

Gorton
Blues
Gray
Ellinger
James
Lawless
Beard
Feigel
Stinnett
McChord

A G E N D A

PLANNING COMMITTEE

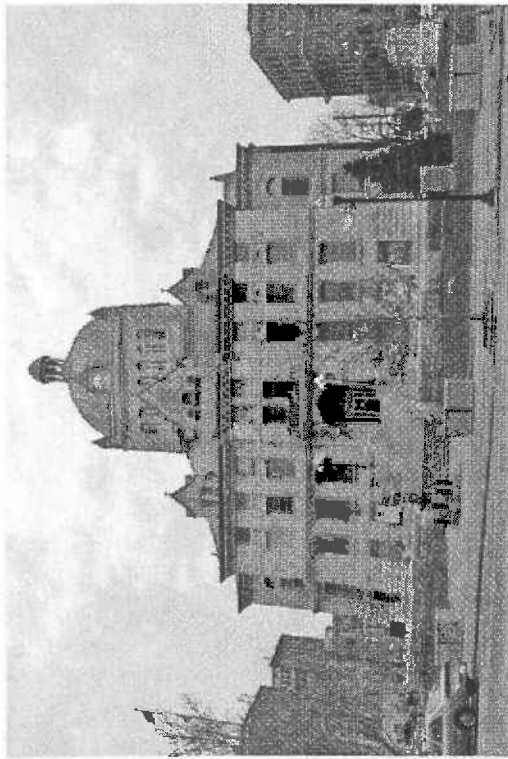
October 19, 2010

1:00 P.M.

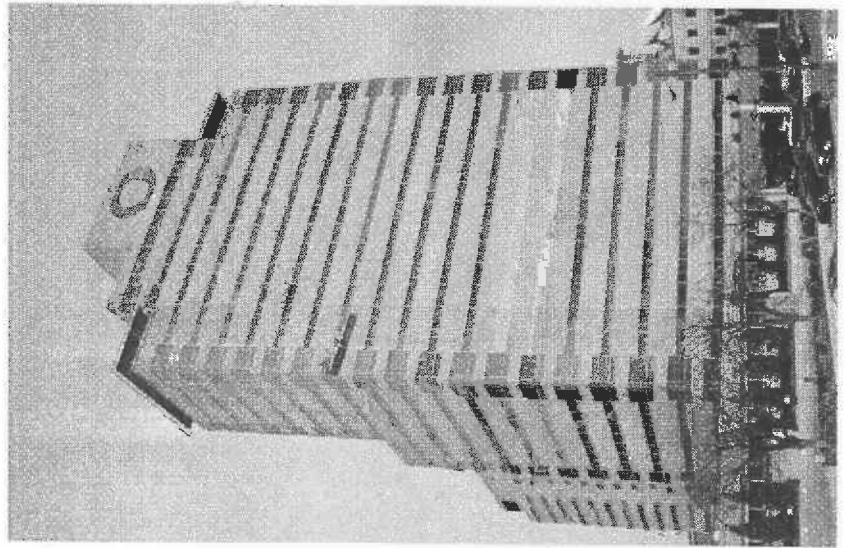
1. **Downtown Lexington Building Inventory** Feigel (1-24)
2. **Tree Related Regulations** James (25-40)
3. **Mobile Home Quality of Life** James
Materials will be distributed at the 10-19-10 Meeting
4. **Items Referred to Committee** (41)

"Planning Committee, to which should be referred matters relating to parks, planning and zoning, housing, transportation, grants, legislation and social services."

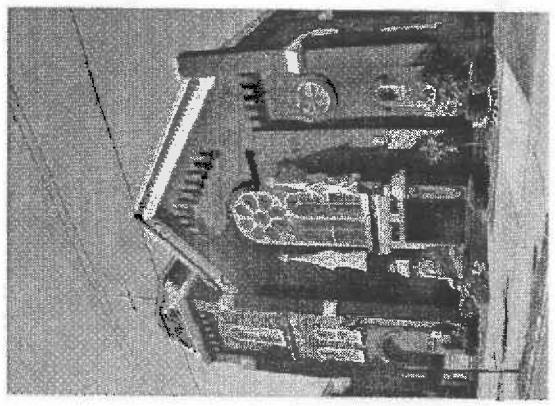
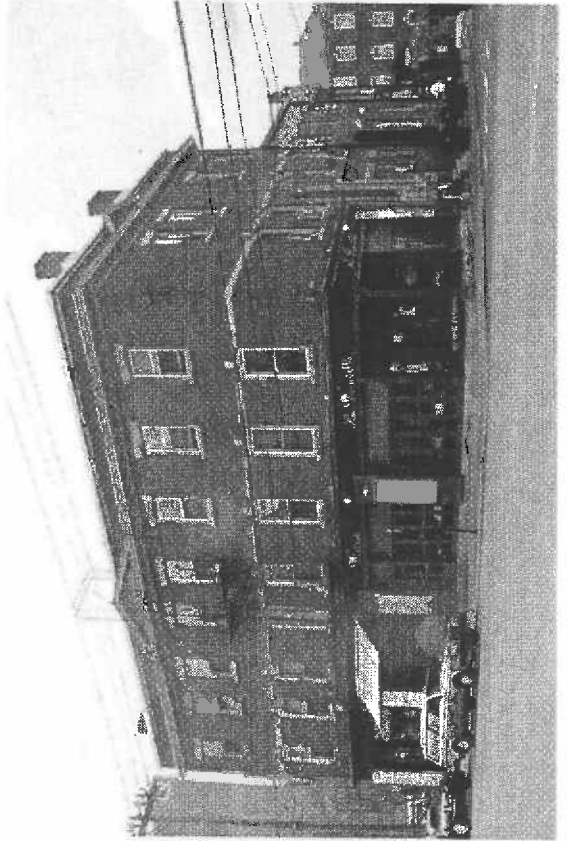
Council Rules & Procedures, Section 2.102(1)

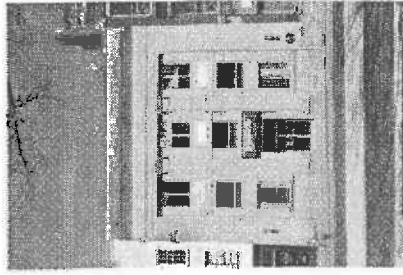


Potential Tools to Facilitate Improvements in the Area Reflected in the *Downtown Lexington*

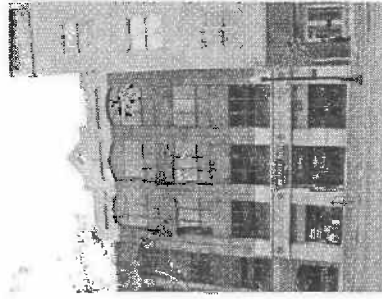


Building Inventory and Beyond

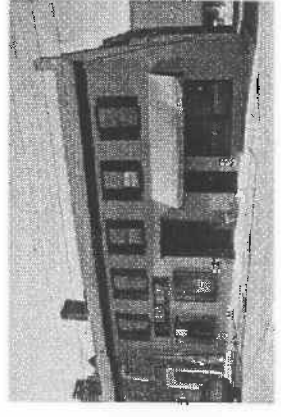
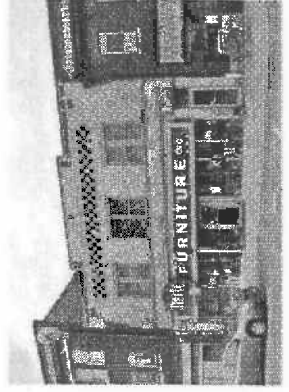
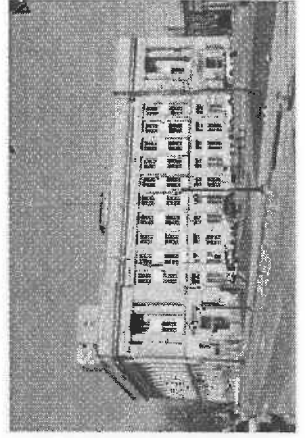
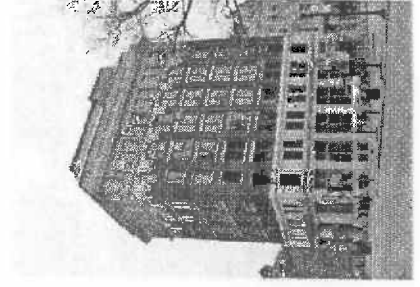


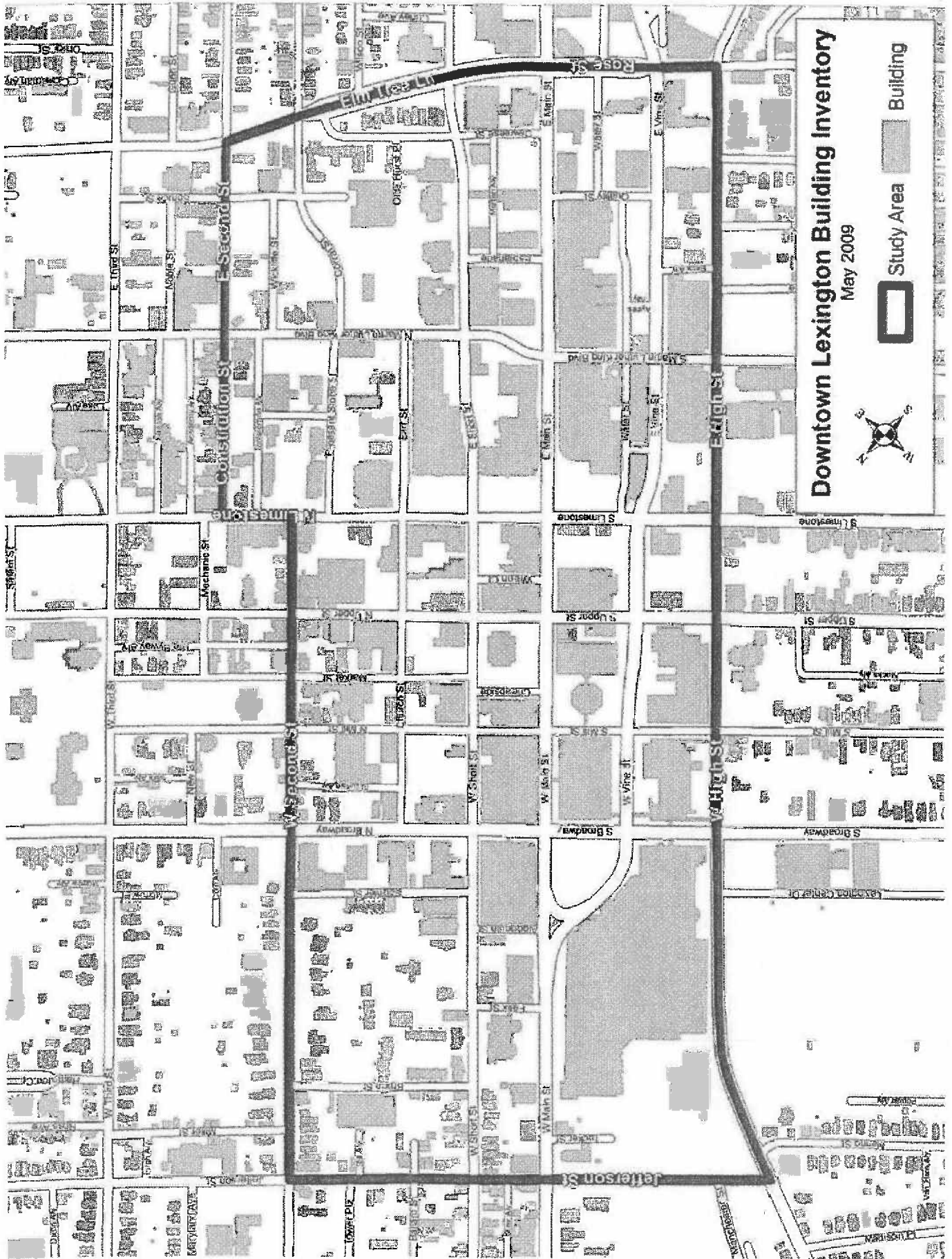


- ❖ The Downtown Building Inventory provides a base of data about the built environment in downtown Lexington.



