

**REVISED STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT**

**ZOTA 2012-6: ALTER THE MEMBERSHIP OF THE HISTORIC PRESERVATION COMMISSION**

INITIATED BY: Urban County Council

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

**ARTICLE 13: HISTORIC PRESERVATION**

**13-4(b) MEMBERSHIP** - The Historic Preservation Commission shall consist of fifteen (15) voting members, including the chairman. All members must be residents of Fayette County and have demonstrated an interest in historic preservation prior to his/her serving, be willing to accept the chairmanship of a sub-committee if such duty is deemed necessary by the chairman, and attend at least one informational/educational meeting per year, approved by the State Historic Preservation Office. At least two (2) of the fifteen (15) members shall be preservation-related professionals. These include the professions of architecture, history, archaeology, architectural history, historic preservation, planning, or related disciplines, such as urban planning; American Studies; American Civilization; or Cultural Anthropology. When the Historic Preservation Commission reviews an issue, and that field is not represented on the Historic Preservation Commission, the Historic Preservation Commission shall seek expert advice before rendering its decision.

Twelve (12) of the fifteen (15) members shall be nominated by organizations as follows:

- (1) A licensed architect nominated by the membership of the local chapter of the American Institute of Architects;
- (2) A licensed real estate person nominated by the membership of the Lexington Board of Realtors;
- (3) A person nominated by the Lexington-Fayette Urban County Tourist and Convention Commission;
- (4) A person nominated by the ~~Board of the Land and Nature Trust of the Bluegrass Conservancy~~;
- (5) A person nominated by the Board of the Blue Grass Trust for Historic Preservation;
- (6) One person nominated by the staff of the Division of Planning of the Lexington-Fayette Urban County Government; and
- (7) Six (6) persons nominated at the annual meeting of the general memberships of Neighborhood Associations containing a designated historic district. Each organization shall nominate three (3) candidates for each vacancy for which they are eligible to make nominations; provided, however, that not more than six (6) members shall be appointed to represent all the locally designated historic districts and that not more than one (1) of these six (6) members shall be from the same locally designated historic district. From the respective nominees, the Mayor shall appoint the members subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council. If any organization fails to make candidate and/or membership nominations within thirty (30) days after written request from the Mayor, the Mayor shall, with approval of a majority of the members of the Urban County Council, appoint any otherwise qualified person to represent such organization, and the person selected shall be appointed for the unexpired portion of the term.

Two (2) of the fifteen (15) members shall be selected as follows: one (1) member shall be appointed from persons in the banking profession and one (1) member shall be appointed from persons in the builder/developer field. The Mayor shall appoint these members subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council.

One (1) of the fifteen (15) members shall be the Chairman of the Board of Architectural Review who shall serve as an ex-officio, voting member of the Historic Preservation Commission.

Notwithstanding the provisions of Section (2)(A)(1)(b), all of the initial appointments to the twelve (12) memberships which represent organizations shall be by Mayoral appointment of any otherwise qualified member of such organization, subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council.

All members must meet the requirements for Certified Local Governments in Kentucky; and the Historic Preservation Commission shall prepare and keep on file, available for public inspection, the members' qualifications. Article 16, the Code of Ethics of the Lexington-Fayette Urban County Government Charter, shall apply to members of the Historic Preservation Commission.

## **STAFF REVIEW:**

The Urban County Council, at the request of the Historic Preservation Commission, has initiated a text amendment to modify one of the nominating entities to the Commission, thereby altering the ultimate membership of the Historic Preservation Commission. This amendment would delete a reference to the "Board of the Land and Nature Trust of the Bluegrass" in Article 13-4(b)(4) of the Zoning Ordinance and replace it with the "Bluegrass Conservancy."

The Division of Historic Preservation discovered that one of the seven nominating entities is no longer an operating organization since 2000. Therefore, the staff made a replacement recommendation to the Historic Preservation Commission, which unanimously agreed and requested the change to the Zoning Ordinance language earlier this year. The Division of Planning staff is supportive of the requested amendment because the Bluegrass Conservancy is a natural replacement since the organization has a similar mission as the Board of the Land and Nature Trust of the Bluegrass.

Although not requested by the Historic Preservation Commission or initiated by the Urban County Council, the staff recommends two clean-up changes to Article 13 of the Zoning Ordinance. First, a reference in 13-4(b) to another regulation, specifically, "Section (2)(A)(1)(b)" does not appear to be accurate. The staff would suggest referencing Articles 5 and 7 of the Lexington-Fayette Urban County Government Charter which provide direction of how the Mayor and Urban County Council appoint members and stagger membership. These two regulations are titled "Article 5. – MAYOR" and "Article 7. – BOARDS, COMMISSIONS, AND AUTHORITIES."

Secondly, the staff recommends a change to Article 13-9 of the Zoning Ordinance. This section makes references to the *BOCA Property Maintenance Code* and the Division of Housing Maintenance. The *BOCA Property Maintenance Code* is no longer being used by the government and has been replaced with the *International Maintenance Code, 1998 Edition*. Although more recent editions of this particular code do exist, Code Enforcement continues to use the 1998 Edition because it addresses nuisance issues and dwelling unit occupancy, which are concerns within our community. The 1998 edition provides minimum occupancy requirements based upon habitable building square footage, while the newer code does not. This recommended change is similar to two others for the Courthouse Area Design Overlay Zone (Article 27), and the Neighborhood Design Character Overlay (ND-1) Zone. Both have been supported by the Division of Code Enforcement and by the Planning Commission as timely and appropriate changes to the Zoning Ordinance. This is the last reference to the *BOCA Code* in the Ordinance. Lastly, the Division of Housing Maintenance was re-named to the Division of Code Enforcement, and the Ordinance should be updated to reflect this change as well.

## **Staff Alternative Text**

### **13-4(b) MEMBERSHIP**

Notwithstanding the provisions of Articles 5 and 7 of the Lexington-Fayette Urban County Government Charter ~~Section (2)(A)(1)(b)~~, all of the initial appointments to the twelve (12) memberships which represent organizations shall be by Mayoral appointment of any otherwise

qualified member of such organization, subject to confirmation by a majority of the members of the Lexington-Fayette Urban County Council.

**13-9 COMPLIANCE WITH OTHER CODES, STATUTES AND REGULATIONS** - In order to prevent purposeful neglect of structures within zones protected by H-1 overlays, all properties shall comply with the ~~BOCA, adopted Basic~~ Property Maintenance Code, as well as all other applicable codes, statutes, and regulations. To accomplish this, the Division of ~~Housing Maintenance Code Enforcement~~ shall quarterly compile and forward to the Board of Architectural Review and the Historic Preservation Commission a list of those properties in zones with H-1 overlays which have been found to be in violation of the ~~BOCA Basic~~ International Property Maintenance Code, 1998 Edition.

The Staff Recommends: **Approval, including addition of the Staff Alternative**, for the following reasons:

1. The text amendment to Article 13-4(b)(4) to modify the membership of the Historic Preservation Commission is appropriate because the Board of the Land and Nature Trust of the Bluegrass no longer exists, and a natural replacement is the Bluegrass Conservancy--an organization with a similar mission.
2. Including the staff alternative would be a timely and appropriate amendment to Article 13-4(b) and Article 13-9 of the Zoning Ordinance in order to update incorrect references related to the appointment of members to the Historic Preservation Commission, property maintenance code, and the division that enforces the code.

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