

ORDINANCE NO. 85-2008

AN ORDINANCE REQUIRING THAT NO BUILDING PERMIT FOR A NEW STRUCTURE OR EXPANSION OF ANY EXISTING STRUCTURE BY MORE THAN TWENTY-FIVE PERCENT IN FLOOR AREA SHALL BE ISSUED FOR ANY STRUCTURE ON PROPERTY ABUTTING NEWTOWN PIKE, BETWEEN WEST MAIN STREET AND THE URBAN SERVICE AREA BOUNDARY ("USAB"), UNLESS THE PLANS SUBMITTED IN CONJUNCTION THEREWITH ARE IN ACCORDANCE WITH A PARTICULAR LANDSCAPE PROFILE; REQUIRING THAT EACH PROPERTY OWNER BE RESPONSIBLE FOR ANY AND ALL LANDSCAPING AND FENCING REQUIRED TO BE INSTALLED UPON HIS PROPERTY UNDER THE TERMS OF THIS ORDINANCE; REQUIRING THAT WHENEVER ISSUANCE OF A BUILDING PERMIT REQUIRES PRIOR APPROVAL OF A DEVELOPMENT PLAN OR SUBDIVISION PLAT, THAT THE REQUIREMENTS OF THIS ORDINANCE BE INCLUDED ON SUCH DEVELOPMENT PLAN OR SUBDIVISION PLAT; AND AUTHORIZING THE CORRIDORS COMMITTEE, ON RECOMMENDATION FROM THE DIVISION OF BUILDING INSPECTION, TO APPROVE AN ALTERNATIVE LANDSCAPE PLAN IF THE TOPOGRAPHY OF THE LAND, EXISTING UTILITY EASEMENTS, AND/OR OTHER UNIQUE FACTORS WOULD NOT PERMIT THE PROPERTY OWNER TO COMPLY WITH THE REQUIREMENTS OF THIS ORDINANCE.

WHEREAS, the segment of Newtown Pike between West Main Street and the Urban Service Area boundary ("USAB") represents a major entryway into Fayette County; and

WHEREAS, the variety of land uses which may develop along Newtown Pike will impact the visual character of that corridor; and

WHEREAS, it is the desire and intent of this Council to implement a significant landscape theme for that corridor that will identify Newtown Pike as a major entryway to the City; that will enhance and beautify that corridor; and that will provide screening from and for abutting properties; and

WHEREAS, it is the intent of this Council to provide a unified and comprehensive list of acceptable landscape materials and a system by which the significant landscape theme described above shall be implemented and maintained;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – The preamble to this Ordinance shall be and hereby is incorporated herein by reference.

Section 2 – In order to landscape and beautify Newtown Pike between West Main Street and the USAB in accordance with the intent of this Ordinance, no building permit for a new structure or expansion of any existing structure by more than 25% in floor area shall be issued for any structure on property abutting Newtown Pike, between

West Main Street and the USAB, unless the plans submitted to the Division of Building Inspection with the application for such permit include landscaping in accordance with the following requirements:

- (a) Large canopy shade trees shall be planted 50 feet on center in a continuous line parallel to the right-of-way line between 5 and 15 feet of the right-of-way line. Where overhead utilities lie above the tree planting area, medium trees planted 40 feet on center may be substituted.
- (b) For those properties lying between New Circle Road and the USAB, there shall be a 20-foot wide landscape buffer immediately adjacent to and parallel with the Newtown Pike right-of-way line. The 20-foot landscape buffer shall contain the following:
 - (i) Plantings of ornamental trees or shrubs from list b and/or c of the planting manual and totaling no fewer than 5 plants per 100' of right-of-way frontage.
 - (ii) A horse farm fence to be erected on the boundary of the 20-foot buffer area. As used herein, the term "horse farm fence" shall mean a four-plank fence with either a white or a black finish. In those areas where a horse farm fence is inappropriate or unfeasible, a wire fence within a hedge may be substituted. No additional fence shall be required where there is an existing stone fence.
 - (iii) Any conditional zoning requirements for landscaping approved prior to the passage of this ordinance can be used to satisfy the requirements of this ordinance.
- (c) All plant materials shall be of the size and species as set forth in a landscape profile and planting manual on file in the Divisions of Planning and Building Inspection.

- (d) The requirements of this Section 2 are in addition to all other applicable requirements of Article 18 of the Zoning Ordinance of the Lexington-Fayette Urban County Government, with the exception that the trees required in subsection (a) above can be used to satisfy the tree requirements of Article 18 to the extent that trees would be required as screening between a parking area and Newtown Pike.

Section 3 – Each property owner shall be responsible and liable for the maintenance of the landscaping and fencing required herein, including mowing, fertilizing, pruning, mulching and all costs of maintenance of the fencing within the 20-foot buffer area upon his property.

Section 4 – A landscape plan illustrating fulfillment of these requirements shall be submitted and approved by the Divisions of Building Inspection and Traffic Engineering prior to the issuance of any building permit. The Corridors Committee, on recommendation from the Division of Building Inspection, may approve an alternative landscaping plan which does not illustrate fulfillment with all of these requirements if the topography of the land, existing utility easements, and/or other unique factors would not permit the property owner to comply with all of these requirements. Whenever issuance of a building permit requires prior approval of a development plan or subdivision plat by the Lexington-Fayette Urban County Planning Commission, the requirements of this Ordinance shall be included on such development plan or subdivision plat.

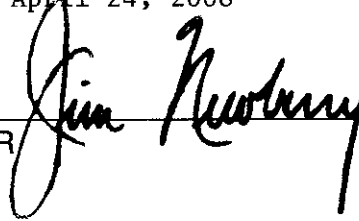
Section 5 – Whenever this Ordinance is in conflict with other local ordinances, regulations or law, the more restrictive ordinance, regulation or law shall govern and shall be enforced by appropriate officers and employees of this Government.

Section 6 – The sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable, and if any phrase, clause, sentence, paragraph or section of this Ordinance shall be declared invalid by judgment or decree of a court of competent jurisdiction, said invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

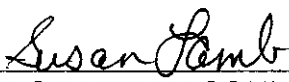
Section 7 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: April 24, 2008

MAYOR

A handwritten signature in black ink, appearing to read "Jim Neuberg", written over a horizontal line.

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: April 30, 2008-1t

REB/CO/06-CC1473/00106826