**Minutes**
**URBAN COUNTY PLANNING COMMISSION**
**SUBDIVISION ITEMS**

**February 11, 2010**

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

Planning Commission Members Present – Carolyn Richardson, Vice-Chair; Mike Owens; Ed Holmes; Lynn Roche-Phillips (arrived at 1:38 p.m.); Joan Whitman; Marie Copeland; Patrick Brewer, Mike Cravens and William Wilson. Chairman Frank Penn and member Derek Paulsen were absent.

Planning Staff Present – Chris King, Director; Bill Sallee, Barbara Rackers, Tom Martin, Chris Taylor, Jimmy Emmons, Traci Wade and Denice Bullock. Other staff members in attendance were: Charles Saylor, Division of Engineering; Bob Carpenter, Division of Building Inspection; Rochelle Boland, Department of Law; Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services, and Jeff Neal, Traffic Engineering.

**II. APPROVAL OF MINUTES** – Ms. Richardson reminded the members that the prior Planning Commission meeting minutes of January 14, 2010, were previously distributed to the Commission, and were ready to be considered at this time.

Action - A motion was made by Ms. Whitman, seconded by Mr. Owens and carried 8-0 (Roche-Phillips, Penn and Paulsen absent) to approve the minutes of January 14, 2010, meeting.

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

Planning Commission Comment – Ms. Richardson asked if anyone in the audience or on the staff wished to make a request for postponement or withdrawal.

A. **COMMISSION CONSIDERATION OF A RESOLUTION REGARDING THE WORLD EQUESTRIAN GAMES** – The Commission will consider a proposed Council resolution recognizing the need for temporary land uses during the World Equestrian Games that may not be permitted by current zoning regulations, creating a temporary use designation as an "Official Temporary World Equestrian Games Related Use" and establishing procedures and requirements for the establishment of such uses. This resolution was distributed to Commission members at their January work session.

Director Comments - Mr. King stated that the staff is requesting additional time for the consideration of a resolution regarding the World Equestrian Games (WEG). Mr. King noted that this item does not require any type of notice; therefore, there would be no need for an official action of postponement by the Commission.

**IV. LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, February 4, 2010, at 8:30 a.m. The meeting was attended by Commission members: Mike Cravens, Mike Owens, Carolyn Richardson, Derek Paulsen and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Chris Taylor, Cheryl Gallt, Jimmy Emmons, Traci Wade, Denice Bullock, Barbara Rackers and Cindy Deitz, as well as Captain Charles Bowen and Firefighter Allen Case, Division of Fire & Emergency Services; Bob Carpenter, Division of Building Inspection; Robert Poage, Addressing Office and Annette Cook, E911. 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, Ms. Richardson requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting

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Agenda. He noted that the Subdivision Committee had recommended conditional approval of these two items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. DP 2010-2: TURFLAND MALL (AMD #23) (4/4/10)* - located at 2195 Harrodsburg Road. (Council District 10) **(Sherman/Carter/Barnhart)**

   Note: The purpose of this amendment is to redevelop a portion of the original enclosed mall.

   The Subdivision Committee Recommended: Approval, subject to the following requirements:
   1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and soils floodplain information.
   2. Urban County Traffic Engineer's approval of parking, circulation, access, and street cross-sections.
   3. Building Inspection's approval of landscaping and landscape buffers.
   4. Urban Forester's approval of tree inventory map.
   5. Greenspace Planner's approval of the treatment of greenways and greenspace.
   6. Department of Environmental Quality's approval of environmentally sensitive areas.
   7. Identify conceptual storm drainage controls and storm water retention.
   8. Denote all existing and proposed utility easements.
   9. Denote the need for a traffic operations analysis at the time of the Final Development Plan.
   10. Resolve the need for residential open space at the time of the Final Development Plan.
   11. Resolve the need for pedestrian improvements along Harrodsburg Road at the time of the Final Development Plan.

2. DP 2010-6: BIG BROTHERS/BIG SISTERS PROPERTY (4/22/10)* - located at 1122 Oak Hill Drive. (Council District 1) **(Barrett Partners)**

   The Subdivision Committee Recommended: Approval, subject to the following requirements:
   1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
   2. Urban County Traffic Engineer's approval of street cross-sections and access.
   3. Building Inspection's approval of landscaping and landscaping buffers.
   4. Addressing Office's approval of street names and addresses.
   5. Urban Forester's approval of tree protection plan.
   6. Division of Fire's approval of emergency access and fire hydrant locations.
   7. Division of Waste Management's approval of refuse collection.
   8. Addition of the 20' building line.
   9. Remove 15' landscape buffer conflict with parking space.
   10. Clarify the location of the interior landscaping areas.
   11. Clarify tree protection areas and tree canopy to remain.
   12. Addition of the dimensions for the courtyard area.
   13. Addition of the dimensions for the sidewalks.
   14. Resolve the proposed exterior lighting.
   15. Review by the Technical Committee prior to certification.