- ❖ Each property was evaluated for its architectural style, date of construction, brief history and categorized relative to the intactness of its architectural identity.





Outstanding

These properties are of extreme importance architecturally and/or historically. They have undergone relatively little alteration since they were built, or the alterations themselves have gained significance.

Significant

Also of importance architecturally and/or historically. Significant buildings and spaces retain important design features and contribute to either the historic or modern scale of the block and/or the downtown. Some significantly altered buildings and spaces were placed in this category because of overriding historical importance.

Contributing

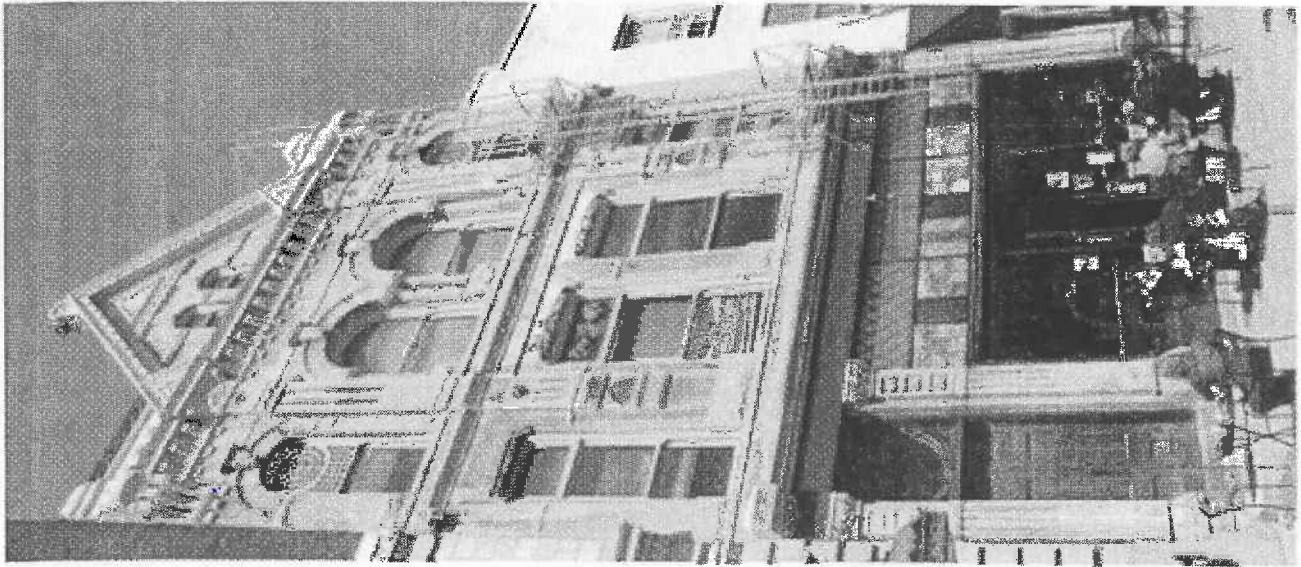
Buildings and spaces which contribute to the character of the block and/or the downtown and which contribute to the context and development themes, but which may lack individual distinction. Buildings and spaces were placed in this category when alterations diminished their architectural integrity without altering the overall character of the building or space, nor compromising its major significant design features. In most cases, when altered, alterations have been major.

Non-Contributing

Buildings and spaces which do not contribute to the character of the block and/or the downtown.

Post-1965

Buildings and spaces constructed or created after 1965. No evaluation made of their level of significance for this study, however, they are inventoried, with no measure of significance or integrity. Buildings less than 50 years old, with the exception of a unique structure or element that is an excellent example of its type or era, are usually not considered eligible for the Federal National Register of Historic Places.



111-113 Cheapside

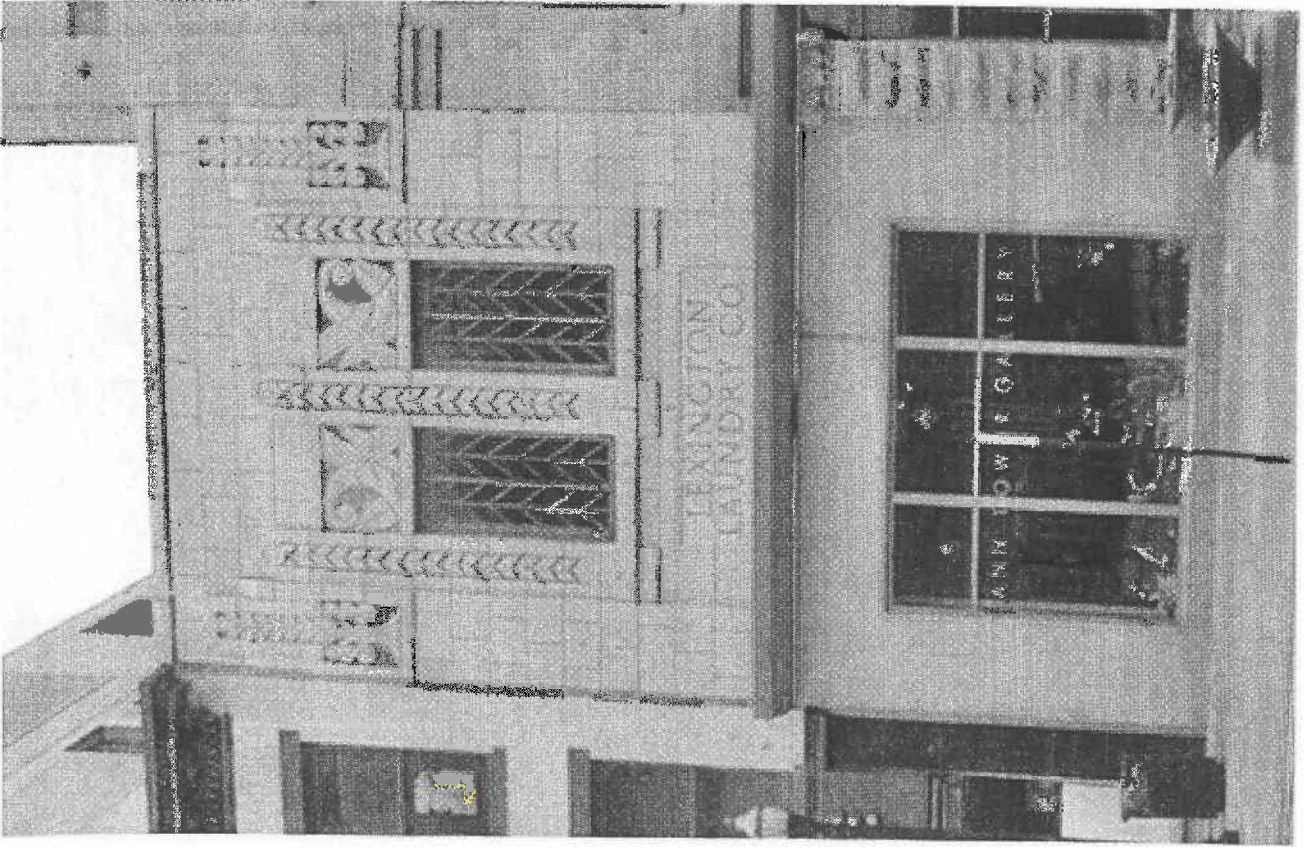
Fayette Safety Vault & Trust Co. Building
Ca. 1890

Outstanding

*Contributes to the character of the block,
and contributes to the character of
downtown.*

Designed by H.L. Rowe, 3 story, 4 bay,
stone façade High Victorian commercial
structure. Very fine, high decorated façade,
little alteration above storefront

Courthouse Area Design Overlay Zone
Downtown Commercial National Register
District



139 East Main Street

Lexington Laundry Co. Office
Building (Downtown Arts Center)
Ca. 1929

Outstanding

*Contributes to the character of
the block, and contributes to the
character of downtown.*

2 story, 2 bay, brick w/ tile façade
Art Deco style, commercial
building.

Courthouse Area Design Overlay
Zone

Downtown Commercial National
Register District

142-144 North Broadway
Masonic Temple, Lex. Lodge #1
Ca. 1915

*Significant
Contributes to the character of
the block, and contributes to the
character of downtown.*

Designed by Frank L. Smith, 3
story, 7 bay structure, brick with
metal cornice below roof
parapet. First floor entrance
includes terracotta columns with
pediment above. Renovated for
offices with contemporary
design on store fronts.

Broadway/ West Short Street
National Historic District

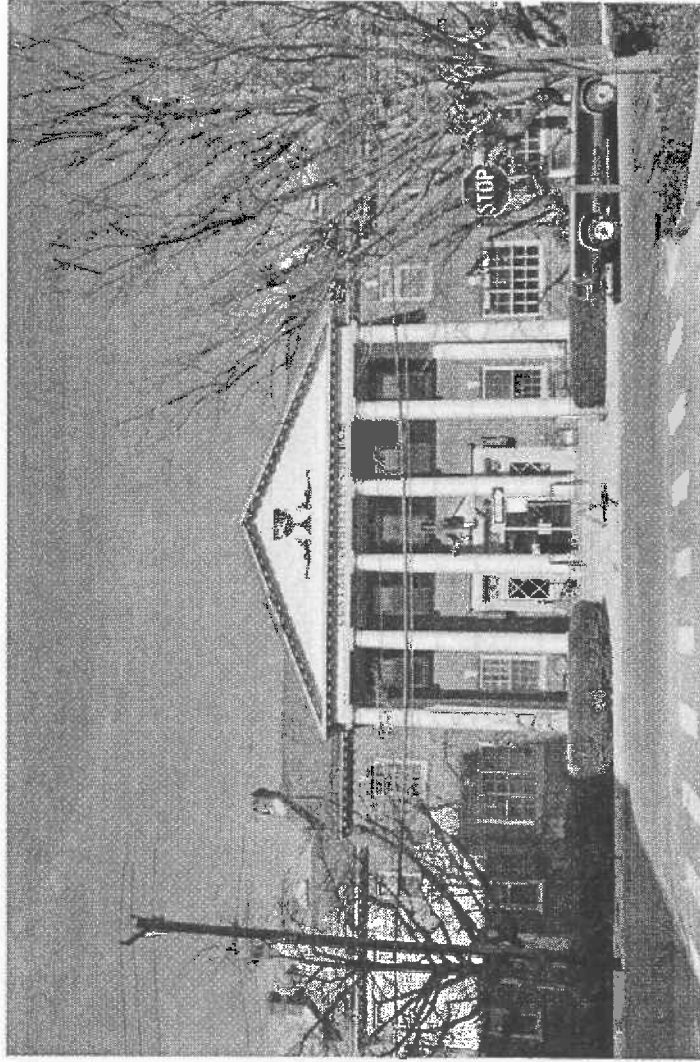


205 East Short Street
Southeast Greyhound Lines Bus
Terminals
1947

Significant

*Contributes to the character of
the block and contributes to
the character of downtown.*

2 story, 11 bay, brick, Georgian
Revival style addition to north
of sanctuary. 2 story colossal
portico with tall Tuscan columns
and modillion cornice.



