification; and he believes that they will be eligible for certification for the front portion of the site, but not the entire piece of property.

Planning Commission Comments – Ms. Roche-Phillips said that this request is consistent with the goals of the 2007 Comprehensive Plan. She said that they need to encourage LEED construction standards and she hopes that the Letter of Map Amendment process goes through; otherwise, the applicant will need to seek approval from the Board of Adjustment regarding the variance.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve DP 2009-66, subject to the conditions listed by the staff.

- b. DP 2009-67: 10-FOOT CEILING (636 MAIN STREET, LLC) (12/22/09)* - located at 636 West Main Street.
(Council District 2) **(Banks Engineering)**

The Subdivision Committee Recommended: Postponement. The original development plan submission is devoid of many items required by Article 21-6(a) of the Zoning Ordinance.

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 preservation plan.
6. Addition of tree preservation plan or tree canopy requirements.
7. Addition of the developer's name and address.
8. Addition of dimensions for the entrance and off-street parking areas.
9. Addition of any existing or proposed easements.
10. Improve the vicinity map.
11. Remove note numbers 6 and 11.
12. Revise note number 10.
13. Addition of pedestrian walkways.
14. Addition of off-street parking spaces.
15. Denote ability to utilize shared driveway (to the east).
16. Addition of building coverage, floor area, open space and off-street parking information to site statistics.
17. Denote location of proposed usable open space (minimum 10%).
18. Denote detention areas or nearby storm sewer.
19. Correct zoning information to add Historic District Overlay (H-1) zone.
20. Discuss landscaping to the adjacent Light Industrial (I-1) zone.
21. Approval by Technical Committee prior to plan certification.

Staff Presentation – Mr. Martin said that there are 21 requirements that are listed on the agenda in relation to the original filing of this late plan. Since that time, the applicant had submitted a revised development plan in an attempt to address many of the issues raised at the Subdivision Committee meeting. He noted that the staff had previously distributed those revised recommendations to the Commission.

Mr. Martin directed the Commission's attention to a rendering of the revised development plan, and oriented them to the surrounding street system, as well as the nearby area. He said that the subject property is located at 636 West Main Street, and it is west of Jefferson Street, and east of the Salvation Army. He indicated that the subject site is just behind the Rupp Arena parking lot.

Mr. Martin said that this property is zoned Downtown Center Business (B-2B); and according to Article 3 of the Zoning Ordinance, if there is more than one principal structure on a lot, a development plan must be submitted in order to comply with Article 21 of the Zoning Ordinance. He then said that the existing commercial structures are being converted into a little over 5,000 square feet of space that will be used for residential purposes. He noted that there is an accessory garage at the rear of the property, and there is a shared driveway (off of West Main Street) with the adjoining property. He said that the documentation for the easement has been submitted to the staff for review.

He said that, based on the revised development plan, the staff believed that this plan could now be considered for conditional 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 preservation plan.
6. ~~Addition of~~ Clarify trees to remain under the proposed tree preservation plan or tree canopy requirements.
7. ~~Addition of the developer's name and address.~~
8. ~~Addition of dimensions for the entrance and off-street parking areas.~~
9. ~~Addition of any existing or proposed easements.~~
10. ~~Improve the vicinity map.~~
11. ~~Remove~~ Revise note number 6 and 11.
12. ~~Revise note number 10.~~
13. ~~Addition of pedestrian walkways.~~
14. ~~Addition of~~ Provide at least five off-street parking spaces (total).
15. ~~Denote ability to utilize shared driveway (to the east).~~
16. ~~Addition of building coverage, floor area, open space and off-street parking information to site statistics.~~

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- ~~17. Denote location of proposed usable open space (minimum 10%).~~
- ~~18. Denote detention areas or nearby storm sewer.~~
- ~~19. Correct zoning information to add Historic District Overlay (H-1) zone.~~
10. 20. Discuss Clarify the existing landscaping to ~~the~~ remain adjacent to the Light Industrial (I-1) zone.
11. 21. Approval by Technical Committee prior to plan certification.

