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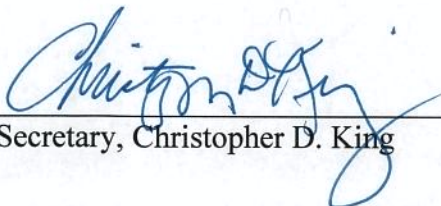
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON-FAYETTE COUNTY, KENTUCKY

IN RE: ZOTA 2011-10: AMENDMENT TO ARTICLE 8-1(d) TO ALLOW AN HISTORIC HOUSE MUSEUM AS A CONDITIONAL USE IN THE A-R ZONE – a Zoning Ordinance text amendment to allow an “Historic House Museum” as a conditional use in the Agricultural Rural (A-R) zone.

Having considered the above matter on **October 13, 2011**, at a Public Hearing and having voted **11-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL of the Alternative Text**, for the following reasons:

1. Historic house museums are a suitable land use for a small number of locations in the Agricultural Rural (A-R) zone in order to preserve rural “historical treasures” for the benefit of the community. Significant historical and cultural resources may be protected and shared with the general public if such a use is added to Article 8-1(d) of the Zoning Ordinance.
2. The addition of this conditional use will be limited to 10,000 square feet in size, which is similar to how other non-agricultural conditional uses are regulated in our agricultural zones.
3. The Board of Adjustment will be able to evaluate each historic house museum on a case-by-case basis to determine its appropriateness based upon the provision of adequate public facilities, and potential impact(s) to the subject property or neighboring properties.

ATTEST: This 16th day of November, 2011.



Secretary, Christopher D. King

MIKE CRAVENS
CHAIR

At the Public Hearing before the Urban County Planning Commission, this text amendment was presented by **Dick Murphy**, attorney.

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (11) Beatty, Berkley, Blanton, Brewer, Copeland, Cravens, Owens, Paulsen,
Penn, Roche-Phillips, Wilson

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **Approval of the alternative text** for **ZOTA 2011-10** carried.

Enclosures: Application
Text recommended by the Planning Commission
Staff Report
Applicable excerpts of minutes of above public hearing

tw/wls

RICHARD V. MURPHY, P.C.

ATTORNEY AT LAW

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RICHARD V. MURPHY

August 1, 2011

Members of the Lexington-Fayette Urban
County Planning Commission
200 East Main Street
Lexington, KY 40507

Re: Application for Text Amendment

Dear Members of the Planning Commission:

I represent the Kentucky Mansions Preservation Foundation, Inc. which is requesting a text amendment to allow Historic House Museums to be allowed as a conditional use in the Agricultural Rural (A-R) zone. The applicant wishes to own, preserve and operate Helm Place on Bowman's Mill Road as an historic house museum.

The applicant information is: Kentucky Mansions Preservation Foundation, Inc., a Kentucky non-profit corporation, 578 East Main Street, P.O. Box 132, Lexington, Kentucky 40588. The attorney information is Richard V. Murphy, PLC, 250 West Main Street, Suite 2950, Lexington, Kentucky 40507, Telephone 859-233-9811.

The requested text change is to allow "Historic House Museum" as a conditional use in the A-R zone. This will be an amendment to Section 8-1(d).

The late Mary Genevieve Murphy and her late husband, Joseph H. Murphy, Jr., through the estate of Mary Genevieve Murphy, have made a very generous gift to the foundation and to the Lexington community in general: The foundation is to receive Helm Place, on Bowman's Mill Road to be used as a period museum. Helm Place is a Greek Revival structure of architectural significance. The community and the nation have already recognized the importance of Helm Place as it is on the National Register, it is the subject of the only rural H-1 overlay in Fayette County, and it is the subject of a conservation easement.

Its history is equally important: The house was apparently built in the 1850s by Colonel Abraham Bowman, who also operated a mill in the area. A later owner was Emilie Todd Helm, the step-sister of Mary Todd Lincoln. Emilie Todd Helm was also the widow of Confederate Brigadier General Benjamin Hardin Helm, who was killed in the battle of Chickamauga. Mrs. Helm lived for a time in the White House with President and Mrs. Lincoln, after her husband's death. Another owner was William Townsend, a prominent Lexington attorney who was also known for his outstanding collection of Lincoln memorabilia. Mary Genevieve Murphy was the daughter of William Townsend, and she received Helm Place as a gift from her mother, Genevieve Townsend, the widow of William Townsend.


As you know, the foundation currently operates the Mary Todd Lincoln House on Main Street. The significance of Helm Place to the rural areas of this community equals the importance of the Mary Todd Lincoln House to downtown Lexington. This is indeed a historical treasure which the Murphy family has given to the foundation for the benefit of this community.

In 2003, this community recognized the importance of historic house museums when the Planning Commission and Urban County Council approved an amendment to the Zoning Ordinance to allow historic house museums in the residential zones. Under that ordinance, an historic house museum is defined as follows:

HISTORIC HOUSE MUSEUM – A building currently or formerly used as a residence, having public significance by reason of its architecture or former use or occupancy; designed for preserving and exhibiting artistic, historical, scientific, natural or man-made objects of interest. This use may also include, as an accessory use, the sale of objects collected and memorabilia; the sale of crafts and artwork; and the holding of meetings and social events.