168-182 North Upper Street
Featherston's Garage
Ca. 1920

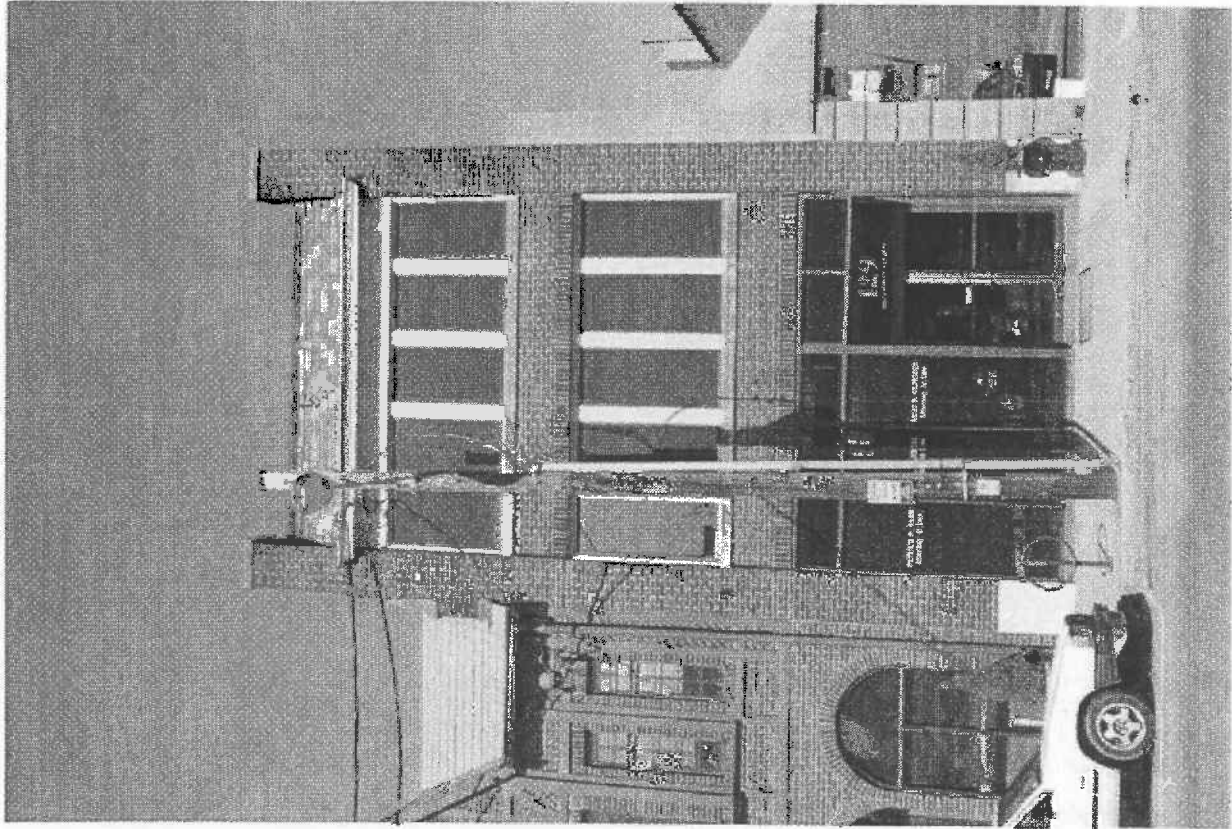


Contributing

Contributes to the character of the block and contributes to the character of downtown.

1 story, multi-bay, red brick with buff colored brick pattern and decorative details, Arts & Crafts style. Northern-most portion of the building is set closer to the road with the remaining portion recessed. Early 20th century building associated with the automobile.

Northside National Register Historic District



129 West Short Street
Still Building
Ca. 1925

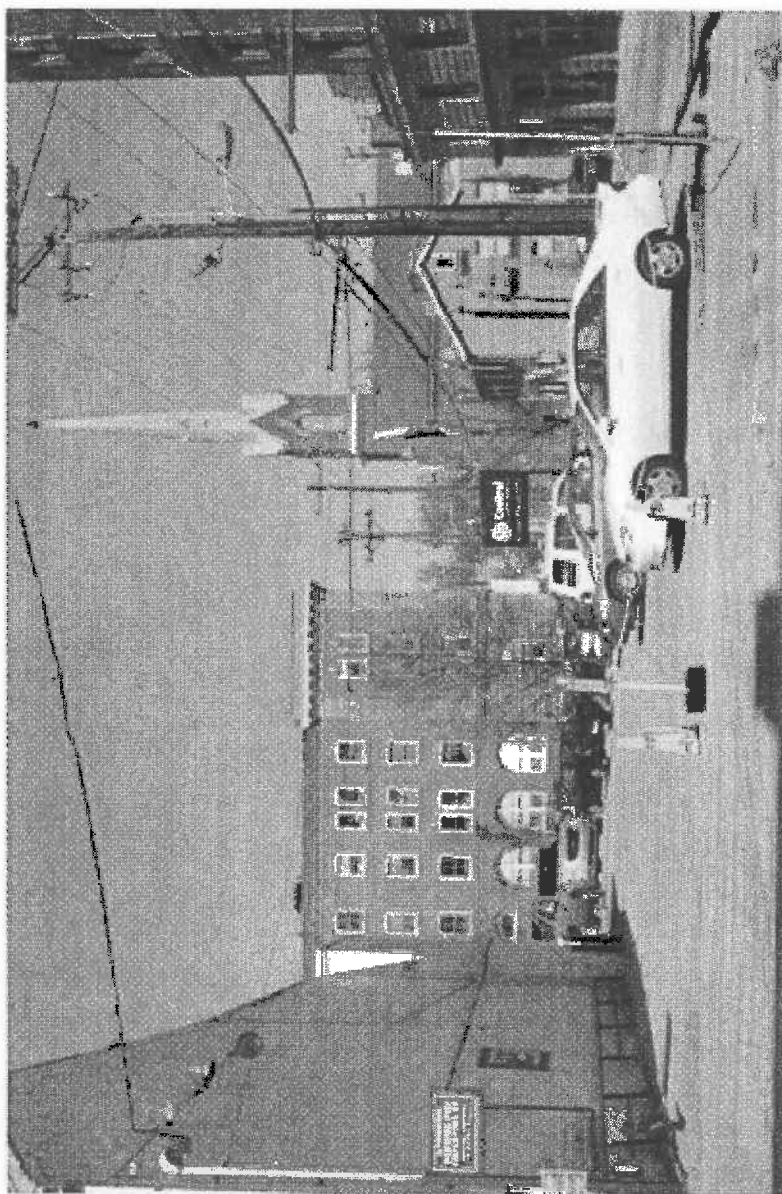
Contributing

Contributes to the character of the block and contributes to the character of downtown.