Directing the Commission's attention to the aerial view of the property, he said that the staff would like the existing tree line at the rear of the property to remain. He noted that there was a concern with the need for additional buffering at the rear of the lot; therefore, the staff had added a condition to clarify the existing landscaping that will remain adjacent to the Light Industrial (I-1) zone. He noted that there is open space on the subject property, but it is not a green open space, it is a paved open space.

Planning Commission Questions – Mr. Holmes asked if the existing buildings are being converted to other uses, and if so, will there be additional runoff. Mr. Martin said that the buildings are being converted and there are no additional exterior changes that will be made. Mr. Holmes then asked if there are any requirements for a detention basin. Mr. Martin replied there are not.

Ms. Roche-Phillips asked for clarification as to where the subject site is located in relation to the Mary Todd Lincoln House. Mr. Martin explained that the subject site is about 3 lots removed toward the downtown area from the Mary Todd Lincoln House. Ms. Roche-Phillips then asked if there is a photograph of the front façade. Mr. Martin replied that the staff only has aerial views of the property.

Representation – Jason Banks, Banks Engineering, was present representing the applicant. He said that they are in agreement with the staff's revised recommendations, and requested approval DP 2009-67. He noted that they will not remove any existing trees from the rear of the property; and, as for the front façade, the structures are mainly brick facing Main Street.

Planning Commission Questions – Ms. Roche-Phillips asked if there is a horse in the front portion of the property. Mr. Banks replied there is no horse. He said that there was an antique store at this location at some past point in time.

Mr. Penn asked what the uses for this property will be. Mr. Banks said that these units will be used as rental units, such as apartments or condominiums. Directing the Commission's attention to the rendering, he said that one building will have two dwelling units; the second building will have one dwelling unit; and a third building will have two dwelling units, for a total of 5 dwelling units.

Staff Rebuttal – Directing the Commission's attention to the previously viewed photograph, Mr. Martin clarified that the subject property is two lots from an infill and redevelopment project (a multi-story apartment complex known as Newpast) that had been previously approved. He noted that this area must comply with the Historic District (H-1) Overlay zone, which is governed by the Board of Architectural Review.

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

Petitioner's Rebuttal – Mr. Penn asked if the petitioner had any rebuttal comments to bring forward. Mr. Banks declined.

Action - A motion was made by Mr. Holmes, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to approve DP 2009-67, subject to the revised conditions listed by the staff.

- C. **PERFORMANCE BONDS AND LETTERS OF CREDIT** – A motion was made by Ms. Roche-Phillips, seconded by Mr. Cravens, and carried 10-0 (Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated October 8, 2009, from Ron St. Clair, Division of Engineering.

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

A. **LAND SUBDIVISION REGULATION AMENDMENT**

1. **SRA 2009-2: AMENDMENT TO ARTICLE 6-5(A) TO REQUIRE UNDERGROUND UTILITIES** (11/12/09)* – a petition to amend the utility standards to require new utility lines to be installed below ground, with the exception of major facilities, and to provide standards for such installation.

REQUESTED BY: Urban County Council

PROPOSED TEXT: (Text underlined indicates an addition to the existing Land Subdivision Regulations.)

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

6-5 UTILITY STANDARDS - The following shall be the minimum standards for utilities such as telephone supply, electric supply, gas supply, water supply or other utilities:

6-5 (a) TELEPHONE, NATURAL GAS, AND ELECTRIC SUPPLY - Every subdivision shall be provided with a proper telephone and electric system. Natural gas supply systems shall be provided at the option of the developer, dependent upon the ability of the local gas supplier to meet the demands of new development. All distribution lines or cables for utilities shall be installed below ground within the subdivision. Major facilities such as high-voltage electric transmission lines, distribution feeder circuits of 200 amps or greater or major cables/facilities to provide utilities such as telephone, and cable television to the area as a whole may be located above ground. The installation of these utilities shall conform to commonly accepted construction standards and the requirements of the Kentucky Public Service Commission, and utility companies shall work cooperatively with the Division of Engineering during construction. Underground utilities shall be separated from sanitary sewer and/or storm sewer facilities by a minimum of six (6) feet and shall not conflict with designated tree preservation areas, areas where future multipurpose trails are planned, areas designated for future right-of-way, or construction easements.