We are requesting that historic house museums also be allowed as conditional uses in the A-R zone. This would allow the foundation to apply to the Board of Adjustment for a conditional use permit to preserve and operate Helm Place as a museum, in accordance with the wishes of Mr. and Mrs. Murphy.

We feel we have a rare opportunity to preserve an important piece of the history of Fayette County. Thank you for your consideration of this text amendment request.


RICHARD V. MURPHY
Attorney for Kentucky Mansions
Preservation Foundation, Inc.

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2011-10: AMENDMENT TO ARTICLE 8 TO ALLOW A
"HISTORIC HOUSE MUSEUM" IN THE A-R ZONE**

REQUESTED BY: Kentucky Mansions Preservation Foundation, Inc.

PROPOSED TEXT: (Note: Text underlined indicates an addition to the current Zoning Ordinance.)

8-1 AGRICULTURAL RURAL (A-R) ZONE

8-1(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

x. Historic House Museums

STAFF REVIEW:

The Kentucky Mansions Preservation Foundation, Inc. has requested an amendment to the text of the Zoning Ordinance to allow "historic house museums" in the Agricultural Rural (A-R) zone as a conditional use. Historic house museums are defined in Article 1-11 of the Zoning Ordinance as follows:

"a building currently or formerly used as a residence, having public significance by reason of its architecture or former use or occupancy; designed for preserving and exhibiting artistic, historic, scientific, natural or man-made objects of interest. This use may also include, as an accessory use, the sale of objects collected and memorabilia; the sale of crafts and artwork; and the holding of meetings and social events."

Historic house museums were defined (as stated above) and added as a conditional use in residential zones to the Zoning Ordinance in 2003, at the request of the Divisions of Planning and Historic Preservation, in order to allow the Pope Villa on Grosvenor Avenue to be better protected and preserved. Since that time, the Pope Villa (designed by famed architect Benjamin Henry Latrobe), and the Tuska Museum (former studio and home to artist John Regis Tuska), have been granted approval by the Board of Adjustment as historic house museums. These two museums are recent examples, although other historic homes were transformed into museums within Fayette County in the twentieth century, including the Hunt-Morgan House, the Ashland Estate, Waveland Museum, and the Mary Todd Lincoln House. The text amendment in 2003 codified this already established use in Fayette County, and allowed for additional historic and cultural resources in our community to be preserved and enjoyed by the public in the form of a museum. However, the amendment only added the use to the residential zones, because museums were already permitted in the Professional Office (P-1), Neighborhood Business (B-1), and the downtown business zones (B-2, B-2A, and B-2B); the Planned Shopping Center (B-6P) zone; the Office, Industry and Research Park (P-2) zone; the mixed-use zones (MU-1, MU-2, and MU-3); and the Community Center (CC) zone in the Expansion Area. However, according to the staff's research, museums of any type have never been a permitted use in any of our agricultural zones.

In 1994, significant work was done by an ad hoc committee established by the Urban County Council to evaluate all of the available land uses in the A-R zone. Prior to then, more than thirty conditional uses were allowed with Board of Adjustment (BOA) approval in that zone. The committee's work resulted in a large-scale text amendment that eliminated many conditional uses and restricted the size of other non-agricultural conditional uses to no more than 10,000 square feet in size. Generally, those conditional uses that consumed large amounts of land were eliminated or restricted in the A-R zone.

The A-R zone currently allows twenty-seven different conditional uses, including seven agricultural-related uses which have no limitation on buildable area, and twenty other non-agricultural uses which are more

compatible with agricultural uses, but which are generally limited to a maximum of 10,000 square feet of floor area. The 10,000 square-foot building restriction was primarily established to protect the rural character of the county, and followed a survey of churches and other rural conditional uses in existence at the time. It was recognized that large-scale and more intense uses can create significant traffic issues, especially within a rural area without adequate roadways to handle high traffic demands. The revised listing of allowable conditional uses and the rural building size restrictions became effective in January, 1995.

Due to the broad community support for the Zoning Ordinance text changes made in the mid-1990s, and continued focus by the Planning Commission, the Rural Land Management Board and area residents on the need for protection of the rural landscape and character, preservation of our cultural heritage, and agricultural-related tourism, any changes to the A-R zone should be thoroughly considered.

The applicant, the Kentucky Mansions Preservation Foundation, owns and operates the Mary Todd Lincoln House in downtown Lexington, and now has an opportunity to own and operate a museum in the residence known as Helm Place, located on Bowman Mill Road, just outside the Urban Service Area; hence, the applicant's request to allow historic house museums in the Agricultural Rural (A-R) zone. It should be noted that two museums currently operate in the Rural Service Area – one at the Bluegrass Airport and a second at the Kentucky Horse Park. However, both of these facilities are operated by government entities and are exempt from zoning regulations. A third facility, the Headley-Whitney Museum, is privately owned and operated in the Rural Service Area, but has historically been deemed a school by the Board of Adjustment. The applicant submits that historic house museums are an appropriate use in the A-R zone in order to preserve rural "historical treasures" for the benefit of the community.