Mr. Sallee said that both of the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed for a full discussion.

Planning Commission Comment – Ms. Richardson asked if anyone in the audience or on the Commission wished to discuss either of the items listed on the Consent Agenda. There was no response.

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

*Note: Ms. Roche-Phillips arrived at this time.*

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

The procedure for consideration of these remaining plans is as follows:
- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

**1. PRELIMINARY PLANS**

a. PLAN 2010-8P: MAHAN PROPERTY (A PORTION OF) (AMD) (4/22/10)* - located at 4127 Victoria Way and 4053 Elora Lane. (Council District 9) **(EA Partners)**

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

Note: The purpose of this amendment is to revise the street and lotting pattern, creating three new cul-de-sacs.

The Subdivision Committee Recommended: Postponement. There were questions as to whether this plan meets the requirements of the Land Subdivision Regulations regarding street connectivity.

Staff Presentation – Mr. Martin directed the Commission's attention to the amended Preliminary Subdivision Plan for the Mahan Property Apartments located at 4127 Victoria Way and 4053 Elora Lane. He said that the applicant is amending the southernmost portions of the Mahan Property Apartments, which is a little over 22 acres in size, with 124 single family lots.

Mr. Martin oriented the Commission to the layout of the area, as well as to the surrounding street system, and noted that the subject property is located just off Man O' War Boulevard, east of the Nicholasville Road intersection. He added that the subject property is located at the intersection of Man O' War Boulevard and Osborne Way. He said that Osborne Way intersects with Mooncoin Way, which is where the apartment complex is to be located. He also said that Mooncoin Way intersects with Victoria Way, which is proposed to connect with the adjacent Pickway Subdivision to the west. It will extend down toward the proposed Ridgeway Drive that is recommended to connect with the adjacent Waterford Subdivision to the east. He noted that there are two subdivisions that border the subject property, which not only the Pickway Subdivision to the west, but on the other is the Southpoint Subdivision to the south.

Mr. Martin directed the Commission's attention to the staff handout, and said that this staff exhibit illustrates: 1) the pattern and locations of collector streets that are being recommended by the 2007 Comprehensive Plan, noted in red; and 2) the overall layout of the Mahan Property, showing the areas that have been built and the areas that are vacant, outlined in blue.

Mr. Martin stated that on the original plan submittal, the layout of Mooncoin Way was slightly different at the corner of Victoria Way, near the proposed Katherine Place. He said that Katherine Place was originally proposed to make a connection to Mooncoin Way. The applicant was also proposing that Ridgewater Drive would end in a cul-de-sac, and the original application was proposing an independent cul-de-sac, as well. The lack of street connectivity on this property was a concern with the staff, and this is what prompted the staff recommendation of disapproval. Subsequently, the applicant has submitted a revised plan to the staff that shows a better street connectivity. The applicant is now proposing that Ridgewater Drive make a connection with Mooncoin Way. They are also proposing to shift Mooncoin Way slightly towards the east, and remove the small connection to Katherine Place. Katherine Place is proposed to connect to the independent cul-de-sac creating a loop street. He said that Manitoba Way will then connect to Katherine Place that has now been designed as a loop street. He made note that Mooncoin Way now lines up with the proposed access into the greenway/floodplain area.

Mr. Martin then stated that, with the applicant's revised submittal, the staff is now recommending approval of the applicant's request, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Greenspace Planner's approval of the treatment of greenways and greenspace.
8. Clarify and correct the floodplain information relative to proposed lots # 296-300.
9. Denote the construction access location.
10. Extend the area of the proposed amendment to include access easement proposed to greenway.
11. Review by the Technical Committee prior to certification.

As part of the conditions listed, Mr. Martin said that the staff is requesting that the applicant clarify and correct the floodplain information for the proposed lots along Manitoba Way (condition number 8). He then said that since there is a floodplain on the subject property, the staff would like for that information to be documented on the Preliminary Subdivision Plan. He also said that the staff is requesting the area of amendment to be increased to include the access easement off Manitoba Way (condition number 10). He noted that since this item was filed as a late plan, it will need to go before the Technical Committee for review prior to certification (condition number 11).

Planning Commission Question – Mr. Holmes asked if there are staff issues with the extra cul-de-sac. Mr. Martin said that the staff is agreeable to and comfortable with the layout of the cul-de-sac.