The Subdivision Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommended: Approval, for the following reasons:

- 1) The proposed change will protect and enhance public health and safety in conformance with the intent of the Subdivision Regulations, by reducing the impacts of severe weather upon future residents.
- 2) This will not result in a tremendous change to the current practice, as most developers now provide underground utilities to new subdivisions, with the concurrence of local utility providers.

Staff Presentation – Mr. Martin directed the Commission's attention to the petition to amend the utility standards to require new utility lines to be installed below ground, with the exception of major facilities, and to provide standards for such installation.

Mr. Martin said that the Urban County Council had requested that the Planning Commission review a proposed amendment to Article 6-5(a) of the Land Subdivision Regulations. He then said that the Urban County Council and the LFUCG Law Department worked extensively with the public utilities involved to develop the proposed language.

Mr. Martin said that this change would require all distribution lines or cable for utilities to be placed underground for any new subdivision. He then said that this change will not include the large transmission lines or three phase electric lines. He noted that there will be some exceptions to this proposed change, such as transmission lines going through and coming out of a subdivision.

Mr. Martin said that the reasoning behind this request is due to past severe weather events and the potential danger caused by downed lines, as well as the impact that no utility service has for dwellings over extended periods of time. He then said that the ramifications include time and expense in restoring the utility service for both private and public services.

In conclusion, Mr. Martin stated that the staff had reviewed this proposed request and believed this amendment should be approved for the following reasons:

- 1) The proposed change will protect and enhance public health and safety in conformance with the intent of the Subdivision Regulations, by reducing the impacts of severe weather upon future residents.
- 2) This will not result in a tremendous change to the current practice, as most developers now provide underground utilities to new subdivisions, with the concurrence of local utility providers.

Planning Commission Questions – Mr. Cravens asked if this amendment would exempt existing overhead lines within the infill area. Mr. Martin said that if this amendment is approved, it will apply to any new subdivisions. He then said that the staff is anticipating that there will be an increase in the waiver requests for smaller subdivisions utilizing existing overhead lines. Mr. Cravens then asked if a property is purchased with existing overhead lines and those lines connect to a new subdivision, if those lines will need to be placed underground. Mr. Martin said that type of request would be subject to the amended regulations. Mr. Cravens confirmed that even though there are existing lines the amended regulation will apply. Mr. Martin replied affirmatively, and said that if a property is subdivided it will need to comply with the Land Subdivision Regulations. He then said that it is being anticipated that small infill area waivers will be requested. Mr. Cravens asked if this amendment would include the secondary lines to the structure. Mr. Martin said that if the property were being subdivided, this regulation would apply. He said that the intent of this change is to have those lines placed out of bad weather.

Mr. Cravens asked what relief will be given for this new regulation. Mr. Martin said that a waiver request would need to be granted, and noted that Articles 1-5(a) and 1-5(c) of the Land Subdivision Regulations are justifications adopted by the Commission. Mr. Cravens said that if a subdivision is developed with the agreement to have overhead lines, there is no charge from the electric company; however, if the lines are to be placed underground, the developer will be responsible for the added cost of installing the conduit and running the lines. He then said that if the lines are placed underground, the utility companies will not give the developer any type of credit, as they do with overhead lines. He asked if this issue

had been discussed. Mr. Martin said that he was not involved with the initial discussion between the Urban County Council and LFUCG Law Department, but it was his understanding that both entities did confer with the utility companies.

Mr. Holmes said that he is concerned about the housing affordability issue within the Infill and Redevelopment areas, and asked how this amendment would affect those areas by creating a potential hardship. He said that he agrees with the concept for new subdivisions, but is concerned with the infill areas.

Mr. Penn asked if the telephone and cable lines will be included in this amendment. Mr. Martin replied affirmatively, and noted that the telephone and cable lines are generally placed underground in new subdivisions.