In assessing a proposed text amendment to the A-R zone, and understanding that over 98% of the Rural Service Area is zoned A-R, the Commission should consider the potential long-term impacts and unintended consequences of adding historical house museums as a conditional use in the A-R zone. The staff agrees that significant historical and cultural resources do exist in our rural areas, and access to those resources could provide a benefit to the general public. While the applicant did not specify whether the proposed conditional use would be limited to 10,000 buildable square feet of space, as are a majority of the allowable conditional uses in the A-R zone, the staff would recommend that this use have such a restriction, if approved.

Of primary concern to the staff is the potential traffic impact of everyday visitors and potential school field trips, as well as special events in the Rural Service Area. If this text amendment is approved, the Board of Adjustment would have the authority to determine if adequate public facilities exist; to limit the size and number of special events; and to institute time limitations for any and all historic house museums, as appropriate, on a case-by-case basis. As a conditional use, there would also be the opportunity for neighbors near a specific site to participate in the site-by-site deliberations of the Board of Adjustment for this new rural land use.

The Staff Recommends: Approval, for the following reasons:

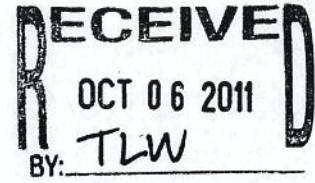
1. Historic house museums are a suitable land use for a small number of locations in the Agricultural Rural (A-R) zone in order to preserve rural "historical treasures" for the benefit of the community. Significant historical and cultural resources may be protected and shared with the general public if such a use is added to Article 8-1(d) of the Zoning Ordinance.
2. The addition of this conditional use will be limited to 10,000 square feet in size, which is similar to how other non-agricultural conditional uses are regulated in our agricultural zones.
3. The Board of Adjustment will be able to evaluate each historic house museum on a case-by-case basis to determine its appropriateness based upon the provision of adequate public facilities, and potential impact(s) to the subject property or neighboring properties.

ZONING ORDINANCE

ARTICLE 8-1(d) CONDITIONAL USES

(Note: Text underlined is an addition to the current Zoning Ordinance.)

28. Historic House Museum operated by a governmental entity or by a private, non-profit entity which has Internal Revenue Code Section 501(c)(3) status and which is a member of a recognized museum association such as the Kentucky Museum and Heritage Alliance, the American Association for State and Local History, the American Association of Museum, the Association of Living History, Farm and Agricultural Museums and/or the Southeastern Museum Conference. Provided, however, that the house shall not be expanded beyond its current or documented historic footprint, and all activities and events shall relate to the educational mission of the governmental or non-profit entity.



Alternative text amendment to Section 8-1(d) (conditional uses in the A-R zone):

Historic House Museum operated by a governmental entity or by a private, non-profit entity which has Internal Revenue Code Section 501(c)(3) status and which is a member of a recognized museum association such as the Kentucky Museum and Heritage Alliance, the American Association for State and Local History, the American Association of Museums, the Association for Living History, Farm and Agricultural Museums and/or the Southeastern Museum Conference. Provided, however, that the house shall not be expanded beyond its current or historic footprint, and all activities and events shall relate to the educational mission of the governmental or non-profit entity.

- V. **ZONING ITEMS** - The Zoning Committee met on Thursday, October 6, 2011, at 1:30 p.m. in the Division of Planning Office. The meeting was attended by Commission members Carla Blanton, Mike Cravens, Lynn Roche-Phillips, and William Wilson. The Committee reviewed applications, and made recommendations on zoning items as noted.

A. **PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS**

Note: The Planning Commission postponed the public hearing on this text amendment on September 22, 2011.

1. **ZOTA 2011-10: AMENDMENT TO ARTICLE 8-1(d) TO ALLOW AN HISTORIC HOUSE MUSEUM AS A CONDITIONAL USE IN THE A-R ZONE (2/1/12)*** - a Zoning Ordinance text amendment to allow an "Historic House Museum" as a conditional use in the Agricultural Rural (A-R) zone.

REQUESTED BY: Kentucky Mansions Preservation Foundation, Inc.

PROPOSED TEXT: (Note: Text underlined indicates an addition to the current Zoning Ordinance.)

8-1 AGRICULTURAL RURAL (A-R) ZONE

8-1(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

x. Historic House Museums.

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

The Staff Recommended: **Approval**, for the following reasons:

1. Historic house museums are a suitable land use for a small number of locations in the Agricultural Rural (A-R) zone in order to preserve rural "historical treasures" for the benefit of the community. Significant historical and cultural resources may be protected and shared with the general public if such a use is added to Article 8-1(d) of the Zoning Ordinance.
2. The addition of this conditional use will be limited to 10,000 square feet in size, which is similar to how other non-agricultural conditional uses are regulated in our agricultural zones.
3. The Board of Adjustment will be able to evaluate each historic house museum on a case-by-case basis to determine its appropriateness based upon the provision of adequate public facilities, and potential impact(s) to the subject property or neighboring properties.