3 story, 5 bay, brick commercial building with altered storefront

Courthouse Area Design Overlay
Zone

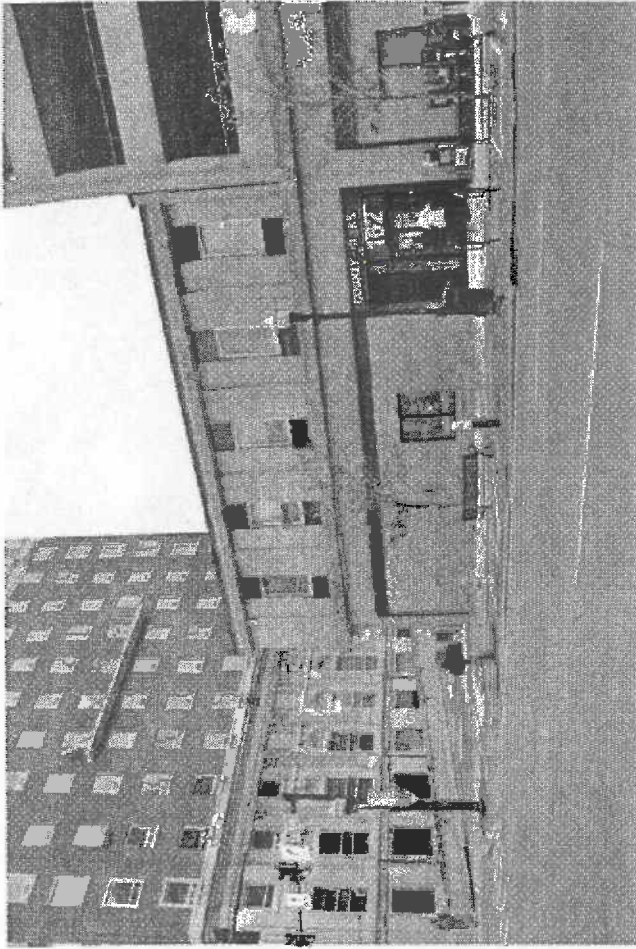
Downtown Commercial Historic
District



139-157 North Mill Street

Non-contributing

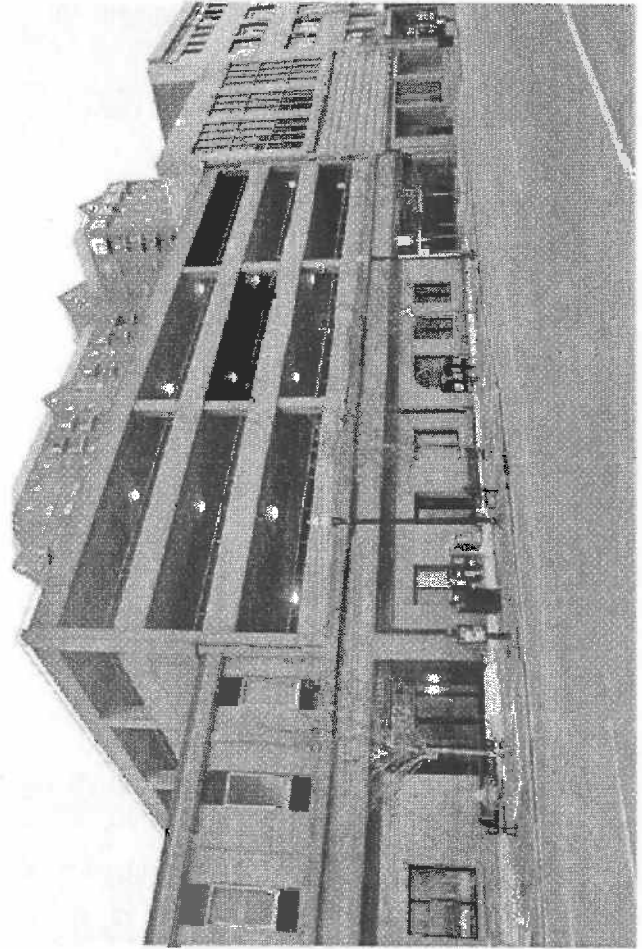
Surface Parking Lot

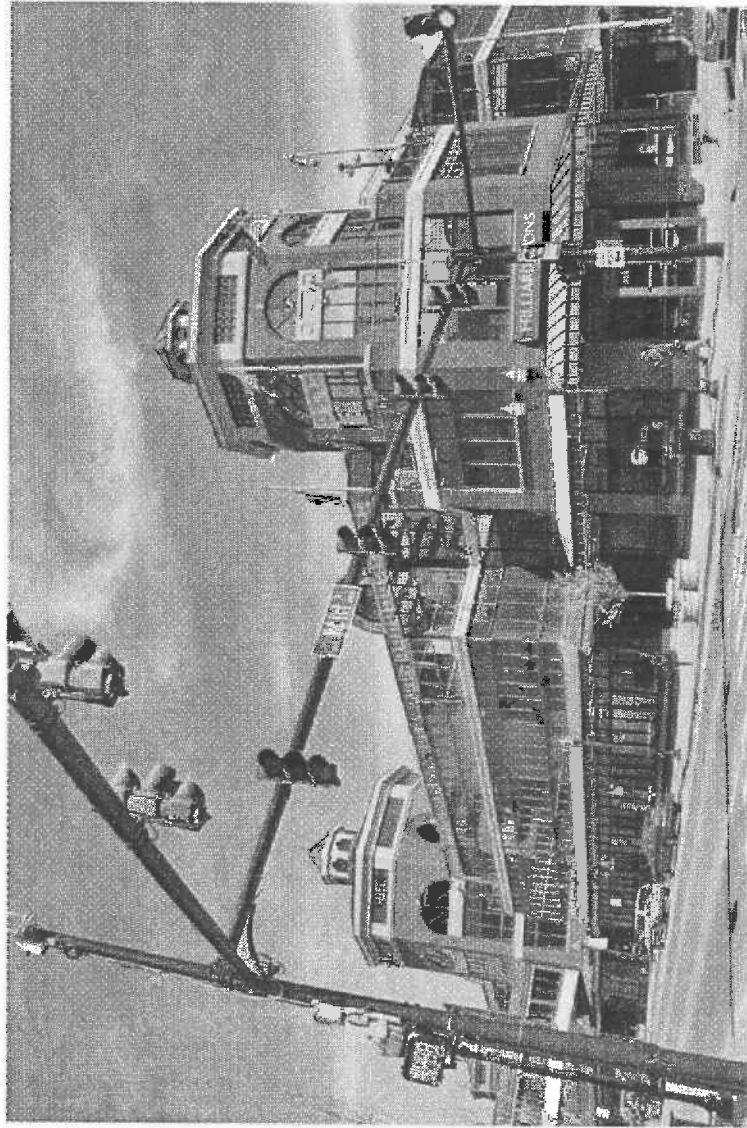


162 East Main Street
County Clerk's Office/Division of
Police

Non-contributing

Complex includes 4 story parking garage/commercial building of concrete frame, partial brick veneer.

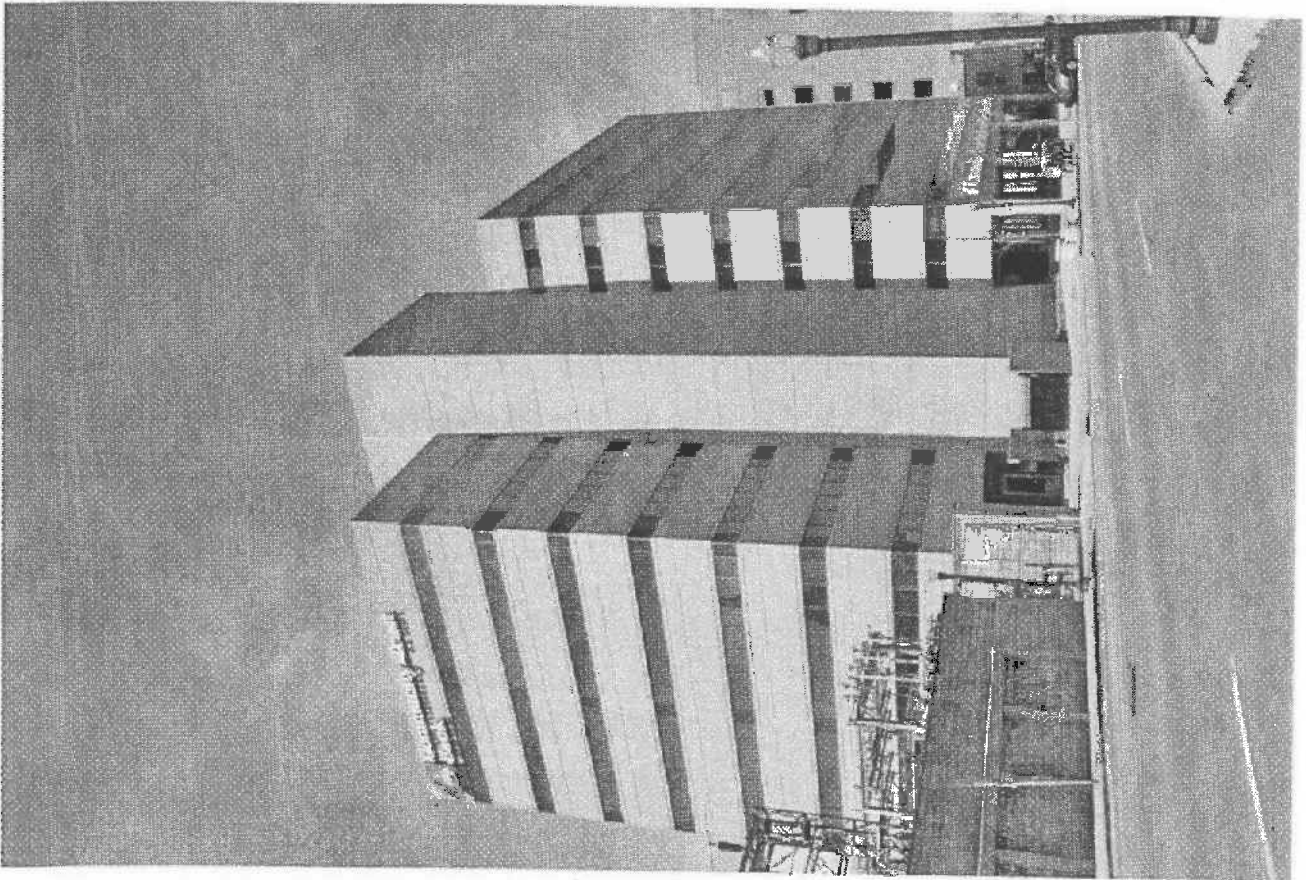




325 West Main Street
Former Festival Market
Ca. 1987

Post-1965

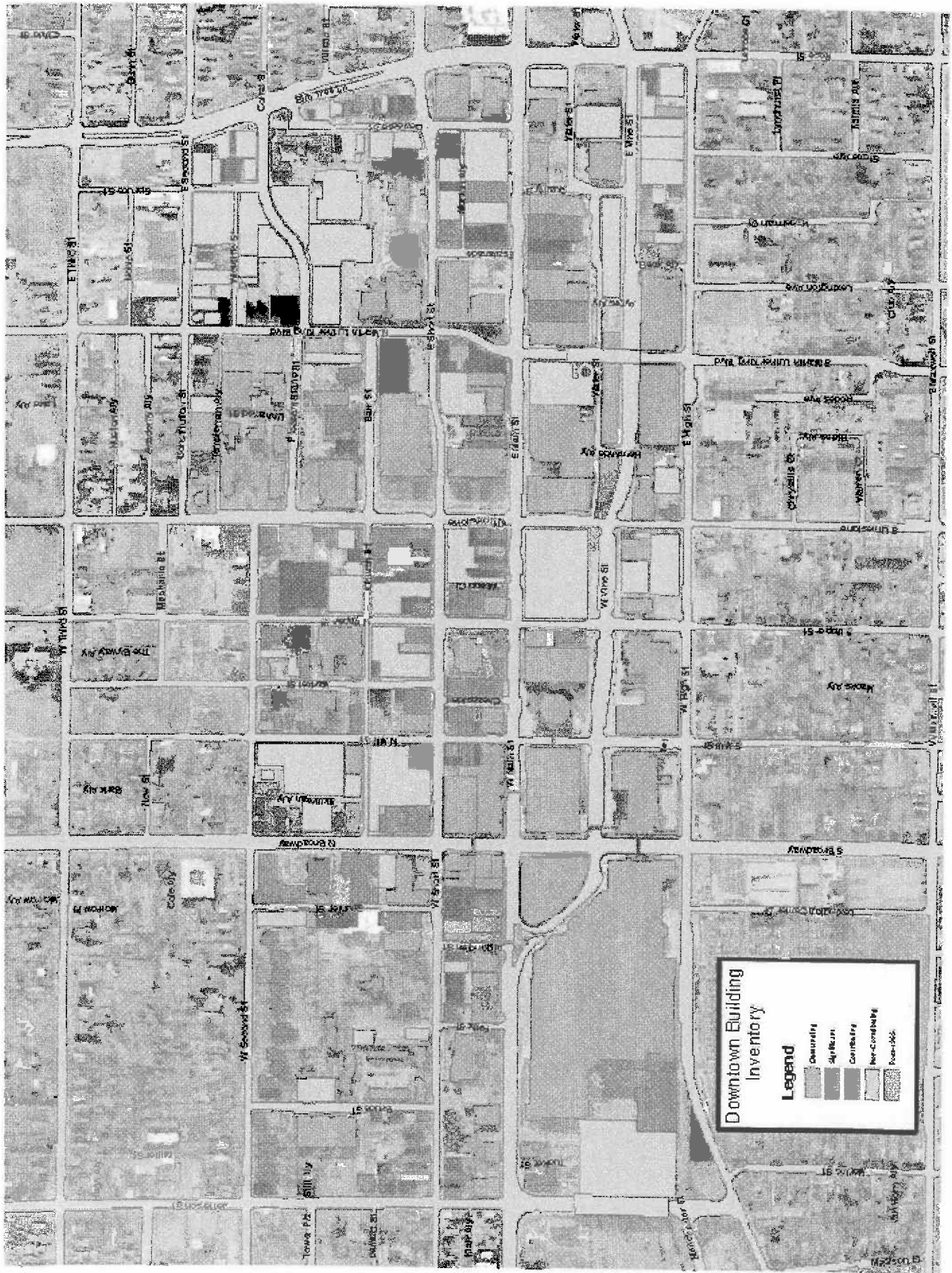
3 story, multi-bay commercial
structure, brick, metal, glass.

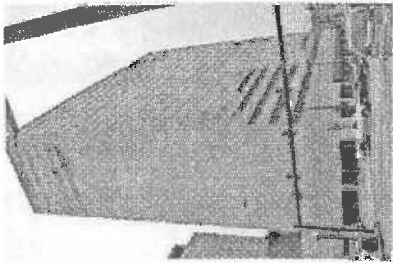


100 East Vine Street
Merrill-Lynch Building
Ca. 1981

Post-1965

6 story, multi-bay, commercial
structure with concrete and
glass.