Mr. Cravens asked if the following language is new: "Underground utilities shall be separated from sanitary sewer and/or storm sewer facilities by a minimum of six (6) feet." Mr. Martin replied negatively, and said that those existing standards were taken into consideration with this new proposal.

Ms. Roche-Phillips said that it should be anticipated that more waiver requests will be submitted to the Planning Commission due to the cost burden placed upon the developer. She then said that it would be helpful to the Commission if the staff devised a set of standards that establishes guidelines in granting these waiver requests. It was her belief that with the high cost of implementing this change to the Land Subdivision Regulations, there would be waiver requests based upon economic hardship. Mr. Martin said that the staff shares the Commission's concerns, and they understand there will likely be an increase in waiver requests.

Audience Comment – Mr. Penn asked if anyone in the audience wished to discuss this request for approval. Sara Tuttle, Strand Associates, was present. She said that one of the issues not discussed by the Planning Commission or the staff was the three-phase power lines. She then said that the three-phase power line falls between a single phase line and a transmission line; and there are many areas within Lexington that utilize a three-phase power line. She said that a whole set of definitions are missing from this proposed text amendment, and thought this needed further clarification. She then asked if the development community had been involved in this discussion, especially in relation to providing affordable housing. It is understandable that underground utilities are preferred; however, in certain circumstances it may not be economically viable, and to subject the Planning Commission to an increase of waiver requests may not be ideal. Ms. Tuttle suggested that SRA 2009-2 be postponed to allow the development community to further evaluate these findings.

Planning Commission Comments – Mr. Owens asked if the following excerpt would cover the three-phase power line: "Major facilities such as high-voltage electric transmission lines, distribution feeder circuits of 200 amps or greater." Mr. Martin said that the proposed language is intended to cover the three-phase power line, and that these would not be placed underground. Mr. Owens asked for further clarification, and Mr. Martin said that the existing and new three-phase lines would not be required to be placed underground with the proposed language.

Mr. Cravens agreed that there will be an increase in waiver requests, and said that there should be some exceptions for using existing lines. Mr. Martin said that Article 1-5 of the Land Subdivision Regulations is in direct relation to and describes the allowable waivers granted by the Planning Commission, which include Articles 1-5(a) Exception Hardship; 1-5(b) Design Innovation and Large Scale Development and 1-5(c) Infill and Redevelopment Facilitation. He said that the Planning Commission does consider each request case-by-case, based upon these criteria. He then said that the applicant must present their justification to the Commission, for any waiver to the Land Subdivision Regulations. Mr. Cravens said that this would only add more expense to the process. Mr. Martin said that there will undoubtedly be additional expenses. Mr. Cravens asked what the outcome of the prior meeting was regarding preexisting lines within a subdivision. Mr. Martin said that he was not involved in those meetings or discussions between the Urban County Council, the LFUCG Law Department and the utility companies.

Ms. Roche-Phillips said that apparently the planning staff was not integrated in this discussion, and requested that whoever was present at those discussions to make a presentation to the Commission prior to any action being made taken on this proposal. She said that, in principle, development should be moved away from the overhead power lines; but the particulars as to how this would be executed should be further discussed.

Mr. Penn asked for guidance from the staff concerning this item being postponed. Mr. Sallee said that rather than postponing this item, he suggested that the Commission continue this discussion to the November 12, 2009, meeting. However, the November 12, 2009, meeting is the deadline by which the Commission must consider this text amendment. Mr. Penn asked if the Commission would like to continue this item to the November 12, 2009 meeting. Mr. Owens said that he would make a recommendation to continue this to the November meeting. He said that this would allow additional time for the staff to request that a person who attended those meeting between the Urban County Council, the LFUCG Law Department and the utility companies to give a presentation.

Action - A motion was made by Mr. Owens to continue this hearing on SRA 2009-2 to the November 12, 2009, Planning Commission meeting.