Representation – Rory Kahly, EA Partners, along with Howard Cruse, Ball Homes and Bill Lear, attorney, were present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested approval.

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

Action - A motion was made by Mr. Cravens, seconded by Mr. Holmes, and carried 7-0 (Copeland and Roche-Phillips abstained; Paulsen and Penn absent) to approve PLAN 2010-8P, subject to the revised conditions listed by the staff.

**2. DEVELOPMENT PLANS**

a. DP 2009-65: MAHAN PROPERTY APARTMENTS (AMD) (4/22/10)* - located at 4057 Mooncoin Way. (Council District 9) **(EA Partners)**

Note: The purpose of this amendment is to add 5.6 acres and four additional buildings that will comprise 96 units. The Planning Commission originally approved this item at their November 12, 2009, meeting subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm, and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Urban Forester's approval of tree preservation plan.
5. Division of Fire's approval of emergency access and fire hydrant locations.
6. Division of Solid Waste's approval of refuse collection.
7. Addressing Office's approval of street names and addresses.
8. Clarify number of units per building.
9. Resolve the proposed building envelope to the west of Building Type A to match the proposed building location for the building, per the exhibit at the Planning Commission meeting.

Note: The applicant has requested a continued discussion regarding a proposed change in the street alignment on the southernmost portion of the subject property.

The Subdivision Committee Recommended: Postponement. The corollary Preliminary Subdivision Plan proposed for the adjacent property does not appear to meet the Land Subdivision Regulations.

Staff Presentation – Mr. Martin directed the Commission's attention to the rendering of the previously approved development plan for the Mahan Property. He oriented the Commission to the surrounding street system, and noted that the subject property is located just off Man O' War Boulevard. He said that this is a request for a continued discussion regarding the addition of 5.6 acres of land in order to provide four additional buildings that will comprise 96 units. He oriented the Commission to the location of the proposed buildings, as well as the associated parking for this development. He said that at the time this item was originally approved by the Planning Commission, there was a considerable amount of discussion concerning the landscape buffer needed between the Pickway Subdivision and the apartment complex, as well as the landscape buffer between the single family residential area and the apartments.

Mr. Martin stated that this item is now in front of the Commission because of PLAN 2010-8P, which was approved by the Planning Commission prior to this case. He said that Mooncoin Way will be shifted, and noted the curvature of the road now proposed.

In conclusion, Mr. Martin said that the Subdivision Committee had recommended postponement of the applicant's request due to the conflicts related to the previously heard case (PLAN 2010-8P). With that being said, the staff is now recommending approval of the applicant's request, subject to the same conditions listed on the agenda.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He said that they are in agreement with the staff's recommendations, and requested approval.

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

Planning Commission Questions – Ms. Copeland asked what will happen to the extra open space/greenspace that is behind the apartment buildings. Mr. Kahly said that, as shown on the previous plan, the road is shifting. Ms. Copeland then asked if there will be less paved roadway. Mr. Kahly replied affirmatively.

Action - A motion was made by Mr. Brewer, seconded by Ms. Whitman, and carried 8-1 (Roche-Phillips opposed; Paulsen and Penn absent) to approve DP 2009-65, 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 Ms. Whitman, and carried 9-0 (Penn and Paulsen absent) to approve the release and call of bonds as detailed in the memorandum dated February 11, 2010, from Ron St. Clair, Division of Engineering.

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

## D. SUBDIVISION REGULATION AMENDMENTS

**A. SRA 2009-3 CEMETERY PROTECTIONS** – an amendment to alter Article 5 of the Land Subdivision Regulations to provide for protection of cemeteries.

**INITIATED BY:** Urban County Planning Commission

**PROPOSED TEXT:**

**ARTICLE 5: CONTENT AND FORMAT REQUIREMENTS FOR MAJOR SUBDIVISION PLANS**

*(Note: Text underlined is an addition, while text ~~dashed-through~~ is a deletion to the current Land Subdivision Regulations.)*

**5-2 PRELIMINARY SUBDIVISION PLAN REQUIREMENTS** - The following information and requirements shall be applicable to any submission for Commission consideration of a preliminary subdivision plan:

**5-2(d)(7) PUBLIC AND NON-PUBLIC SITES** - The name, acreage, and use of any parcels to be conveyed or held for public use, or for joint use of property owners; and an explanation of the provisions of reservation and arrangement for maintenance and the name, location, acreage and use of any non-public uses (other than single-family dwellings) such as multi- family dwellings, shopping centers, churches, existing burial grounds (including private family cemeteries), etc.