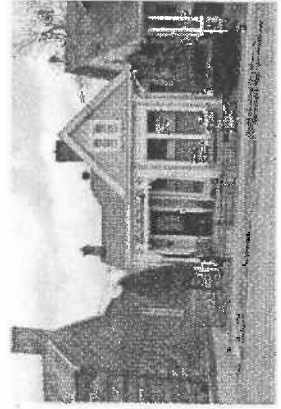
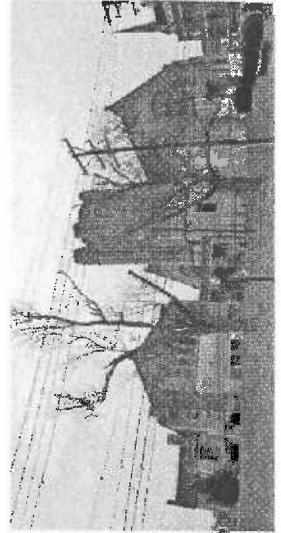
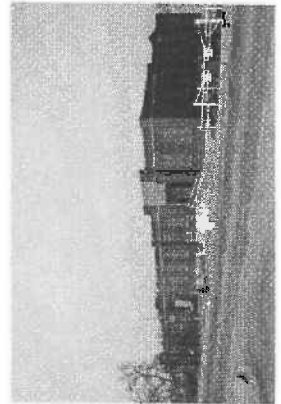
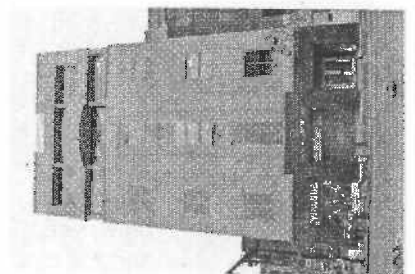
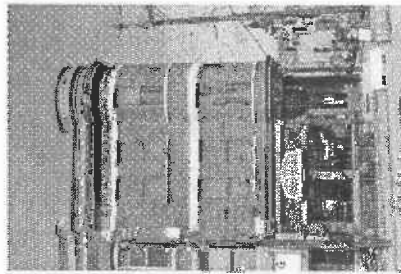


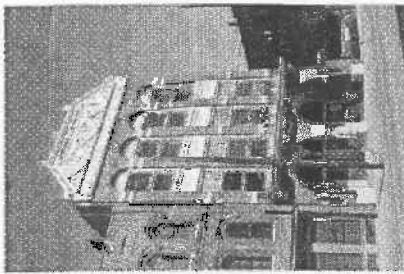
Following are some of the options available for consideration to facilitate positive enhancement of downtown, through preservation of buildings, new development and numerous other aspects of downtown improvements.

Regulatory Processes include (but are not limited to):

Overlay Districts:

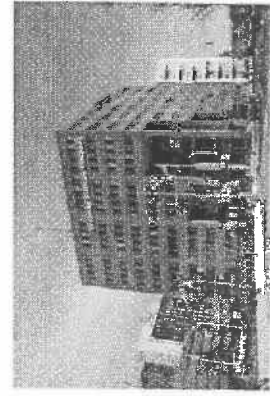
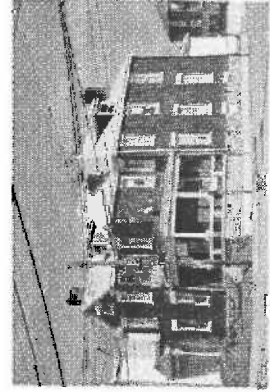
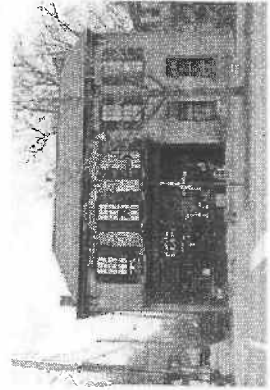
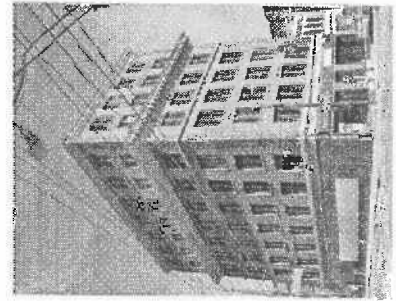
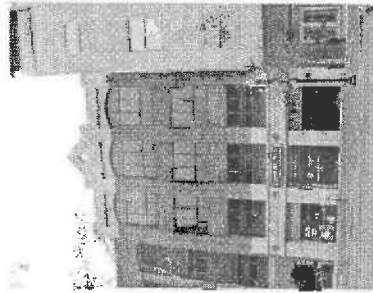
- Existing overlay district boundaries could be increased and/or create new overlay districts.
- New districts may or may not have similar design criteria as the existing.
- Overlay districts may address demolition, renovation of existing and new construction, as well as signage, paving, landscaping, etc., or any combination of same.
- Overlay may be created for a specified, limited array of items such as building heights, setback, lot coverage, parking location, etc. with concise parameters not to be exceeded.
- Design Guidelines, or Standards could be adopted to reflect what is to be reviewed and/or permitted for any of the processes outlined above and can be regulatory or advisory.

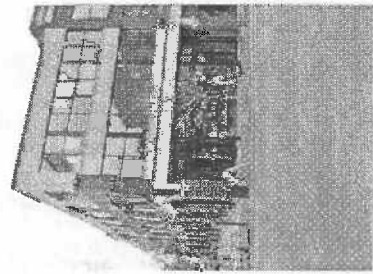




Form Based Codes

- Adopted as part of zoning code, focuses on regulating urban form, less on land use.
- Addresses form, mass and scale of buildings and how they relate to each other.
- Focuses on relationship of building facades and their relationship to adjacencies and street.
- Frequently oriented to "big" picture, not detail oriented.
- Can incorporate other items such as:
 - architectural standards
 - landscaping standards (as impacts public spaces)
 - signage standards
- Standards based on defined character of area, reflecting context of public space.

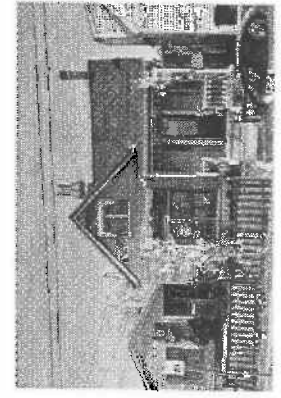
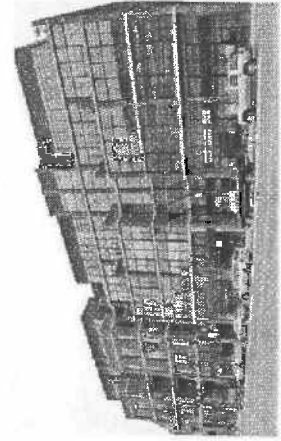
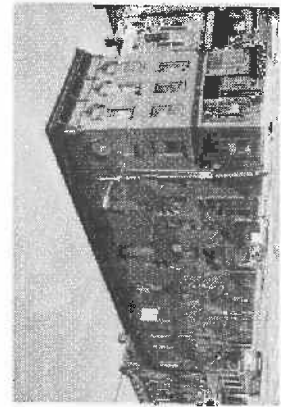
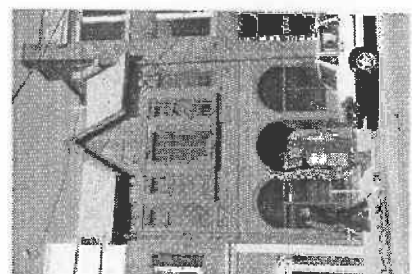
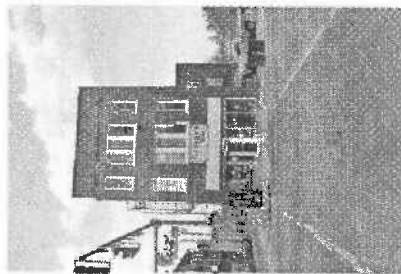




Incentives for revitalizing historic structures or new construction include (but are not limited to):

Federal Rehabilitation Tax Credits

- Structure must be listed on National Register of Historic Places and **be income producing.**
- Rehabilitation must be substantial (as defined) and involve a depreciable building.
- Credit allows owner of a certified historic structure to receive a federal income tax credit of 20% of the amount spent on qualified rehabilitation costs.
- Renovation must be certified by the Department of the Interior based on the Secretary of the Interior's Standards.
- Also available for older, but non-historic buildings, 10% credit available for non-residential buildings built before 1936.



State Rehabilitation Tax Credits

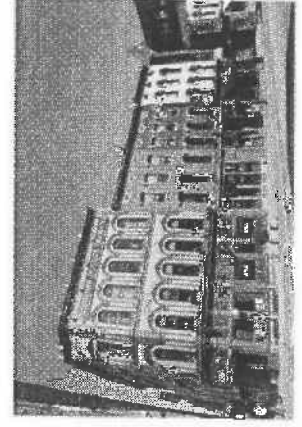
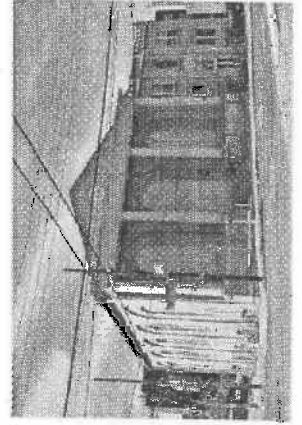
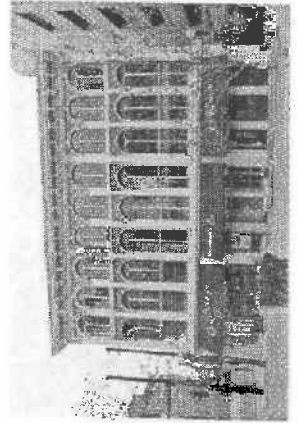
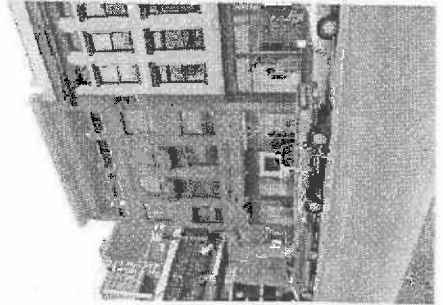
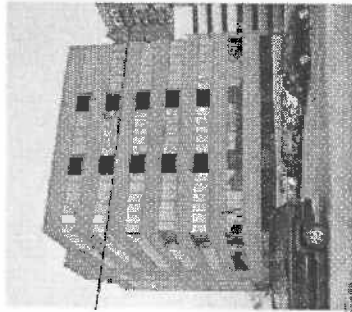
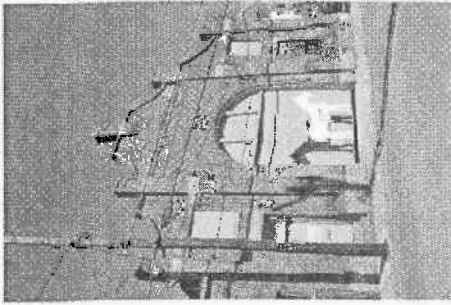
- Credit allows **owner-occupant of residential National Register listed property** to receive a state income tax credit of **30%** of the amount spent on certified rehabilitation costs.

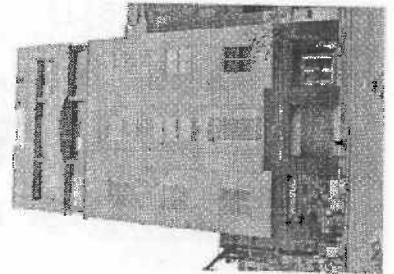
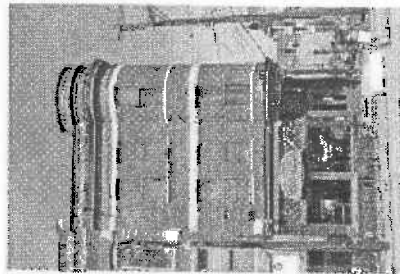
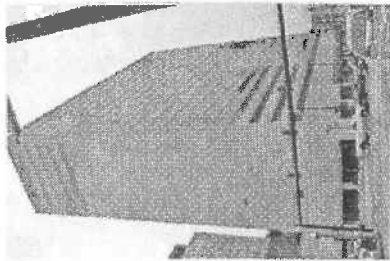
Minimum investment of \$20,000, total credit not to exceed \$60,000.