Discussion of Motion - Ms. Richardson asked if it would be appropriate to request a member from the Urban County Council Planning Committee to give a presentation to the Planning Commission concerning this text amendment request. Mr. Sallee said that he was not sure if this issue was discussed by a member of the Planning Committee, but the staff could

certainly research that issue. He said that it is the staff's impression was that staff members in the LFUCG Law Department had spoken with the utility companies. Regardless, information could be obtained for the Commission prior to their next meeting in November.

The motion was seconded by Ms. Richardson, and carried 10-0 (Brewer absent).

Note: A brief recess was declared at 2:35 p.m. and the meeting re-convened at 2:43 p.m.

- B. T.I.F APPLICATION – SHOWPROP LEXINGTON, LLC** – a review of a Tax Increment Financing application for property on both sides of Angliana Avenue, between South Broadway and Versailles Road (Council District 2).

Staff Presentation – Ms. Rackers stated that Showprop Lexington, LLC had submitted a TIF application that, if approved, would create a “Blighted Urban Mixed-Use Redevelopment Area” Tax Increment Financing (TIF) District for properties located on Angliana Avenue. She noted that each type of TIF District has specific criteria to meet. The Planning Commission has reviewed two applications in the past, one of which was a “Signature” TIF District for the Phoenix Park/Courthouse Area. The other, which was similar to this request, was for the Pepper Distillery TIF District on Manchester Street.

Ms. Rackers said that Kentucky State statutes enable the process for creating a TIF District by providing a mechanism that allows improvements in a redevelopment area to be made, as well as providing financial compensation upfront. She then said that the income generated through the improvements is used to repay the money. As part of this process, the Lexington-Fayette Urban County Council must have a public hearing on the proposal once the Planning Commission reviews the development plan and certifies that it is in compliance with the 2007 Comprehensive Plan. She said that the Lexington-Fayette Urban County Council will be holding a public hearing on October 27, 2009; and at that time, they will review the application and forward their recommendation on to the State. She then said that once the State receives the recommendation, the TIF application will be reviewed at multiple levels. At that time, they will determine whether or not this TIF application should be approved or disapproved. She said that if the TIF application is approved, the Lexington-Fayette Urban County Government will enter into a formal agreement with the State of Kentucky to create the TIF District.

Directing the Commission's attention to Exhibit “A” found in the staff report, Ms. Rackers stated that this application will be known as the Showprop Lexington, LLC Development District. She said that it consists of 28 acres, and includes properties on both sides of Angliana Avenue. It extends west from South Broadway to Hamm Alley, which is the approximate midpoint between South Broadway and Versailles Road. She said that there will be both public and private improvements made to the properties, noting that these improvements are listed on pages 1 and 2 of the staff report. She said that the items listed under public improvements are eligible for funding through the TIF District. She noted that Exhibit “A” will be forwarded on to the Lexington-Fayette Urban County Council, as part of their packet; that packet will then be forwarded on to the State for further review.

Ms. Rackers stated that there are several elements within the 2007 Comprehensive Plan (Goals and Objectives, as well as the text), that speak to the types of projects proposed for this area. She said that the Mission Statement of the Comprehensive Plan, as well as the Vision for Lexington-Fayette County, provides the basis for land development and land use decisions, including Urban Design. She then said that the Mission Statement is to provide a vision for physical development that will “allow Lexington to grow and prosper, promoting economic development and viable job development, while preserving its quality of life, historic character and amenities, and other elements that make it a desirable place to live and work.”

Ms. Rackers then stated that as part of that Vision, there are several themes found in the 2007 Comprehensive Plan, five of which are particularly applicable to this project:

- *Promoting the myriad components that strengthen the viability of downtown, including professional and commercial uses, cultural and recreational activities, and new and existing housing.*
- *Implementing infill and redevelopment strategies that expand residential and commercial opportunities; are appropriate in character and design; and complement and reinforce the fabric of the neighborhood.*
- *Enabling the creation, growth and retention of jobs that promote a strong, progressive and diversified urban and rural economy.*
- *Developing a green infrastructure system with open space, facilities and amenities that serve all citizens and help create a sense of community.*
- *Providing infrastructure improvements to fully serve existing developments, to accommodate current growth, to plan for long-term future urban needs, and to enhance the high quality of life in Lexington.*