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**5-4 FINAL SUBDIVISION PLAN REQUIREMENTS** - The following information and requirements shall be applicable to any submission for Commission consideration of a final subdivision plan.

**5-4(d) LOTTING SCHEME** - The lotting scheme shall be drawn at a scale of one hundred (100) feet or less to the inch, north oriented to top of the sheet, and shall show the following:

**5-4(d)(1) FOR ADJACENT LAND** - Show the exact location of adjoining streets with dashed lines; show the bearings and distances to nearest established street bounds, established survey lines, ~~or~~ other official monuments or burial grounds (including private family cemeteries); and for adjacent property, show the boundaries with dashed lines and the record name of the subdivision or owner's name.

**5-4(d)(6) OTHER INFORMATION ON LOTTING SCHEME** - Show lots numbered in numerical order, blocks lettered in alphabetical order, and street address numbers for each lot; show the accurate location, description and material of all permanent control monuments, set as required in Article 6; show the accurate location of burial grounds and private family cemeteries, their easements ~~for burial grounds~~, their accessibility and maintenance; show all property intended for public use or dedication and for common use of property owners; show front yard setback as required by the Zoning Ordinance or, if more restrictive, as desired by developer.

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**5-4(g) MAINTENANCE NOTE** - A note shall be included on the plat which notifies potential lot purchasers of their responsibilities for maintaining drainage and other easement areas. If a private family cemetery is located within the area to be subdivided, a note shall be included on the plat that denotes responsibility for maintaining the cemetery, landscaping and access easement.

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

The Staff Recommended: Approval, for the following reasons:

1. These text changes are in agreement with Goal 5 of the 2007 Comprehensive Plan, which states that the community should "protect and preserve Fayette County's significant historic and cultural heritage;" and more specifically "encourage the retention, protection, compatible adaptive re-use of historic resources, sites, and structures" (Objective E), and "encourage inter-governmental cooperation among the various units of the Urban County Government in dealing with the protection and maintenance of both private and public sites and structures" (Objective H).
2. The existing private family cemeteries are currently being threatened by local development, and are not being protected via the local subdivision regulations. This text amendment outlines appropriate measures for the preservation of these important community resources.

Staff Presentation - Ms. Wade directed the Commission's attention to the SRA 2009-3 staff report at their places, and noted that this text amendment had been initiated by the Planning Commission. She said that the purpose of this text amendment is to further clarify the Land Subdivision Regulations to extend the protection of not only burial grounds, but also the protection of private family cemeteries in Lexington-Fayette County. She said that on November 11, 2009, the Planning Commission had recommended approval of ZOTA 2009-9 (Cemetery Protection); and since that time, that text amendment was forward to and adopted by the Urban County Council. This proposed Land Subdivision Regulations text amendment acts as a supplement to the previously adopted Zoning Ordinance text amendment.

Ms. Wade reported that the Fayette County Cemetery Trust had made a request to the Planning Commission to review the existing cemetery protection measures within scope of the Comprehensive Plan update, and asked that the City develop some regulations to alleviate this concern. She then said that this request would protect from development the private family cemeteries that were previously within the rural areas, and are now located within the boundaries of the Urban Service Areas. In 2005, the Planning Commission had agreed to add "cemetery protection" to the Goals and Objectives of the 2007 Comprehensive Plan. Specifically, Ms. Wade said that Goal 5 states that the community should "protect and preserve Fayette County's significant historic and cultural heritage." In addition of the Plan to Goal 5, there are two Objectives (E and H) that specifically relate to the protection of these cemeteries.

Ms. Wade stated that the proposed text amendment to Article 5 if the Land Subdivision Regulation will require that not only all burial grounds, but that all private family cemeteries be identified on Preliminary Subdivision Plans and Final Record Plats filed for consideration by the Commission. This proposed change will include all cemeteries on the subject site, as well as extend to any known cemeteries on adjacent properties. She said that this change will also require clear denotation of the maintenance responsibility of those cemeteries, as well as the required easements for landscaping and access. This proposed text amendment, together with the recently approved Zoning Ordinance text amendment, will help implement the 2007 Comprehensive Plan's recommendation to protect and preserve Fayette County's significant historic and cultural heritage.

In conclusion, Ms. Wade said that the Subdivision Committee agreed with the staff recommendation, for the following reasons:
1. These text changes are in agreement with Goal 5 of the 2007 Comprehensive Plan, which states that the community should "protect and preserve Fayette County's significant historic and cultural heritage;" and more specifically "encourage the retention, protection, compatible adaptive re-use of historic resources, sites, and structures" (Objective E), and "encourage inter-governmental cooperation among the various units of the Urban County Government in dealing with the protection and maintenance of both private and public sites and structures" (Objective H).
2. The existing private family cemeteries are currently being threatened by local development, and are not being protected via the local subdivision regulations. This text amendment outlines appropriate measures for the preservation of these important community resources.