- Up to **20%** of qualified rehabilitation expenses available for **all other certified (NR listed) historic properties** including commercial, industrial buildings, income producing properties, properties owned by governments and non-profit organizations.

Requires minimum investment of \$20,000 or adjusted basis, whichever greater, total credit may not exceed \$400,000.

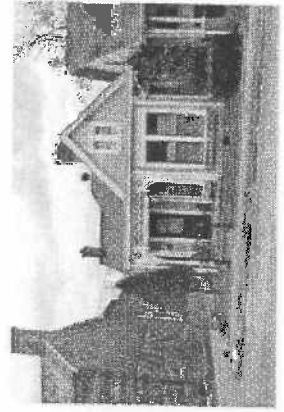
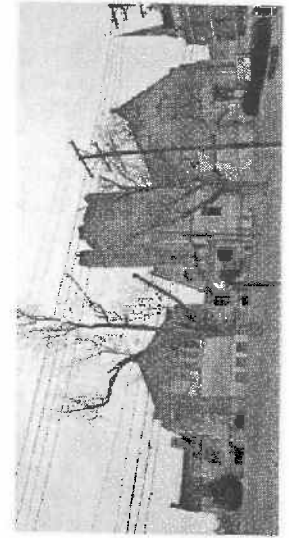
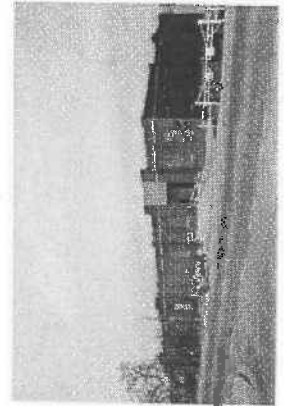
- Must meet same standards as Federal Historic Tax Credit, reviewed and certified by Kentucky Heritage Council.
- Currently \$5million statewide cap for credits each calendar year. If limit exceeded by approved projects, apportionment formula applied to determine amount of credit awarded each project.





New Market Tax Credits (NMTC)

- Credit against Federal Income Taxes for making qualified equity investments in designated Community Development Entities (CDEs).
- Projects have to be located in low to moderate income areas.
- Purchase of NMTCs by investor banks provides equity capital to further commercial economic development activities in underserved areas.
- Community Development Entities (a domestic corporation or partnership) must qualify and application process competitive.



Kentucky Tourism Tax Credit

- Allows developers of approved new or expanded tourism projects ability to recover 25% of cost of project.
- Kentucky Revenue Cabinet, on annual basis, will return to developers of approved project the state sales tax paid by visitors to the attraction on the cost of the following:

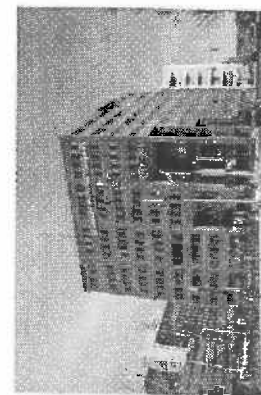
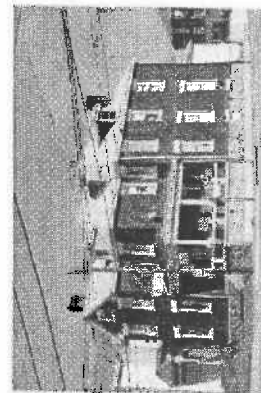
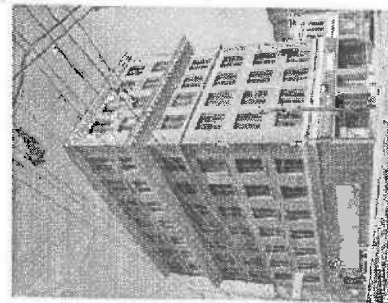
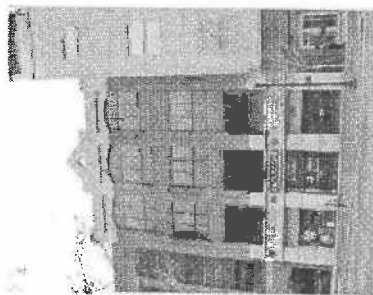
Admission tickets

Food

Gift Sales

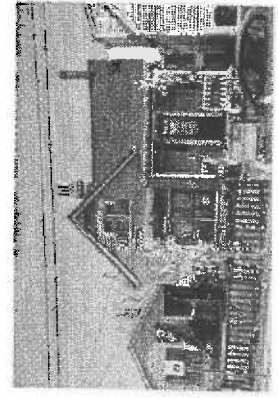
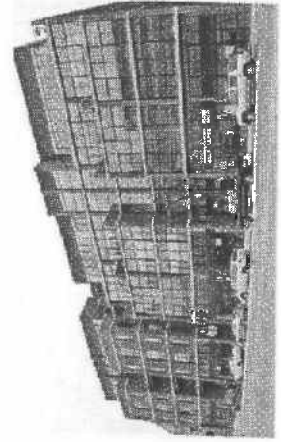
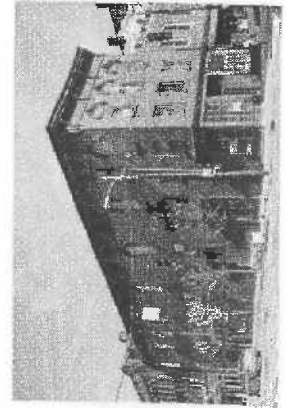
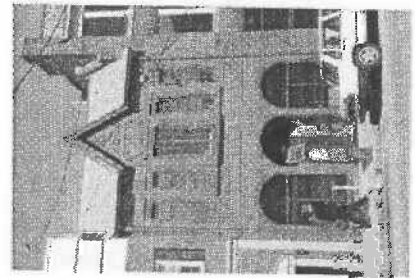
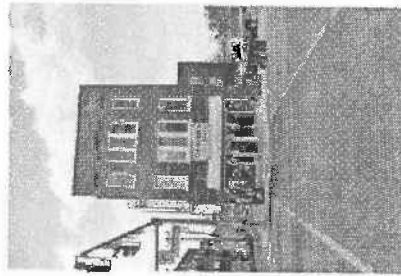
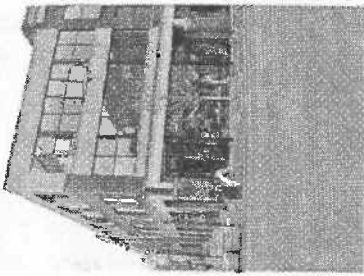
Lodging

- Developer has 10 years to reach the 25% threshold.
- Expanding attraction receives the incentive based on increased sales due to the expansion.



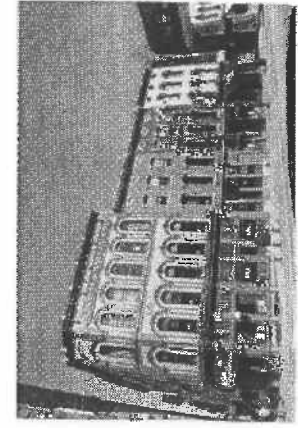
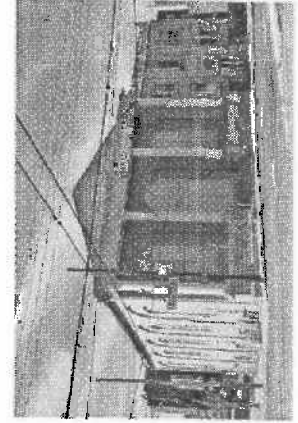
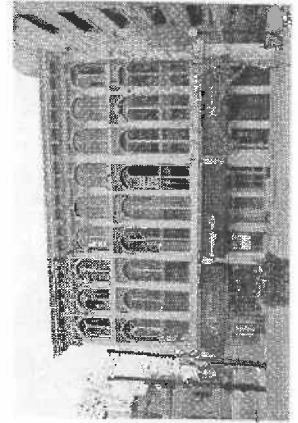
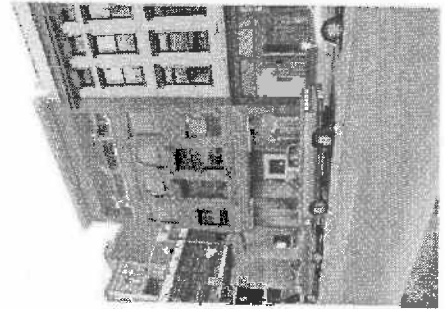
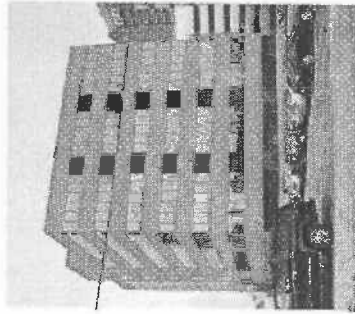
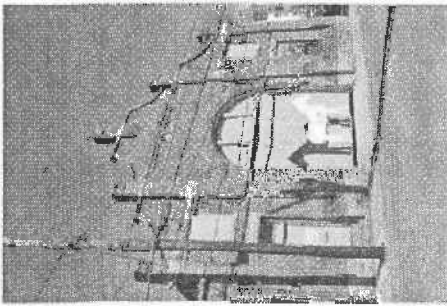
Tax Increment Financing (TIF)

- A tool to use future gains in taxes to finance current improvements that will create those gains.
- When public project carried out, surrounding real estate increases in value and is often followed by new investment, such as renovation of existing buildings or construction of new buildings.
- The increased investment and increased site value results in increased taxable properties and activities, increasing tax revenues.
- Increased tax revenues are the "tax increment".
- TIF dedicates the resulting increased revenue to funding toward public improvements in underdeveloped areas where development might not otherwise occur.
- TIF creates funding for public projects that otherwise may be unaffordable to communities.

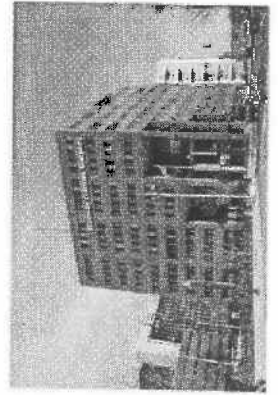
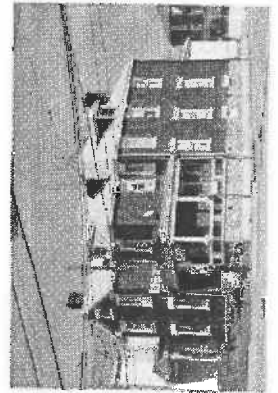
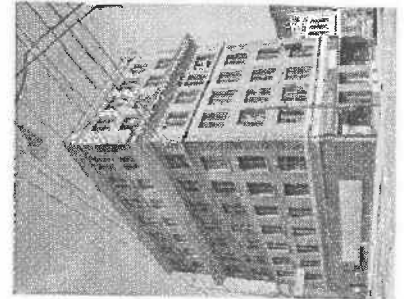
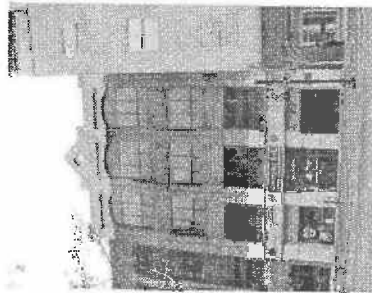
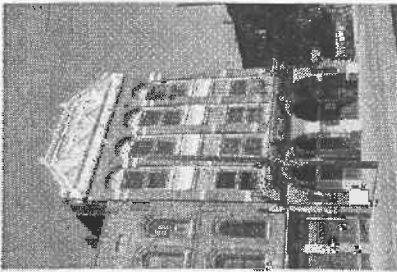


Preservation, Conservation and Façade Easements

- A private legal right given by property owner to a qualified nonprofit or government entity for purpose of protecting a property's preservation values.
- Principal purpose to protect a property with historic, architectural or archaeological significance.
- Considered a "partial interest" in real property, property owner continues to own property but transfers specific set of rights to the easement-holding organization.
- Frequently granted to protect against changes to property that would be inconsistent with protection of property, or would protect against inappropriate alterations to same.
- May be processed as Federal tax deduction, in accordance with IRS requirements.