Ms. Rackers stated that the 2007 Comprehensive Plan has 21 Goals, each of which has related Objectives to help facilitate their implementation. She said that 12 of the 21 Goals, and the Objectives of those 12 Goals, plus the Objectives of 2 more Goals, are either relevant to, in support of the project, or the project supports their implementation. She then said that the Land Use Element of the 2007 Comprehensive Plan also contains text that supports this proposal, including the 15 principles of the Downtown Master Plan. She noted that the following principles are the most applicable:

- Increase residential development
- Invest in a pedestrian network
- Maximize density in vacant sites
- Celebrate urban entrances

Ms. Rackers stated that Angliana Avenue is on the fringe of downtown and it does provide a major entrance into the downtown area. She said that the northeast side of Angliana Avenue is included in the adopted Downtown Master Plan (DTMP), and this area has been recommended for industrial mixed-use. She noted that this project does comply with the list of recommendations for the Downtown Master Plan. She then said that once this property is redeveloped, it will become a true extension of the downtown area, as well as a reflection of what the Downtown Master Plan recommends.

Ms. Rackers then stated that a cornerstone of this development is the adaptive reuse of an abandoned tobacco warehouse that fronts on Angliana Avenue. She said that the tobacco industry was a major component of this community, and this warehouse is typical of many buildings in this area. She then said that re-using this warehouse in the way it is proposed is a major part of this adaptive reuse project. It will provide a link to our past heritage; because in addition to the retail and the restaurant space, there will be an exhibit area displaying photographs or items representing the era when tobacco was the mainstay of the local economy. She said that it will also help to provide a link to the agricultural and cultural heritage of Lexington, and will help to implement Goal 5 of the 2007 Comprehensive Plan, which reads: "Protect and preserve Fayette County's significant historic and cultural heritage."

Ms. Rackers stated that as part of the Certification of Compliance with the Comprehensive Plan, if any zone changes, text amendments or other changes were needed to accommodate the proposed TIF Development Plan that information would be included in the packet submitted to the Council. She said that, to the staff's knowledge, there are no zone changes or text amendments needed at this time. She said that this property is currently zoned R-4, B-4 and I-2. The R-4 zone will accommodate the proposed apartments, while the B-4 and I-2 zones will allow the adaptive reuse portion to be built. She reminded the Commission that they had previously approved a development plan that was associated with this project (DP 2009-51) on August 13, 2009; and in 2008, the Planning Commission had recommended approval of a text amendment submitted from the Pepper Distillery for a similar TIF project, which allowed the Distillery District TIF to move forward. She then noted that the proposed text amendment was adopted by the Urban County Council, and is now part of the Zoning Ordinance. She said that with the approval of the text amendment, this project, the Manchester Street project, and any other similar adaptive reuse project, can easily move forward.

Ms. Rackers stated that there are no known environmental issues related to these properties; but if any were to be discovered in the development process, mitigation must be provided in an appropriate manner. She said that stewardship of the land is one of the tenets of the 2007 Comprehensive Plan, and any TIF proposal must be in compliance with the Comprehensive Plan. If the property is developed with the aid of Tax Increment Financing, it will help to implement several Goals and Objectives of the 2007 Comprehensive Plan, as well as the text of the plan. In closing, Ms. Rackers requested that the Planning Commission approves this application, and certify its compliance with the Comprehensive Plan to the Urban County Council. She noted that Chris Westover, Sara Tuttle and Harold Tate were present, should the Commission have any questions.

Planning Commission Questions – Mr. Paulsen asked which areas the pedestrian bridge will connect. Ms. Rackers said that the pedestrian bridge will connect to the University of Kentucky campus and Scott Street, which is part of the Newtown Pike Extension project.