<u>Planning Commission Comment</u> – Ms. Richardson asked if anyone in the audience or on the Commission wished to discuss this item. There was no response.

<u>Action</u>: A motion was made by Mr. Owens, seconded by Ms. Roche-Phillips, and carried 9-0 (Copeland abstained, Paulsen and Penn absent) to approve SRA 2009-9, for the reasons provided by staff.

**B.** **<u>SRA 2010-1: AMENDMENT TO ARTICLE 6-4(I) STREET ADDRESSES</u>** – an amendment to delete a portion of Article 6-4(i) of the Land Subdivision Regulations.

REQUESTED BY: Urban County Planning Commission

PROPOSED TEXT: **6-4 (i) STREET ADDRESSES –** Street address numbers shall be assigned to each lot ~~by the Commission~~ in order to provide a separate and distinct address for each lot.

(<u>Note</u>: Text ~~dashed through~~ indicates a deletion to the existing Land Subdivision Regulations.)

<u>The Subdivision Committee Recommended: Approval</u>, for the reasons provided by staff.

<u>The Staff Recommended: Approval</u>, for the following reasons:
1. The removal of the conflict in the ordinances clarifies the authority and process in assigning street addresses and continues the long standing practices and standards developed by the addressing committee as accepted by the Planning Commission.
2. The proposed change will maintain public health and safety, in conformance with the overall intent of the Land Subdivision Regulations, under the authority of the Department of Public Safety.

<u>Staff Presentation</u> - Mr. Martin directed the Commission's attention to the staff report for SRA 2010-1, and noted that this text amendment is a proposal to delete a portion of the language found in Article 6-4(i) of the Land Subdivision Regulations. He said that this text amendment was initiated as a result of several conflicts concerning street addressing heard by the Commission in the recent past. Due to those conflicts, the Law Department researched this issue and determined that the authority for assigning street addresses was vested with the Department of Public Safety by action of the Urban County Council. The Department of Public Safety delegates that duty to the Addressing Office, which is responsible for the addressing of properties. Should there be a conflict with the addressing of an individual property, the applicant can make an appeal to the Addressing Committee, who will then make a determination. As such, there is now a need to remove this conflict with this section of the Subdivision Regulations.

Mr. Martin stated that the staff is recommending approval of this text amendment, for the following reasons:
1. The removal of the conflict in the ordinances clarifies the authority and process in assigning street addresses and continues the long standing practices and standards developed by the addressing committee as accepted by the Planning Commission.

2. The proposed change will maintain public health and safety, in conformance with the overall intent of the Land Subdivision Regulations, under the authority of the Department of Public Safety.

Planning Commission Comment – Ms. Richardson asked if anyone in the audience or on the Commission wished to discuss this item. There was no response.

Action: A motion was made by Ms. Roche-Phillips, seconded by Ms. Whitman, and carried 9-0 (Paulsen and Penn absent) to approve SRA 2010-1, for the reasons provided by staff.

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

**A. NPE 2010-1: AMENDMENT TO NEWTOWN PIKE ACCESS ORDINANCE –** for property located at the Southwest quadrant of Main and Cox Street.

Request by: LFUCG Division of Engineering

Ordinance: Council Ordinance No. 105-2009, Sections 3 & 8

Location: Southwest quadrant of Main and Cox Street intersection
**(**Formerly Commonwealth of Kentucky property)

COUNCIL ORDINANCE 105-2009 controls traffic movement, safety, access, and design aspects of the Newtown Pike and Scott Street Extensions. Section 11 of this ordinance states: "that prior to the adoption of any amended ordinance, the Urban County Council shall receive a report from the Planning Commission outlining any concerns and/or recommendations."

Section 3 currently states: "that no permits be shall issued, …"
proposed: "that no permits shall be issued…."

Section 8 currently states: "that two additional right turn-in/turn-out access points shall be included in the project."
proposed: "that three additional right turn-in\right turn-out access points…."
"The third shall be a minimum of 200 feet from the intersection of Newtown Pike Extension and West Main Street (southbound), for the purpose of accessing the parcel located on the southwestern corner at the intersection of Main Street and Newtown Pike (currently owned by RJ Corman Railroad Company)."