QUESTIONS???





Lexington-Fayette Urban County Government
TREE BOARD

Jim Newberry
Mayor

Karen Angelucci
Chair

Dear Council Members and Mayor Newberry,

On behalf of the Tree Board, I would like to propose several amendments to various Ordinances to help improve the requirements for trees in our City. As you are well aware, trees are a very important aspect of our city in terms of the environment as well as the quality of life of residents in Fayette County. It is the Tree Boards contention that these proposed changes will provide benefits to the whole community.

Members of the Tree Board have been working collaboratively with staff from the Division of Engineering and the Division of Planning, with assistance from the Department of Law, for more than 12 months to prepare a set of text amendments that will best address several significant issues related to street trees, including street trees not being planted in subdivisions due to developer bankruptcy; and street trees only being planted along new residential streets within the community.

The proposed text amendments are attached for your consideration. By way of this communication, the Tree Board would request that the Urban County Council take action in support of trees in our community by initiating these collective amendments.

Sincerely,

Karen Angelucci
Chair

Members of the Council Planning Committee,

I will not be able to attend the Council Planning Committee meeting. However, I have included with the proposed text amendments a commentary explaining the proposed changes. I hope this will address any questions or concerns you may have.

The Division of Building Inspection agrees with the Tree Board's position that the Urban Forester should have complete control over street trees. Currently street trees do not come under his purview until the one year warranty, which is provided by the developer, has expired. From the start this would include approval of the species of trees placed on the final record plat, the planting of the trees and release of the developer's responsibility at the end of his warranty period. The proposed text amendments would allow for this change to be made but would give the administration flexibility in deciding when the change would occur.

A meeting was held on October 11th between the Tree Board committee that formulated the text amendments and members of the Lexington Home Builders Association. The discussion was useful to clarify several sections of the proposed text. The commentary is a reflection of that discussion. Based upon recommendations made by the LHBA minor changes were made involving the bonding of street trees.

Thank you,

Bob Carpenter
Building Inspector, Senior
Division of Building Inspection
Former Tree Board Treasurer

PROPOSED ORDINANCES CHANGES

August 19, 2010

Zoning Ordinance

1) **Article 18 of the Zoning Ordinance – Landscape and Land Use Buffers**

The proposed amendment to Article 18-4(d) will require compliance with the Planting Manual and national standards for maintenance and installation of landscape materials. The additional text also identifies the existing Ordinances for specific landscape plans that have been adopted by the Urban County Council. The proposed addition of Article 18-8 clearly states that violations of Article 18 are subject to enforcement and civil penalties that are already identified in Article 5 of the Zoning Ordinance.

18-4 (d) MAINTENANCE AND INSTALLATION – ~~All landscaping materials shall be installed in a sound, workmanship like manner, and according to accepted, good construction and planting procedures. (1)All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300), and, as applicable, the requirements specified in (2) Lexington-Fayette Urban County Government Ordinances No. 1-91 and No. 34-92 (Man O War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 286-87 (Richmond Road), No. 42-98 (Downtown Street Tree), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Building Inspection, or any other future amendments to these ordinances.~~ Any landscape material which fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of or in control of the property whether as owner, lessee, tenant, occupant, or otherwise shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Section 18-4(c)(2). Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Building Inspection. When trees are removed other than as permitted above, such trees shall either be replaced with the necessary number of 2½-inch caliper trees to equal the total caliper of trees removed or with trees of the same caliper as those which were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Building Inspection. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

(1)The first portion of change is to provide guidance and a clear standard for any trees installed under Article 18. ANSI A300 covers all facets of tree care.

(2)The second portion lists all landscape ordinances for different corridors that are not currently listed in the Zoning Ordinance. This information is not listed in a central location and

not readily available to the general public. The change would identify each ordinance and where a copy can be obtained.

(3)18-8 ENFORCEMENT – Violations of Article 18 are subject to the penalty provisions in Article 5-8 and may be enforced through the issuance of a civil citation pursuant to Article 5-9.

(3)This section clearly specifies and allows for enforcement of all of Article 18, including the newly added corridor landscape ordinances, some of which only required the original plantings but said nothing about maintaining or removing plantings without the fear of any repercussions. This gives Building Inspection the ability to cite owners who remove or do not maintain the plantings specified by a corridor landscape ordinance.

2) **Article 26 of the Zoning Ordinance – Tree Protection Standards**

The purpose statement of Article 26 should be revised to clarify that the regulations are applicable to property being redeveloped or infilled anywhere in Lexington-Fayette County. The existing text leaves open the possibility that redevelopment sites would not need to adhere to the regulations of Article 26. This amendment will address development plans, while another proposed text change will address redevelopment when a subdivision plat is required, thus addressing the issue as much as possible.

26-1 PURPOSE – The Urban County Government recognizes the importance of trees as a vital component in counterbalancing the effects of an urban setting by providing cooling shade, by reducing noise and glare, by significant contribution to urban aesthetics, by improving air quality through carbon dioxide reduction and replenishing oxygen to the atmosphere, by improving surface drainage and reducing the effects of storm drainage flooding, by filtering non-point source pollution from area streams, by stabilizing soil thereby minimizing erosion, and providing habitat for wildlife. The purpose of this Article is to establish standards and procedures for countywide tree protection and planting in new developments(4) and re-developments subject to review by the Planning Commission.

(4)This allows for tree protection standards to also apply to redevelopments when they are required to go before the Planning Commission.

Land Subdivision Regulations

3) **Article 6 of the Land Subdivision Regulations - Street Tree Planting Locations**

The proposed deletion of the word “new” in Article 6-10(b) of the Subdivision Regulations would clarify that the regulations are applicable to property being subdivided along all existing and new residential collector or local streets anywhere in Lexington-Fayette County. This proposed change is a companion to the change in Article 26 of the Zoning Ordinance above. Currently, a subdivision along an existing residential street does not require street trees. The Tree Board is of the opinion that street trees should be installed for all residential subdivisions, new or old.

6-10(b) STREET TREE PLANTINGS FOR RESIDENTIAL LOCAL AND COLLECTOR /CONNECTOR STREETS - Street plantings shall be required on all (5)~~new~~-collector/connector and local streets in all residential subdivisions in accordance with the following provisions:

(5)In the past when a parcel was redeveloped and required a new plat, the only time street trees were required were when a new street was built. A good example of this is the new development at Bluegrass Aspendale. One newly redeveloped block was encircled with three new streets, Mustang Crossing, Triple Crown and a new extension of Nelson and one existing street, East Sixth Street. As the ordinance is now written only Mustang Crossing, Triple Crown and Nelson are required to have street trees planted. The area of the redeveloped block that faced the existing E Sixth St. was not required to plant street trees. This change would require street trees to be planted on redevelopment of lots that required Planning Commission action regardless of whether the streets in the development were new or existing. This is the only method by which we can further the planting of street trees on streets existing prior to

Article 6-10(b). If a development was such that street trees were not possible due to building placement near on at the front property line, the developer could request a waiver from the Planning Commission.

4) Article 6 of the Land Subdivision Regulations – Responsibility

The proposed amendment to Article 6-10(b)13) would remove the Urban County Government Landscape Examiner, a position in the Division of Building Inspection, as the responsible individual for overseeing the correct type and number of street trees are designated on the face of a final record plat. By removing this phrase, the enforcement of this section of the Subdivision Regulations can be assigned by the administration. The Tree Board and other LFUCG personal believe, ultimately, that the position of Urban Forester would oversee or complete these duties.

6-10(b)(1) TYPE AND NUMBER - Trees to be planted shall be of the deciduous type, and shall be of a type of root growth pattern that minimizes potential damage to street and utility facilities. A listing of approved trees shall be included in the Planting Manual. Trees shall be required at the standard of one (1) tree per 45 feet of street frontage for large trees, 35 feet for medium trees, and 25 feet for small trees(6)as determined by the Urban County Government Landscape Examiner.

(6)This would allow the administration the ability to reassign this duty in the future without having to amend the Land Subdivision Regulations again.

5) Article 6 of the Land Subdivision Regulations – Fee Assessment and Collection

The proposed amendment to Article 6-10(b)(3) would remove the Division of Building Inspection as the designated collector of the street tree fee. The Tree Board feels that fees paid at the time of recordation of a final subdivision plan by the applicant should be handled by one government entity/division, thus simplifying the process for the applicant. The Division of Planning currently collects recording fees payable to the Fayette County Clerk for all residential subdivisions and may be the logical entity to collect such a fee from the standpoint of convenience and consistency..

6-10(b)(3) PLATTING REQUIREMENT - The cross-section to be utilized shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. The final subdivision plan shall contain a note stating that the maximum number of any one species of trees to be used is 25 or 25 percent of the total number of trees, whichever is greater. At least four (4) and no more than six (6) alternative species shall be listed on the final plat. The final plan will also indicate (by symbol) the number of trees required on each lot, based on Section 6-10(b)(1) above, and their general location. The final subdivision plan shall also contain a note stating that the street trees required herein, either within the right-of-way or designated easement, shall be maintained by the property owner in accordance with Section 6-10(b)(5) herein below. A note stating that no tree may be removed without the approval of the Urban Forester shall also appear on the final plan. A fee in the amount of ten dollars (\$10.00) per tree shown on the plat, payable to the Lexington-Fayette Urban County Government, shall be paid by the

developer and collected (7) ~~by the Division of Building Inspection~~ at the time of the recording of the final record plan.

(7) This would simplify the fee paying process and further the goal of streamlining the development process.

6) Article 6 of the Land Subdivision Regulations – Timing of Tree Planting

The proposed amendment to Article 6-10(b)(4) of the Subdivision Regulations would remove the timing requirement for planting of street trees within one year of the recordation of a final record plat. Currently, there is little oversight of planting and no consequences have been identified for developers who do not install street trees within the one-year time frame. No street trees can be seen as a detriment to the neighborhood and the LFUCG has little recourse once the residences are occupied. The Tree Board has worked with the Division of Engineering and the Department of Law to draft revised timing requirements for such planting. This requirement will be stated in Appendix E of the Engineering Procedures Manual as part of the surety release provisions. More specifically, the developer would be able to bond the street trees much like other public improvements and release a portion of the surety amount as trees are planted. The Division of Engineering should work with the Urban Forester to determine a suitable average cost for small, medium and large trees.