Mr. Holmes asked when it will be known whether or not the potential public projects are certified. Ms. Rackers said that the Lexington-Fayette Urban County Council makes the decision as to whether or not a certain item is included; however, the State will make the ultimate decision as to what is included in the TIF. Mr. Holmes said that the staff report mentions some proposed projects that will be eligible for funding through the TIF District, and thought that not all of these items would be allowed. Ms. Rackers said that the proposed projects listed on the staff report will be a part of the packet submitted to both the Council and the State. Mr. Holmes clarified that new parking structures will be included. Ms. Rackers replied affirmatively.

Mr. Owens asked for clarification as to how building demolition, grading and land preparation for sidewalks are eligible improvements. Ms. Rackers referred the question to Mr. Harold Tate, Downtown Development Authority. He said that, according to the State statute, the preparation for a project (e.g. demolition), is considered a type of public improvement. He then said that when a request is submitted to the State, there is a list of several improvement projects added to the application. The reason it is done this way is that projects can be removed from the list if they are not needed; but projects cannot be added to the list once it is submitted to the State.

Ms. Roche-Phillips asked where the CentrePointe/Courthouse Area TIF project stands. Mr. Tate said that as of September, 2009, that project was approved, with \$69 million allocated for improvements. He then said that there is a 2-year period where the project can either begin or be placed on hold. At the end of the 2-year period an extension can be requested. He said that at the State's October, 2009, meeting, the Distillery District will be voted on. Ms. Roche-Phillips asked if the State will be taking action on these issues. Mr. Tate said that the decision would be made through the Office of Economic Development in Frankfort, Kentucky. In response to a question from Ms. Roche-Phillips, Mr. Tate said that the Distillery District TIF application will be heard on October 27, 2009.

Petitioner's Presentation - Chris Westover, attorney, was present representing the applicant, George Krikorian. Directing the Commission's attention to the conceptual design for the pedestrian bridge found in the exhibit packet, she said that in reviewing the schematic, the pedestrian bridge is proposed to cross over the railroad tracks and connect to the Scott Street connector, which is part of the Newtown Pike Extension project. This connection will allow both bicyclists and pedestrians access; it will also allow access for the residents who live along the north side of the Newtown Pike Extension. She said that in reviewing the

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schematic, the pedestrian bridge connects to the building, shown on the development plan where a restaurant will be located on the second level. She said that the restaurant will provide an amazing view of the downtown area. She then said that there will be elevators within the bridge columns that will take a person to the ground level. The bridge will be open to the public and they consider it to be a public improvement.

Planning Commission Questions - Mr. Penn asked what the "iconic tower" is. Referring to the schematic, Ms. Westover said that the tower is located in the center of the building shown. She said that the tower will be made of steel, it will be lighted and it will represent this district. Mr. Penn asked if this will be similar to the "blue building" located in downtown Lexington. Ms. Westover said that this tower will be taller than the "blue building" due to its base elevation.

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

Staff Comment – Mr. Penn asked if the staff had any additional comments to bring forward. Ms. Rackers declined.

Planning Commission Comments – Mr. Penn clarified that if the Commission were to approve the TIF application for Showprop Lexington, LLC, the Chair of the Planning Commission would sign the Certificate of Compliance, which states that the development plan for the proposed TIF District is hereby certified as being in compliance with the adopted 2007 Comprehensive Plan Goals and Objectives. He then said that at that point this TIF application will be forwarded to the Urban County Council for a public hearing, which Ms. Rackers verified.

Mr. Owens asked for guidance on whether or not the Certificate of Compliance should be read into the record. Ms. Boland replied that it could be read into the record, but the Planning Commission could just adopt the findings found in the staff report.

Action - A motion was made by Mr. Owens, seconded by Ms. Richardson, and carried 10-0 (Brewer absent) to adopt the findings listed in the staff report, and to certify the TIF development plan's compliance with the 2007 Comprehensive Plan.

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

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

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

This plan was approved by the Planning Commission on June 11, 2009, subject to the following requirements:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Addition of utility and streetlight easements, as required by the utility companies and the Urban County Traffic Engineer.
7. Clarify easement information.
8. Addition of building line information from previous plats.
9. Provided the Planning Commission grants a waiver to Article 5-4(h)(2) of the Land Subdivision Regulations.
10. Denote reciprocal parking and access.

