

ORDINANCE NO. _____ - 2016

AN ORDINANCE AMENDING ARTICLES 7, 23 AND 26 OF THE ZONING ORDINANCE TO STRENGTHEN OVERSIGHT BY THE URBAN COUNTY BOARD OF ADJUSTMENT FOR THE PROTECTION OF ENVIRONMENTALLY SENSITIVE AREAS (ESAs) WITHIN THE COMMUNITY. (PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Articles 7, 23 and 26 of the Zoning Ordinance to strengthen oversight by the Urban County Board of Adjustment for the protection of environmentally sensitive areas (ESAs) within the community. Planning Commission did recommend APPROVAL of the text by a vote of 8-3; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated by reference herein.

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

Section 1 – That Article 7-6(a)(4) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

- (4) When reviewing a conditional use application, the Board shall thoroughly address potential impacts to any identified environmentally sensitive area (ESA), geologic hazard area (GHA), as further regulated under the Subdivision Regulations, and/or Rural Service Area (RSA) prime soils as well as any other resources of special concern located on the property. The Board may require a more detailed site plan and more comprehensive associated information in order to assess and consider the future protection of such areas and resources. Such a site plan shall be prepared by a qualified professional well-suited to addressing a particular issue or concern of interest, including landscape architects, hydrologists, geologists, environmental engineers, naturalists, arborists, etc. The site plan shall show or describe protection measures, mitigation and enhancement of the ESA(s) and/or GHA(s) and their associated buffer areas, when they are, or could be, impacted by any alteration, use or activity within the ESA(s) and/or GHA(s) and their buffer areas pre-construction, during construction and post-construction. For any conditional use permit granted for a site containing any ESA(s) and/or GHA(s), the Board may impose intermediate certification and verification reviews during the pre-construction, active construction and/or post-construction phases of development in order to ensure protection of environmentally sensitive areas and environmental hazard areas during all phases of a project. Such certification or verification reviews may be conducted by either a public enforcement agency or a qualified private contractor, as deemed appropriate by the Board. In addition, when the proposed conditional use is located within the Rural Service Area (RSA), the Board may consider a requirement that alterations to the ESA(s) and/or GHA(s), such as non-habitable structures, non-habitable facilities, natural feature modification and paving installation associated with the conditional use permit be removed, and/or restored if the conditional use were to cease operation.

Section 2 – That Article 23A-2(c) and (d) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

23A-2(c) ENVIRONMENTALLY SENSITIVE LAND - Except as provided under 23A-2(d), 23A-2(g), and 23A-2(u) below, any environmentally sensitive areas or geologic hazard areas shall be regulated in accordance with the provisions of Article 6-11 of the Subdivision Regulations, as applicable.

23A-2(d) STEEP SLOPE AREAS - No building or structure shall be located on any land with a slope which is greater than 30%. For areas with slopes between 15% and 30%, the provisions of Article 6-11 of the Land Subdivision Regulations shall be applicable.

Section 3 – That Article 26-2 and 26-3 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

TREE PRESERVATION PLAN (TPP) - A plan, which may be in either written and/or graphic format, describing and identifying existing trees, tree stands, and TPAs. The TPP will outline, with description and/or maps, the natural condition of the proposed development, proposed alteration of the wooded area with justification for said removal, protection measures for remaining trees, environmentally sensitive areas, geologic hazard areas and any riparian areas, before, during, and after construction. The TPP will also contain replanting plans with locations.

26-3APPLICABILITY OF STANDARDS - The standards in this Article shall be applied to all major subdivision and development plans. All developments shall be required to demonstrate compliance with these standards through either preservation of healthy trees present on the site or, if sufficient existing trees to be preserved do not meet these standards, through planting of new trees in accordance with this Article. No development plan or subdivision plan shall be approved unless it is in compliance with the standards herein (see **Article 26-5[c], Agricultural Standard Exemptions**). Any areas that qualify as Environmentally Sensitive Areas and/or Geologic Hazard Areas herein (and under Article 6-11 of the Subdivision Regulations) will be subject to the more restrictive regulations under the Subdivision Regulations.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

MAYOR

ATTEST:

Clerk of Urban County Council

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