Staff Presentation - Ms. Wade identified ZOTA 2011-10 on the regular Meeting Agenda, and directed the Commission's attention to the previously distributed staff report. She said that the staff had also received letters from Mill Ridge Farm, Blue Grass Trust for Historic Preservation and the Fayette Alliance. She noted that that Fayette Alliance had submitted an additional letter to the staff the day before today's meeting.

Ms. Wade stated that the Kentucky Mansion Preservation Foundation, Inc. has made a request to amend Article 8-1(d) of the Zoning Ordinance to allow historic house museums in the Agricultural Rural (A-R) zone as a conditional use. She then said that Article 1-11 of the Zoning Ordinance generally defines historic house museums as a house being re-used as a museum, with accessory uses of the sale of objects and memorabilia and the holding of meetings and social events.

Ms. Wade said that in 2003, at the request of the Division of Planning and the Division of Historic Preservation, historic houses museums were first defined and added as a conditional use in residential zones. This request was done to help better protect and preserve the Pope Villa on Grosvenor Avenue. Since that time, the Pope Villa and the Tuska Museum were approved by the Board of Adjustment as historic house museums inside the Urban Service Area. She briefly explained that, prior to 2003, other houses in Fayette County have been similarly used, which includes the Hunt-Morgan House, the Ashland Estate, the Waveland Museum and the Mary Todd Lincoln House. Ms. Wade said that the 2003 text amendment codified this use in Fayette County, and now allows other homes to be transformed into historic museums as a benefit to the community. The 2003 text amendment allowed historic house museums in the residential zones, but it did not allow this use in the agricultural areas.

Ms. Wade said that, in 1994, the Urban County Council had established an ad hoc committee to review the A-R zone. In some cases, uses in the A-R zone were large in scale and out of character with the rural areas. She said that the conditional uses in the A-R zone that consumed large amounts of land, such as golf courses, were ultimately eliminated. She then said that the A-R zone currently allows 20 non-agricultural uses that are restricted to 10,000 sq. ft. of buildable area; and 7 additional conditional uses that are agricultural related and have no limitation on buildable area. The 10,000 sq. ft. buildable area restriction was established to protect the rural character of the county, and was based upon a survey of existing churches and non-residential conditional uses in the A-R zone. Those changes were drafted in 1994 and became effective in 1995.

Ms. Wade said that the Kentucky Mansions Preservation Foundation is now requesting that historic house museums be allowed in the A-R zone. The applicant has the opportunity to operate a museum at the residence known as Helm Place. This

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

property is located on Bowman Mill Road, just outside of the Urban Service Area. It should be noted that there are two museums currently operating in the Rural Service Area; one is located at the Bluegrass Airport and the second is at the Kentucky Horse Park. She said that there is an additional museum, the Headley-Whitney Museum, that operates as a school and museum, also in the A-R area. The Headley-Whitney Museum is not a government facility, but rather is privately owned and operated.

Ms. Wade said that the applicant had submitted a justification stating that historic house are appropriate in the A-R zone, and this would be a way to preserve the rural historic treasures for the benefit of the community. She then said that, in assessing the text amendment to the A-R zone, 98% of the Rural Service Area is zoned A-R, and the Commission should consider the long-term impact and unintended consequences of adding historic house museums as a conditional use in the A-R zone. The staff is in agreement with the applicant that there are a number of significant resources in the A-R zone that could be preserved for the benefit of the community. While the applicant did not specify whether the proposed use would be limited, the staff believes that there should be a limit to the buildable area. She said that the primary concerns are the potential traffic impact of everyday visitors and potential school fields trips to these museums. She said that if the Commission approves this request, the Board of Adjustment would have the authority to determine if adequate public facilities exist, to limit the size and number of special events; and to institute time limitations for any particular use on a case-by-case basis. There would also be the opportunity for the nearby neighbors of a proposed museum to come to the Board of Adjustment hearing to voice their concerns or support of that request.

In conclusion, Ms. Wade said that the staff is recommending approval of the applicant's request, for the following reasons:

1. Historic house museums are a suitable land use for a small number of locations in the Agricultural Rural (A-R) zone in order to preserve rural "historical treasures" for the benefit of the community. Significant historical and cultural resources may be protected and shared with the general public if such a use is added to Article 8-1(d) of the Zoning Ordinance.
2. The addition of this conditional use will be limited to 10,000 square feet in size, which is similar to how other non-agricultural conditional uses are regulated in our agricultural zones.
3. The Board of Adjustment will be able to evaluate each historic house museum on a case-by-case basis to determine its appropriateness based upon the provision of adequate public facilities, and potential impact(s) to the subject property or neighboring properties.