This plan is nearing certification; but a condition associated with the Commission's approval conflicts with the presentation made at the Commission meeting (according to the minutes), and with the original intent of the applicant. As such, the staff has referred this plan to the Commission for further consideration, and now recommends deleting condition #8 associated with the original approval.

The Staff Recommended: Approval, subject to the previous requirements, deleting condition #8.

Staff Presentation – Mr. Taylor noted that this request was originally approved by the Planning Commission at their June 11, 2009, meeting. He directed the Commission's attention to an aerial photograph of the property, and said that the subject site is located at the intersection of Bryan Station Road and St. Anthony Drive, where there is an existing shopping center and a service station at the corner. He then said that the purpose of this amendment was to reduce the previously platted building line back to the required 20' setback for the Neighborhood Business (B-1) zone.

Mr. Taylor report that the reason this item is before the Commission is due to condition number 8. When this plat was originally filed, there was some confusion as to whether or not the building lines were being added to only a portion of or to the entirety of the property; therefore, condition number 8 was added to the list of recommendations to alert the Subdivision Committee of this issue. Upon further review of the plat, the applicant was only requesting to revise the building line along Bryan Station Road and St. Anthony Drive. Mr. Taylor said that at the Subdivision Committee meeting, the applicant had made it clear that their intention were to remove the building lines along the rear and side of the property, and to reduce the building line to the required minimum setback along the frontage of the property. He then said that the Subdivision Committee had approved the applicant's request, without removing condition number 8. This item was placed on the Consent Agenda at the June 11, 2009, meeting, and was approved

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

subject to the conditions listed on the agenda. He said that condition number 8 cannot be met because there is no building line information from a previous plat to be obtained.

Mr. Taylor said that in reviewing the minutes from the June 11, 2009, Planning Commission meeting, the staff had noted that the building line that surrounds the site would be removed. With that being said, Mr. Taylor said that the staff is requesting that this item be approved, subject to the previous conditions listed, removing condition number 8. This action will allow the plat to be recorded.

Petitioner's Presentation – No one was present representing the applicant.

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

Action - A motion was made by Ms. Richardson, seconded by Mr. Owens, and carried 10-0 (Brewer absent) to approve PLAN 2009-52F, subject to the previous conditions listed by the staff, removing condition number 8.

- B. CANCELLATION OF COMMISSION WORK SESSION ON OCTOBER 29, 2009** - Mr. Sallee stated that if the Commission wished, their previously scheduled Work Session for October 29, 2009, could be canceled. He then reminded the Commission of the upcoming Work Session already scheduled for October 15, 2009, and said that the staff believed a second Work Session would not be needed, at this time.

Action: A motion was made by Mr. Cravens, seconded by Mr. Owens, and carried 10-0 (Brewer absent) to amend the Meeting & Filing Schedule to cancel the October 29, 2009 Work Session meeting.

Ms. Roche-Phillips asked if the Commission could receive a copy of the Work Session agenda prior to the meeting. She said that the agenda would benefit them. Mr. Sallee said that he would relay the request to Mr. King, who develops the Work Session agendas with the Chair.

- C. APA AUDIO CONFERENCE** - Ms. Rackers informed the Commission that there would be an APA audio-conference in the Division of Planning Conference Room on Wednesday, October 14, 2009, beginning at 4:00 p.m. The title of this conference is "Monetizing Sustainability" and will count toward 1.5 hours of training credit for the Planning Commission members, as well as staff.

- VII. AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

VIII. NEXT MEETING DATES -

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	October 15, 2009
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 28, 2009
Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers (Cancelled)	October 29, 2009
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	November 5, 2009
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	November 5, 2009
Subdivision Items Public Meeting, Thursday, 1:30 p.m., 2nd Floor Council Chambers	November 12, 2009
Planning Committee/Planning Commission Joint meeting, Tuesday, 9:00 a.m., Lexington Public Library	January 26, 2010

- X. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 3:09 p.m.

Frank Penn, Chair

Mike Owens, Secretary

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