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

The Staff Recommends: Approval of the requested changes, for the following reasons:
1. The proposed access point is directly opposite an approved right-in/right-out access point, and traffic will be separated on the Newtown Pike Extension by a median at this location.
2. The property in question did not originally have access to the new boulevard, as it was considered excess right-of-way by the Commonwealth of Kentucky. Now that it is in private ownership, access to the property can safely be accommodated via the proposed right-in/right-out access point.
3. This property has been considered a "gateway" property by several LFUCG plans and studies. The proposed access point will allow reasonable access to the new boulevard, which is currently under construction.

Staff Presentation - Mr. Emmons directed the Commission's attention to the NPE 2010-1 staff report, and noted that this request was presented to the Subdivision Committee, as well as the Zoning Committee, on February 4, 2010. He noted that the Subdivision Committee reviewed the proposed request and recommended approval of this amendment for the reasons provided in the staff report.

Mr. Emmons gave a brief summary of the pending request, and said that the Division of Engineering is asking to amend the Newtown Pike Ordinance by adding a new right-in and right-out access point on the new portion of the Newtown Pike Extension (currently known as Cox Street). He said that the new turn lane will be directly across from the Salvation Army property, on the southwest corner of Main Street and the new Newtown Pike Extension. He then said that, at the time the Newtown Pike Ordinance was granted, this site was considered as excess right-of-way that was owned by the Commonwealth of Kentucky. However, since that time, this site has been transferred into private ownership by the RJ Corman Railroad Company.

Mr. Emmons said that, should the Planning Commission approve this proposed change to the Newtown Pike Ordinance, the staff will forward this recommendation onto the Urban County Council, who will then make the final determination the requested change to the Ordinance.

Mr. Emmons directed the Commission's attention to Exhibit A of the staff report, and said that the Subdivision Committee had asked if the existing access for the RJ Corman property would remain intact. He said that, in speaking to Andrew Grunwald, Project Manager of the Newtown Pike Extension, the existing access would be removed from the Newtown Pike Extension.
In conclusion, Mr. Emmons said that the staff is recommending approval of NPE 2010-1, for the following reasons:

1. The proposed access point is directly opposite an approved right-in/right-out access point, and traffic will be separated on the Newtown Pike Extension by a median at this location.
2. The property in question did not originally have access to the new boulevard, as it was considered excess right-of-way by the Commonwealth of Kentucky. Now that it is in private ownership, access to the property can safely be accommodated via the proposed right-in/right-out access point.
3. This property has been considered a "gateway" property by several LFUCG plans and studies. The proposed access point will allow reasonable access to the new boulevard, which is currently under construction.

Planning Commission Comment – Ms. Richardson asked if anyone in the audience or on the Commission wished to discuss this item. There was no response.

Action: A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 9-0 (Paulsen and Penn absent) to approve NPE 2010-1, for the reasons provided by staff.

**B.** **T.I.F APPLICATION – TURFLAND TOWN CENTER** – a review of a Tax Increment Financing application for property located at 2195 Harrodsburg Road.

Staff Presentation – Ms. Rackers stated that Rubloff Development Group had submitted a TIF application for that, if approved, would be known as the Turfland Town Center Development TIF District, a Blighted Urban Mixed-Use Redevelopment Area Tax Increment Financing (TIF) District.

Ms. Rackers directed the Commission's attention to the map of the overall area, and said that the subject property is located at 2195 Harrodsburg Road, which is the old Turfland Mall site. She oriented the Commission to the surrounding street system, and noted the location of Lane Allen Road and Harrodsburg Road, as well as pointing out the mall property boundary that is being proposed as the TIF District.

Ms. Rackers then directed the Commission's attention to the staff report and exhibits, and said that Exhibit 1 illustrates the proposed layout of the development. She noted that Walgreen's, the restaurants, the bank building and Home Depot will not be included in this TIF District. She said that the Dillard's building, which is a 2-story building, will remain intact and it will be renovated into commercial and/or office space that will contain about 80,000 square feet per floor. She then said that the remaining mall area will be demolished and will be replaced with a 3-tier parking structure. Surrounding this 3-tier structure, will be a 3-story building. The lower level will have a mixture of commercial, and office spaces, while the upper floors will have residential areas. She noted that near the rear of the site, a second 3-story building will also have two proposed "commerce centers" that will be 3 stories, with 32,000 square feet per floor.

Ms. Rackers said that this development will be mixed use and it will contain both public and private improvements. She said that the eligible public improvements through the TIF District funding, as well as the private improvements, are noted in the staff report. She then said that, if the TIF is implemented, the goal is to have the Turfland Town Center fully built out by 2014.