Ms. Wade noted that the applicant had met with several concerned organizations; and subsequent to those meetings, the applicant had submitted a revision of their alternative language to the Zoning Committee members; however, the staff is comfortable in recommending approval of the original language that was submitted with its application.

Planning Commission Comment – Chairman Cravens asked if anyone on the Commission wished to discuss this item. Ms. Blanton asked which version of the alternative text the Commission should review, and what the changes are on the new submission. Ms. Wade said that the staff is comfortable with adding historic house museums with the 10,000 sq. ft. buildable area limitation, as well as having the Board of Adjustment review the requests on a case-by-case basis. She then said that the staff is aware that the applicant is willing to subject this use to the additional restrictions listed in the proposed alternative text. The staff is comfortable with the Board of Adjustment reviewing the request, rather than adding those restrictions to the Zoning Ordinance. She noted that the applicant's representative will address the specifics of the changes to their proposed alternative language.

Ms. Roche-Phillips said that all parties involved in this request were present at the Zoning Committee meeting last week; and at that time, the revised version was presented, to which the Committee had recommended approval. She suggested that the Commission should not be less restrictive. Ms. Wade confirmed that the Zoning Committee recommended approval of the applicant's alternative text.

Representation – Dick Murphy, attorney, was present representing the applicant. He said that his client, Kentucky Mansions Preservation Foundation, Inc., is a nonprofit organization that also operates the Mary Todd Lincoln House in Lexington. He noted that there were several board members present at today's meeting, to include Dee Dee Marin, Chairperson; Quinn Thompson, Executive Director, as well as other, and Jack Cunningham, who is the estate's attorney. He said that the board members are very dedicated and hard working people, who are willing to take on this significant responsibility for the benefit of the community.

Mr. Murphy said that even though this is a general ordinance, which applies throughout the A-R zone, they must present their proposal to the Planning Commission. He noted that the late Mary Genevieve and Joseph H. Murphy, Jr. (her husband) had made a generous gift to the foundation by donating their home. He said that their residence, Helm Place, is located on Bowman Mill Road, and will be used as a "period museum." He noted for the record that he is not related to the Murphys, but he did know them both personally. He said that this gift is a reflection of their generous spirit that was demonstrated throughout their lives.

Mr. Murphy briefly explained the history of Helm Place and said that the house was built in the 1850s by Colonel Abraham Bowman. Helm Place is situated on 150 acres, most of which is leased by Mill Ridge Farm for agricultural purposes. He then said that Helm Place is historic, it does have architectural significance and its sense of peace has been preserved through the years. He proceeded to list the previous owners of the property, to include Emilie Todd Helm, who was the

step-sister of Mary Todd Lincoln. Ms. Helm was married to Confederate Brigadier General Benjamin Hardin Helm, who perished in the battle of Chickamauga. He said that William Townsend, a prominent Lexington attorney and collector of Lincoln memorabilia, was the next owner of Helm Place. He noted that Mary Genevieve Murphy was the daughter of Mr. Townsend, and she received Helm Place as a gift from her mother Genevieve Townsend. He said that Helm Place was then given to the Kentucky Mansions Preservation Foundation, Inc.

Mr. Murphy submitted three photographs of the Helm Place Property, and said that the style of the house is a Greek Revival structure. There are several mature trees on the land as well as a pond to the left of the entrance. He then said that the mansion is located on 150 acres of land, and the rural character of the structure has been preserved. The Helm Place property is listed on the National Registry of Historic Places, it is the only rural property zoned H-1 in Lexington, and there is a conservation easement on the land (PDR protected farm). The next logical step would be to gift the land to the Kentucky Mansions Preservation Foundation, Inc. to be preserved as a museum. He said that this property is heavily regulated and should any architectural changes be proposed, the Board of Architectural Review would review those changes. He then said that since there is a conservation easement on the land, any changes in the use would need the approval of the Rural Land Management Board. Mr. Murphy said that, should the Planning Commission approve this text amendment, any request after today would need the approval of the Board of Adjustment to determine the appropriateness of the proposed use.

Mr. Murphy said that, as of today, historic house museums are not expressly allowed in the A-R zone. In 2003, the Planning Commission had approved historic house museums within the residential areas, and now there are two in the Urban Service Area. He noted that at the Zoning Committee meeting, they had requested postponement of this text amendment, due to concerns from the Fayette Alliance, the Rural Land Management Board and Mill Ridge Farm. He said that their concerns were the potential impacts of this text amendment in the A-R zone. He then said that they had met with all parties, including the Division of Historic Preservation, and have come to an agreement on the following language, noting that the text underlined and **bold** indicates an addition to the original alternative text that was previously submitted to the staff:

Historic House Museum operated by a governmental entity or by a private, non-profit entity which has Internal Revenue Code Section 501(c)(3) status and which is a member of a recognized museum association such as the Kentucky Museums and Heritage Alliance, the American Association for State and Local History, the American Association of Museum, the Association of Living History, Farm and Agricultural Museums and/or the Southeastern Museum Conference. Provided, however, that the house shall not be expanded beyond its current or documented historic footprint, and all activities and events shall relate to the educational mission of the governmental or non-profit entity.