6-10(b)(4) PLANTING - It shall be the responsibility of the developer to plant the required street trees(8) ~~in accordance with the Engineering Manuals within one year from the date of the recording of the final record plan.~~

(8) In the past it has been the practice to allow the developer to wait until a subdivision is 80% to 90% completed before planting street trees. This allows for the bulk of the construction to be completed thereby limiting the chances of damage to new street trees. Over the last few years some developers have gone out of business leaving the government with subdivisions without street trees and no solvent party to be held responsible to plant them. Because of this Article 6-10(b)(4) is now enforced as written where it requires the developer to plant all the street trees within one year from the date the plat is recorded, whether any houses have been built or not. This revision would allow the developer to include the street trees as a bonded punch list item. This will give the developer the flexibility they need while at the same time protecting the government's ability to ensure that street trees get planted.

Code of Ordinances

7) Chapter 5, Article 3 of the Code of Ordinances

The Tree Board identified an inconsistency in the LFUCG Ordinances that should be rectified. Section 5-31 should be deleted once Appendix E of the Engineering Procedures Manual is updated to include street trees as an item on the "punch list" of public improvements that should be installed and verified. The proposed amendment would eliminate a section of the Code which has not been enforced (i.e. the fee designated has not been collected) because developers are now responsible for planting the trees. Section 5-31 was adopted to provide adequate funds for the LFUCG to plant

street trees. Since the local government is no longer responsible for this task, the text should be deleted.

(9)

~~Sec. 5-31. Fee for installation of required street trees.~~

~~Where an application is made for a building permit pursuant to a subdivision plan for which planting of street trees is required, an additional fee of one hundred dollars (\$100.00) shall be paid per required tree.~~

~~(Ord. No. 49-84, § 1, 4-19-84)~~

(9) This is a remnant requirement that had its enabling ordinance amended 20 years ago. It was a fee to be paid by the developers or builders to fund the government's installation of street trees. The planting of street trees was moved from the government back to the developer when Article 6 was written as it is today. This should have been removed when the \$100 fee was changed to \$10.

8) Chapter 17-B-8 of the Code of Ordinances

The proposed amendment would clarify that invasive plants or vines that mask potential defects to the street trees should be removed as part of regular maintenance.

Sec. 17B-8. Tree maintenance, public rights-of-way or designated tree planting easement.

Owners of street trees shall provide reasonable care and maintenance to trees within the urban county government right-of-way or tree planting easement, including as appropriate, watering, pruning, insect control and removal of dead or diseased limbs, and removal of any vine or other invasive plant or growth that masks potential defects of the tree.

It shall be unlawful for the owner or occupant of any building or lot to permit any tree, including street trees, to grow in a manner which interferes with a normal sidewalk located on such lot or within an urban county government right-of-way adjoining such lot, or street traffic, or to grow so as to pose a threat to safety or public rights-of-way due to obstruction of view, obstruction of passage, or in any other manner.

The minimum clearance of any overhanging portion thereof shall be seven (7) feet over sidewalks and twelve (12) feet over all streets except truck routes which shall have a clearance of fourteen (14) feet.

(Ord. No. 70-94, § 1, 5-5-94; Ord. No. 30-2005, § 1, 2-10-05)

LFUCG Engineering Manuals

9) Division of Engineering – Procedures Manual, Appendix E

The Division of Engineering's Procedures Manual is also proposed for amendment in order to address the timing of street tree plantings within residential subdivisions and to formalize the bonding/warranty of street trees by developers. These changes can be adopted by the Division of Engineering as a required administrative change.

**APPENDIX E – PROCEDURES FOR COMPUTING PERFORMANCE/WARRANTY
SURETY**

PROCEDURES FOR COMPUTING PERFORMANCE/WARRANTY SURETY

The Performance/Warranty Surety shall be sufficient to complete all construction items identified by the Engineer on the punch list submitted with the certificate of substantial completion, and to repair infrastructure due to improper workmanship or defective materials during the warranty periods.

Warranty Period

The warranty period is the time period during which the Developer guarantees the work to be free from defective materials or improper workmanship.

The warranty periods for roads dedicated to the LFUCG shall be as follows:

- a. For the base courses, the warranty period shall begin at the time of substantial completion and extend until the application of the final course of asphalt, but in no case shall the warranty period be less than one year.
- b. For the final course of asphalt, the warranty period shall be 1 year from when the final surface course is applied.

The warranty period for street trees shall be one year from the date of installation.

For development projects that involve recording a plat, the warranty period for sanitary sewer facilities shall be 3 years from the date of plat recording, and the warranty period for stormwater facilities shall be 1 year from the date of plat recording.

For development projects that do not involve a plat, the warranty period for sanitary sewer facilities shall be 3 years from the date of substantial completion, and the warranty period for stormwater facilities shall be 1 year from the date of substantial completion.

Surety Amount

The surety shall be computed as follows:

100% of the punch list items, plus

10% of the cost estimate of the completed project infrastructure, including roads, sanitary sewer facilities, and stormwater facilities, plus

- 20% of the sum of the above items to cover contingencies

The Engineer shall compute the surety based on the quantities of materials and the unit costs determined **through a cooperative process involving the Division of Engineering and representatives of the development community at the Partnering Workshop.**

Punch List Items

The following items include, but are not limited to, the items that shall appear on the punch list if they are not constructed before substantial completion:

- Constructing the final surface course of pavement
- Seeding and mulching areas of disturbed land
- Conducting maintenance on ponds, channels, and streams
- Constructing sidewalks
- Constructing handicap ramps

- Mortaring pipes in headwalls
- Adjusting manholes
- Cleaning the storm sewer system
- Adding steps, mortaring steps, and grouting lift lugs in manholes
- Repairing or replacing curbs that are damaged by the infrastructure construction.

This does not include damage caused by Builders after the date of substantial completion. The builders shall be responsible for repairing curbs that they damage.

- Removing erosion and sediment controls or converting them to permanent best management practices
- Constructing trash racks
- Constructing fences between agricultural land and the project site
- **Street trees**

The items above shall be completed in accordance with the schedule submitted along with the certificate of substantial completion. All items shall be completed within 1 year except the final surface course of pavement, sidewalks, and removal/conversion of sediment ponds, **and street trees. Street trees shall be installed for every occupied lot in the development not later than five (5) years after the plat is recorded. Not later than two (2) years after construction has been completed on ninety percent (90%) of the lots in the development all street trees shall be installed.**

Total Project Cost Estimate

The cost estimate of the total project infrastructure shall show the unit cost items and the actual quantities of construction for roads, sanitary sewer facilities, and storm water facilities. For the purpose of establishing the amount of the surety, the total project cost shall not include such items as site excavation, rock removal, trench rock for the sanitary sewer, testing of the sanitary sewers, turn lanes constructed on state right-of-way or other similar items.

Reduction in Surety for Projects That Require Plat Recording

The surety may be reduced as follows:

First Reduction – The Division of Engineering will conduct an inspection 30 days after the plat is recorded. At this time, the surety may be reduced by an amount equal to the punch list items that have been completed.

Second Reduction – One year after the plat is recorded, the surety may be reduced by an amount equal to the punch list items that have been completed, and reduced by 10% of the total cost of the stormwater facilities.

Third Reduction – Two years after the plat is recorded, the surety may be reduced by an amount equal to the punch list items that have been completed. If the final surface course has been applied for at least one year, then the surety may also be reduced by an amount equal to 10% of the total cost of the final course of asphalt.

Fourth Reduction – Three years after the plat is recorded, the surety may be reduced by an amount equal to the punch list items that have been completed, and reduced by 10% of the total cost of the sanitary sewer facilities. If the final surface course has been applied

for at least one year, then the surety may also be reduced by an amount equal to 10% of the total cost of the final course of asphalt (if it has not been previously reduced).

As required street trees are installed the surety may be reduced by 75% of the total cost of the installed street trees. Upon expiration of the warranty period for installed trees, the remainder of the surety for installed street trees will be released.

Reduction in Surety for Projects That Do Not Involve Plat Recording

The surety may be reduced as follows:

First Reduction – The Division of Engineering will conduct an inspection 30 days after the date of substantial completion. At this time, the surety may be reduced by an amount equal to the punch list items that have been completed.

Second Reduction – One year after the date of substantial completion, the surety may be reduced by an amount equal to the punch list items that have been completed, and reduced by 10% of the total cost of the stormwater facilities.

Third Reduction – Two years after the date of substantial completion, the surety may be reduced by an amount equal to the punch list items that have been completed. If the final surface course has been applied for at least one year, then the surety may also be reduced by an amount equal to 10% of the total cost of the final course of asphalt.

Fourth Reduction – Three years after the date of substantial completion, the surety may be reduced by an amount equal to the punch list items that have been completed, and reduced by 10% of the total cost of the sanitary sewer facilities. If the final surface course has been applied for at least one year, then the surety may also be reduced by an amount

equal to 10% of the total cost of the final course of asphalt (if it has not been previously reduced).

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DRAFT

PLANNING COMMITTEE SUMMARY
SEPTEMBER 21, 2010

Chair Gorton called meeting to order at 1:03 pm, all committee members present except Jay McChord.

4. Tree Related Regulations

James said today's information is in the packet and is also being passed around. She introduced members of the audience who have helped with the proposed ordinance changes. She explained the advisory role of the Tree Board, such as handling complaints and introduced, Karen Angelucci, President of Tree Board. Ms Angelucci explained changes to the ordinance involving corridors. This change will help with enforcement and maintaining landscape, etc in a corridor situation.

James explained the addition of more specific language, since some of it was vague.

Ed Garner, Law Dept. pointed out changes from what is in today's packet. James asked Garner how procedure should work from this point. There were no questions from committee members. A representative from the Home Builders Association said his organization still had some questions.

Gorton suggested it might be a good idea to keep this in committee.

Beard asked how the size and growth of trees years from now for example: "at maturity" is handled.

Chris King explained location of plantings and size is determined by species.

James asked about reaching out to home builders, adding the Tree Board is made up of wide variety of members who should all be encouraged to attend the meetings. Angelucci said they were aware tree related regulations would have some opposition. James asked about offering these amendments up to move forward. Feigel said she feels we need to keep it in committee.

Motion by Feigel, to keep tree related regulations in committee, seconded by Beard passed without dissent.

Gorton said the Planning Committee meets again on 10-19-2010 and the Tree Board meets on 10-13, 2010 she invited members from the Home Builders Association to attend.

Planning Committee- Issues Outstanding

09.29.2010

Issue	Member Referred	Date Referred	Status
• Liberty Road Project Status	Sinnott	Jan 06	Bi Monthly Report
• Newtown Pike Status	Blues	Feb 06	Bi Monthly Report
• Mobile Home Trailer Park Quality of Life	James	Dec 07	June 2010/ Nov 2010
• Infill Redevelopment Committee Recommendations	Gray	Feb 08	
• Management Audit Recommendations	Crosbie	May 08	Fall 2010
• Art 16 Zoning Ordinance re Rear Yard Parking in Residential Areas	Henson	Apr 09	Related to Moratorium Issue
• Downtown Lexington Building Inventory	Feigel	June 09	Oct 2010
• Encroachment Issue	Sinnott	Jan 10	Nov 2010
• Parks Master Plan Funding	Feigel	Jan 10	Sub Committee
• Secure by Design	James	Jul 10	Sept 2010
• Circus Definition in Zoning Text	Henson	Sept 10	