Ms. Rackers stated that State statute requires that the Lexington-Fayette County Planning Commission must review the Turfland Town Center Development Plan for the proposed TIF District for compliance with the 2007 Comprehensive Plan. She noted that once the Commission makes a recommendation that it complies with the Comprehensive Plan, the staff will then forward the Commission's certification to the Lexington-Fayette Urban County Council for consideration at their February 23, 2010, meeting.

Ms. Rackers then said that, in reviewing this TIF application, there are several elements of the 2007 Comprehensive Plan that either support or are supported by the proposed project. She said that the Mission statement of the Comprehensive Plan and the Vision for Lexington-Fayette County supply the basis for development, and land use decisions, which includes urban design. She then said that the 2007 Comprehensive Plan lays out several themes, four of which are applicable to the Turfland Town Center TIF District:

- 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 said that the 2007 Comprehensive Plan contains 21 Goals and associated Objectives, 9 of which Goals specifically relate to this TIF project and are in support of this proposal all of which are listed in the staff report. She said that the Objectives of five additional Goals are also applicable. She then said that even though the Turfland Town Center is not within Downtown. There are two principles of the Downtown Plan Element that are in support of this project, and those are to 1) increase residential development, and 2) to invest in a pedestrian network. She said that they will be providing a bike and pedestrian connection to the greenway across Lane Allen, as well as to the adjoining neighborhoods. The text of the Land

Uses Element and the land use map also support this application. Three land use principles that were used to formulate the 2007 Comprehensive Plan are in support of this TIF application:

- Use the arterial roads, public transportation routes, and pedestrian ways and bikeways effectively by strategically locating higher intensity uses along these corridors and by designing transportation and land use relationships to effectively link employment and housing.
- Provide convenient and adequate access to commercial and employment sites; provide for neighborhood commercial areas within walking distance of most residents.
- Plan for the adaptive reuse of old shopping centers through redevelopment as mixed-use centers, with a street network interconnecting with the existing surrounding neighborhood and providing for residential redevelopment on the site.

Ms. Rackers noted that, as part of this mixed-use development, Rubloff Development Group plans to provide space for public art exhibits in the hope that it will increase tourism. This supports both Goal 10 and Goal 20 as they relate to tourism and enhanced cultural experience for the residents of Lexington-Fayette County.

Ms. Rackers said that the land use map for this area recommends Retail Trade and Professional Services, noting that this is a mixed-use category that encourages a variety of professional office and retail uses both as a horizontal and a vertical mix. She noted that the recommended land use is reflective of the current B-6P zoning, which allows all the uses that are being proposed for this redevelopment, and the proposed uses will coincide with the property's land use recommendation.

Ms. Rackers stated that all of the new construction will be LEED (Leadership in Energy and Environmental Design) certified for both the buildings and the site design. She added that the Dillard's renovation will have as much LEED construction as possible. She said that environmental responsibility and stewardship is one of the main tenets of the 2007 Comprehensive Plan, and it is encouraged by the plan; therefore, the LEED certification will further ensure compliance with the 2007 Comprehensive Plan.

Ms. Rackers stated that, as part of the certification, the Planning Commission must make a recommendation on any or all necessary changes (such as zone changes or text amendments) that might be needed to accommodate the TIF development. With that being said, she noted that the correct zoning is in place and no text amendments are needed. There are no known environmental issues related to this property, other than stormwater detention and water quality. To help mitigate the stormwater and water quality issues, she said that the asphalt parking lot will be replaced with permeable pavers throughout the site. She then said that there will be additional open space and landscaping throughout the project, in an added effort to mitigate the stormwater issues in the surrounding area. She noted that this property was developed in the late 60s, prior to the current stormwater detention requirements being in place that generally require on-site detention.

Ms. Rackers then stated that the Vision for Lexington-Fayette County states that the built areas of Lexington consist of a collection of diverse neighborhoods, each of which has its own individual identity, and those form the building blocks of the community. She then said that each neighborhood needs to be a desirable place to live and work. She noted that one of the challenges of planning efforts is to sustain Lexington's unique development pattern, and allow for both preservation and redevelopment of the area.

In closing, Ms. Rackers requested that the Planning Commission approve this application, and certify its compliance with the Comprehensive Plan to the Urban County Council. She noted that Bruce Simpson was present, should the Commission have any questions.

<u>Planning Commission Questions</u> – Ms. Copeland said that it was her impression that there would be underground detention provided to the south of the Dillard's building and asked if there would be permeable pavers. Ms. Rackers said that there will be permeable pavers, in addition to the underground detention.

Mr. Holmes asked if this TIF application is in conflict with the adopted Goals and Objectives of the 2007 Comprehensive Plan. Ms. Rackers replied that nothing was found in the Comprehensive Plan that was in conflict with the proposed project.