Mr. Murphy said that the proposed language states that a responsible entity must operate this establishment either through a government entity or a private non-profit entity that has attained Internal Revenue Code Section 501(c)(3) status. The language also states that the entity must be a member of a recognized museum association, such as the Kentucky Museums and Heritage Alliance, the American Association for State and Local History, the American Association of Museum, the Association of Living History, Farm and Agricultural Museums and/or the Southeastern Museum Conference. He then said that the proposed language ends with stating that the house shall not be expanded beyond its current or documented historic footprint, and all activities and events shall be related to the educational mission of the governmental or non-profit entity.

In conclusion, Mr. Murphy said that all parties are in agreement with the proposed changes to the alternative text, and the requested approval. He noted that the applicant has operated a museums of this nature for a number of years and it is an important aspect to this community and to tourism.

Jack Cunningham, Frost, Brown & Todd, LLC, was present as the trust administrator of the Mary Genevieve Murphy and Joseph H. Murphy, Jr. estate. He said that Mrs. Murphy's last will and testament had provided the property as a conditional gift, which stated that the property is to be held and operated as an historic house museum. He then said that he knew the Murphys and they did not anticipate the steps the foundation would need to take for their residence to operate as an historic house museum. Mr. Cunningham said that if the text amendment is not accomplished and due to the condition precedent, that property will be disposed of by the balance of the Mary Genevieve Murphy trust document. He then said that he wanted the Commission to understand the gravity of this request because it will be a loss to the community as an historic house museum.

Audience Comment – Chairman Cravens asked if anyone in the audience wished to discuss this item.

Knox Van Nagell, Fayette Alliance, was present. (A letter was previously distributed to the Commission by the staff, dated October 13, 2011, and is attached as an appendix to these minutes). She stated that Fayette Alliance had been working with all of the other interested parties, and they agree that the alternative text language is a "win-win" situation. She said that if the alternative text language is adopted, it would allow historic house museums as a non-agricultural conditional use in the A-R zone.

Ms. Van Nagell then said that the Fayette Alliance believes that this language strikes an appropriate balance between protecting our signature industries and the bluegrass landscape, while also securing new agritourism opportunities in the rural area. At this time, she read the following excerpt from the submitted letter to the Commission.

"The proposed text language accomplishes this balance by three ways. First, the text amendment establishes operational requirements. Not just anyone can open a "historic" house museum in the rural area. They must satisfy specific criteria in the Internal Revenue Code, and the property must meet the architectural and educational requirements of a bona-fide museum association. With these criteria in place, truly significant homes can be legitimately identified as museums for purpose of public education and appreciation - which is important given the environmental sensitive and infrastructure limitations of the rural area.

Second, the museum can not be expanded beyond its current or documented historic footprint. This will protect the "historic" envelope of the house that makes it significant and worthy of museum status, while also respecting the 10,000 square foot limitation of non-agricultural uses in the rural area. By operating within this footprint, it ensures the educational thrust of the museum's activities and will minimize potential disruptions to neighboring farms and residences.

Third, the rental of these museums for social, commercial and conference events is prohibited in the rural area. Only education activities such as tours, viewings and organizational meetings or symposiums would be allowed. However, fundraising and social activities may be a part of these educational events. This is provision is key, as party museums in the rural area would not only undermine the 140-plus banquet and wedding rental facilities already doing business inside the city, but also would threaten the pastoral setting and infrastructure in place that supports ag-enterprise in Fayette County.

Fayette County farmland is different than most in the world, in that it is an active landscape teaming with valuable, yet fractious horses and livestock. This scenario is our international brand, but it is also a sensitive one vulnerable to traffic, noise, trespassers, waste, and water quality issues created by intensive commercial development.

Therefore, while we want to create additional agritourism opportunities in Fayette County, such as historic house museums, trails and other- it must be done carefully and in a way that first respects the needs of the signature industries and brand we want to celebrate.

By starting from this vantage point, and honoring the Rural Land Management Plan's fundamental recommendations that "Principle permitted uses in the rural area be those associated with agricultural and non-agricultural conditional uses be kept to a minimum (RLMP, III-6(4)), we will strengthen, not endanger, the proverbial goose that laid the golden egg in Lexington.

In so doing, we can continue a land-use tradition that attracts international investors the world-over to buy our priceless Fayette County soils for raising exceptional horses, livestock and food an enterprise that contributes \$3 billion annually to our regional economy and supports over 20,000 local jobs.

After requesting postponement of this issue a few weeks ago all interested parties worked together in faith to draft the alternative text amendment language. We believe it achieves a win-win for the entire community as it affords rural historic house museums viable business opportunities, while also safeguarding the needs of neighboring farms.

From an administrative standpoint, the proposal also makes a lot of sense because it clearly and uniformly regulates historic house museums in the rural area at the zoning ordinance level, and not on an inconsistent, case-by-case basis at the Board of Adjustment.

Attempting to regulate social and commercial events at the Board of Adjustment will put the legal and financial onus on Fayette County farmers to negotiate with museums on throwing parties. Countywide, farmers do not have the time nor the resources to be in the party planning business. Simply put, farmers and area residents would have to defend themselves every time a museum wanted to rent its facility for social events and this condition would jeopardize Fayette County's status and marketability as "Horse Capitol of the World."

The Fayette Alliance is proud to have worked with the Museum Foundation and Rural Land Management Board on this proposal and we respectfully request that you recommend its approval."

Billy Van Pelt, LFUCG staff for the Purchase of Development Rights (PDR) Program and Fayette County Rural Land Management Board, was present. He noted that all parties involved have been working on the alternative text for the historic house museum. He said that they support the applicant's proposed text amendment, but they are not in agreement with the staff's proposed text language due to not complying with the terms of the PDR conservation easement

throughout Fayette County. He said that as for Helm Place, the Rural Land Management Board would have to withdraw their approval, if the staff's recommendation were to be approved. He then said that the Rural Land Management Board's approval is based upon the alternative text language that was submitted today, and is supported by the Fayette Alliance.

Mr. Van Pelt illustrated a series of photographs to the Commission and gave a brief description of each. (The photographs are attached as an appendix to these minutes). He noted that the Carrick House, at the corner of North Limestone and Third Street, is a social event facility. He then said that with the current historic house museum definition and the originally proposed text language, the special events, as well as the proposed 10,000 sq. ft. buildable area, would become primary; while the agricultural events, the historical structure and value would become secondary.

In conclusion, Mr. Van Pelt said that they have worked with the applicant, as well as with the Fayette Alliance, and they believe the applicant's new proposed text language is a "win-win" result for the entire community.

Headley Bell, Mill Ridge Farm, was present, and said that they are in support of the proposed text amendment. He said that Mill Ridge Farm has leased 130 acres that surrounds Helm Place since 1985. The Murphys generosity of this gift indicates what tremendous people they were. He said that the land is a vital part of their farm and they want to thank everyone who was involved with the proposed text language.

Bettie Kerr, Division of Historic Preservation, was present. She said that they had met with the applicants concerning the proposed alternative text and they had made the suggestion to add the word "documented" to the language. She then said that Helm Place is the only rural H-1 designated property to date in Fayette County. She noted that the Murphys were unbelievable protectors of this property and this is a tremendous gift to the community. Ms. Kerr requested that the Commission support the alternative text that was presented today and grant approval of this text amendment.

Planning Commission Discussion – Ms. Blanton asked what the time line is before the house is lost. Mr. Murphy said that there is no deadline at this time, but the decision must be quick. Ms. Blanton asked if the Kentucky Mansions Preservation Foundation, Inc. also operates the Mary Todd Lincoln House; and, if so, how the house is maintained. Mr. Murphy replied affirmatively, and said that the house is maintained through an admission charge, as well as contributions that are donated.

Mr. Owens said that even though this is a zone type text amendment, he believes it is appropriate for the entire A-R zone. He said that he also believes in definitive guidelines for the Board, but the proposed language would be appropriate. He appreciated everyone who was involved in the drafting of the proposed text language, and he is in support of the alternative text submitted at today's hearing.

Mr. Penn said that in listening to the testimony given, he had thought of 20 different homes that could very well be used as historic house museums in the A-R zone. These homes are very well maintained and of an historical period, but he is concerned that the text amendment be done correctly. He said that this is the first text amendment for the A-R zone, which is a precious zone for the community. He then said that the A-R zone needs to be reviewed in a way that it will not hamper the agricultural areas.

Mr. Brewer commented that he agreed with what has been said, but in his experience it is unprecedented how there have been two potential very contentious issues. He applauds everyone associated with this case and the previous case with the work that had been done in advance. He then said that, as far as the alternative language is concerned, he believes it is appropriate.

Ms. Blanton said that if we believe this amendment will create or allow agritourism, then we are fooling ourselves. She said that if the Mary Todd Lincoln home can not stand on its own and be self sustaining, then this house will not be a generator for the agricultural community. When reviewing the Comprehensive Plan and Rural Land Management Plan, preserving the land should be considered; but real agritourism should also be reviewed to bring in money. She said that having weddings on agricultural land is better than subdividing the land into 40-acre lots. She then said that this request needs to be realistic and mindful of the rural character, and do what is needed to help farms to keep them out of foreclosure for those who do not want to subdivide into 40-acre lots.

Ms. Copeland said that her family knew the Murphys very well throughout the years, and they were a "class act." She then said that they were elegant, refined southern people, who shared their house. She said that they would not want a circus at their house and believes that the Murphys would be happy with the alternative text language.

Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Wilson, and carried 11-0 to approve ZOTA 2011-10: AMENDMENT TO ARTICLE 8-1(d) TO ALLOW AN HISTORIC HOUSE MUSEUM AS A CONDITIONAL USE IN THE A-R ZONE, for the reasons provided by staff; and to approve the following alternative text language:

Historic House Museum operated by a governmental entity or by a private, non-profit entity which has Internal Revenue Code Section 501(c)(3) status and which is a member of a recognized museum association such as the Kentucky Museums and Heritage Alliance, the American Association for State and Local History, the American Association of Museums, the Association of Living History, Farm and Agricultural Museums and/or the Southeastern

Museum Conference. Provided, however, that the house shall not be expanded beyond its current or documented historic footprint, and all activities and events shall relate to the educational mission of the governmental or non-profit entity.

VI. COMMISSION ITEMS – The Chair announced that any item a Commission member would like to present would be heard at this time.

B. BOAR 2011-1: JAMES V. JOHNSON – an appeal of BOAR denial of a change to the property (paint previously unpainted brick walls and chimneys on both the left and right sides of the structure) at 615 Boonesboro Avenue.

Staff Presentation – Ms. Rackers stated that the appellant, James Johnson, who owns the property at 615 Boonesboro Avenue, is requesting an appeal of the August 10, 2011, Board of Architectural Review (BOAR) denial of a Certificate of Appropriateness for a change to the property, consisting of painting two walls of the residence. She directed the Commission's attention to a map of the overall area, and oriented them to the subject property and to the street system within the general vicinity. She said that the structure is in the Bell Court Historic District, it is a 1½-story brick residence with two painted walls (front and rear) and two unpainted walls (each side), including chimneys that have never been painted.

Ms. Rackers said that in mid-July, during a visit through the Bell Court Historic District, the Preservation inspector noticed that painters were beginning to cut in around the stone foundation of the residence. She then said that the inspector told the painters to cease, as a Certificate of Appropriateness (COA) was needed for the exterior work. The following Monday, the appellant submitted an application for a COA to paint the two previously unpainted brick walls and chimneys on the right and left sides of the house. She then said that the BOAR reviewed this request on August 10, 2011, at which time the application was disapproved. The Board stated that this request was in violation of guideline I.3.H.: Brickwork and masonry that has never been painted should not be painted.

Ms. Rackers said that the BOAR staff has several photographs of the property that date back before Bell Court became a historic district. The photographs show the front wall of the structure being painted, as well as the rear wall; but the two side walls had never been painted. She said that this is significant because when a historic district is implemented, the existing conditions of a property are grandfathered, which generally determines what can be done to a property in the future.

Ms. Rackers directed the Commission's attention to the following guidelines that were cited by the Historic Preservation staff to the Board of Architectural Review regarding painting the unpainted brick.

- I.1.A. Architectural details and features shall be maintained/retained and shall not be removed or changed if original to the building.
- I.1.E. Architectural details and features, if replaced, should approximate the size, shape, material, color, texture and other visual qualities of the original materials.
- I.3.A. Brickwork and masonry materials original to the building should be preserved and maintained.
- I.3.H. Brickwork and masonry that has never been painted should not be painted.
- I.3.I. Brickwork and masonry that was historically painted should remain painted.

Ms. Rackers said that the appellant had stated in his BOAR presentation that he originally painted the two walls of the house in anticipation of the H-1 overlay. For whatever reason, he was not able complete the painting of the house. She said that the appellant had also stated that he believed that the structure was considered painted and did not realize that only two painted walls did not constitute a painted structure. This is one interpretation of the guideline, which theoretically the remaining walls to be painted. She noted that the BOAR Chairperson did; in fact, say that this was one was to interpret the Design Guidelines. However, the BOAR and the staff had a second, more restrictive, interpretation of the Design Guidelines. She said that this interpretation applies to individual walls of a structure, rather than a single, total structure, which would not allow additional paint on the house. She then said that the appellant had stated that after the two walls were first painted he had moved out of the area, renting the house for 10 to 12 years. During that time, the tenants had tried to remove the paint. She said that he has moved back to Lexington, and he would like to finish what he had started.

Ms. Rackers said that in reviewing the Design Guidelines, guidelines I.3.H and I.3.I seem to conflict with each other. She then said that during the BOAR hearing, there was discussion among the Board members, and they determined that I.3.H should apply to individual walls, which resulted in the disapproval of the appellant's request.

Ms. Rackers then said that in reviewing this case, the Planning staff can find no flaws in the review of the appellant's request by either the Historic Preservation staff or the Board of Architectural Review. She noted that the BOAR interpreted and applied the Design Guidelines as they were charged to do. However, since these are design guidelines, they are subject to interpretation; and for this case, the guidelines seem to be in conflict with each other. She said that there are basically two ways to make all four walls match, which would either violate I.3.H or I.3.I. She then said that having all four walls match (either painted or not) would contribute more to the overall character of the neighborhood than having two walls painted and two walls unpainted. Ms. Rackers said that since the front and rear of the house have already been painted twice, it would be costly and very difficult to remove all the paint. There is no guarantee that the four walls would match once the paint was removed, plus it could damage the brick of the house.