Ms. Roche-Phillips asked if this is the 4$^{th}$ TIF project to come before the Planning Commission. Ms. Rackers replied that it is the 5$^{th}$ application. Ms. Roche-Phillips asked for a brief explanation of what could happen after the 30-year amortization process. Ms. Rackers referred the question to Bruce Simpson.

<u>Petitioner's Presentation</u> - Bruce Simpson, attorney, was present representing the applicant. He said that Lexington is one of the few communities within Kentucky that has had more than one TIF application. He then said that the Tax Increment Financing application helps give life to underutilized and underdeveloped projects, such as the Turfland Town Center. He noted that the staff had summarized the justification for this Tax Increment Financing, and there was no need to recap that information. He said that they had submitted their justification letter along with exhibits, which started this process of requesting the TIF application.

Mr. Simpson explained that when legislation was enacted, it was recognized that certain areas within communities needed help; one of the provisions added was requiring a TIF application to be presented to and certified by the Planning Commission. He then said that once the Planning Commission certifies that the TIF application is in compliance with the 2007 Comprehensive Plan, it is then presented to the Urban County Council, who will then review the application in more detail.

Once the Urban County Council has reviewed the TIF application, it is then forward to the State of Kentucky for even further review by several different agencies.

Mr. Simpson said that his client had held a meeting with the surrounding neighborhoods in order to present Rubloff's conceptual ideas and proposals, as well as to alleviate any concerns and answer questions. He then said that his client had pledged to those who had attended that meeting the neighborhoods will be notified and updated on the development of this project.

Mr. Simpson stated that they are in agreement with the staff's recommendations, and requested that the Planning Commission certify that the TIF development plan's is in compliance with the 2007 Comprehensive Plan.

Planning Commission Questions – Ms. Roche-Phillips asked for further clarification on the 30-year window associated with a Tax Increment Financing project. Mr. Simpson said that the window is limited to 20 years. He then said that this property only has a few tenants that currently occupy the existing building and there is a significant portion of the building that is empty. He noted that Turfland Mall is failing because it is not generating any type of tax to speak of; and with the lack of activity, the property taxes have decreased in value. He said that the general theory from the local and state governments is how to provide an initiative for underutilized and underdeveloped projects such as the Turfland Mall in order to regenerate their potential and provide revenue. He then said that 80 percent of the money that is generated from the various taxes is set aside for a 20-year period in order to pay for public infrastructure improvements, which is defined in KRS. He noted that Turfland Mall has a great deal of impervious surface. The detention standards are not up to code, which allows the surface runoff to enter the Wolf Run watershed. This has caused water quality problems, as well as sanitary sewer problems in the general vicinity of the site. He said that the money received from the TIF application will help to upsize the sanitary sewer lines, provide permeable pavers, and provide the needed public improvements. He then said that a developer is not going to spend the money on a project, and bring it in to compliance with the Consent Decree and the new requirements associated with the sanitary sewers without the funding from Tax Increment Financing. He noted that this will not increase the taxpayers' taxes, it will only capture the revenue that is generated by the project in the future; and if no revenue is generated, then no taxes will be paid. He said that there is no risk to the government and it is a win-win situation. He then said that the government does not bond anything; only the developer takes the risk.

Mr. Holmes asked, if once the TIF is approved, if the conceptual plan be changed. Mr. Simpson said that this is a conceptual plan and his client had spoken with the neighbors about this project and how it depends on acquiring a major tenant for the Dillard's building. He said that since this is a conceptual plan; it can change, but they have pledged to the neighbors, as well as to the Commission, that if there are any changes they will notify everyone and conduct another meeting.

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

Action - A motion was made by Mr. Owens, seconded by Mr. Cravens, and carried 9-0 (Paulsen and Penn 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**

**A. UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for February 18, 2010.

**VII. AUDIENCE ITEMS** – There were none offered.

**VIII. NEXT MEETING DATES**

Work Session, Thursday, 1:30 p.m., 2nd Floor Council Chambers .................................................................... February 18, 2010
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building) ............................ February 24, 2010
**Zoning Items Public Hearing**, Thursday, 1:30 p.m., 2nd Floor Council Chambers ......................................... **February 25, 2010**
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building) ............................. March 4, 2010
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building) .................................... March 4, 2010
**Subdivision Items Public Meeting**, Thursday, 1:30 p.m., 2nd Floor Council Chambers ................................ **March 11, 2010**

**IX. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 2:22 p.m.

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Frank Penn, Chair

______________________________________
Mike Owens, Secretary

CT/CG/TM/WLS/SDB