



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

PLN-ZOTA-24-00005: LANDSCAPING AND TREE PROTECTION STANDARDS

INITIATED BY: URBAN COUNTY PLANNING COMMISSION

PROPOSED TEXT: See attachment: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

STAFF REVIEW:

On Thursday, November 30th, 2023, the Planning Commission voted unanimously to adopt the *Imagine Lexington 2045* Comprehensive Plan. In Theme B: Protect the Environment, a dual-faceted strategy for implementation is specified: reduce greenhouse gas emissions through the development of compact, walkable development patterns while adapting to the unavoidable impacts of climate change by increasing resilient infrastructures and our city’s policies.

The 2045 Comprehensive Plan seeks to fortify Lexington’s resilience against the adverse impacts of climate change. The goal is to continue synergizing city efforts to foster development patterns that create communities and neighborhoods where every individual, irrespective of their background, can thrive in a safe, prosperous, and healthy environment amid the changing climate dynamics; setting a precedent for sustainable urban development in Lexington for generations to come. *Imagine Lexington 2045* calls for the Planning Commission to continue to examine and modernize the LFUCG Zoning Ordinance. In relation to Theme B, Goal #3 is to “*apply environmentally sustainable practices to protect, conserve and restore landscapes and natural resources*”. In response, this proposed amendment consolidates enforcement and citation regulations (Article 5), updates landscaping regulations (Article 18), and provides clearer and modernized definitions for tree protection standards (Article 26); all incentivizing green infrastructure best management practices.

Lexington’s built environment has a significant impact on environmental sustainability. New construction can result in habitat loss, disruption of natural waterways, and increased energy consumption. Poorly designed development can also contribute to the urban heat island effect, which can lead to increased energy demand for cooling and lower air quality. Incorporating sustainable design practices into the built environment can help mitigate these negative impacts. Proximity to trees, natural areas, and urban greenspace supports mental health and increases environmental resiliency within the built environment. However, our current landscaping and tree protection standards are outdated and fall short of supporting achieving these goals long-term.

Lexington’s current landscaping and tree regulations were introduced in 1983 in the city’s Zoning Ordinance and have not been updated significantly since that time. Since then, the Division of Environmental Services was established, providing a wide range of environmentally related services, including civic beautification programs, community-wide sustainability initiatives, urban and community forestry, greenway management, and mowing of the City’s corridors and county



roads. The Division also oversees the enforcement of environmental ordinances and should be listed as the appropriate enforcement agent in the Zoning Ordinance.

Existing commercial landscaping regulations do not require the planting of non-invasive or native plant species, which also allows for the inclusion of plastic or artificial plantings. Landscape plans also currently do not require planting information, including plant species, statistics, elevation, and certification information to ensure natural landscapes are protected during development. The proposed language seeks to promote native plant species, which are better suited for the bluegrass environment and ensure that what is being planted clearly meets the requirements of the Ordinance.

Currently, the City's plant materials list provided for commercial development landscaping and tree planting is not consistent with modern recommendations, including identification need to identify of invasive species. This update proposes the incorporation of related master plans and manuals, such as the city's Planting Manual, similarly to how the latest edition of the Stormwater Manual is incorporated by reference in the Code of Ordinances. This will help to clarify requirements and update outdated landscape ordinance requirements. It will also help developers, engineers, and landscape architects access recommended planting information more easily, as well as assist in identifying local invasive species that should be discouraged from use in landscaping.

The City of Lexington has tree canopy requirements for each zoning category in Article 26 of the Zoning Ordinance. However, the current post-development canopy requirements fall short of achieving the citywide goals for increasing tree canopy. Furthermore, the current regulations can result in a net-loss of tree canopy coverage during development. The 2022 *Urban Tree Canopy Assessment* analyzed urban tree canopy change by the City's zoning categories, which offered insight as to how development patterns have changed Lexington's canopy over time. Higher canopy cover targets must be achieved to reach long-term goals, especially considering *Imagine Lexington 2045's* objective to be carbon neutral by year 2050 (Theme B, Goal #2). This proposal would update Article 26's purpose to include language about the beneficial impacts of trees on environmental health, as well as human physical and mental health. It would also update guidelines and definitions for significant tree designations, including adding tree species to the current list for protection and lowering the current diameter at breast height (BDH) for a protected tree.

This proposal is the first phase of two Zoning Ordinance Text Amendments. A second phase ZOTA will recommend further development of standards and creation of programs to ensure that the city encourages environmentally friendly and sustainability-driven development long-term.

PLANNING STAFF REVIEW

The updates proposed through this text amendment address the various issues listed above by providing focused yet flexible regulations to minimize the negative environmental impacts of development while also supporting greenspace and urban tree canopy goals consistently across Lexington. This is achieved through revised requirements for new developments to include low impact landscaping and establishing standards to ensure developer-provided spaces are protecting our valuable natural resources, including the preservation and growth of our urban tree canopy.



Article 5 of the Zoning Ordinance describes the appropriate Divisions that oversee enforcement authority of the Zoning Ordinance. This section indicates that the Division of Environmental Services (DES) assists the Division of Planning in landscaping enforcement actions; specifically it is the responsibility of the Landscape Examiner position within DES to evaluate how landscaping is installed and maintained. As such, DES should be listed as an appropriate enforcement agent of the Zoning Ordinance alongside the Divisions of Planning and Building Inspection.

Civil penalties administration is also described in Article 5 of the Zoning Ordinance. The current fine structure lessens the amounts of fines to those individuals who do not appeal their citations. Staff considers this current structure is outdated and counterintuitive to current landscaping enforcement actions and should be removed. The proposed language would bring our landscaping enforcement structure into alignment with other enforcement Divisions and would allow for the appropriate discretion of the Landscape Examiner position with regard to the current planting seasons of the Bluegrass Region.

The intent of Article 18, Landscape and Land Use Buffers is to require the buffering between incompatible land uses and to promote the improvement of vehicular use areas (VUAs); therefore, the proposed text amendment proposes an update to the Ordinance to allow for modern landscaping requirements that align with the intended goals and objectives of the 2045 Comprehensive Plan. To ensure that Lexington adapts to meet the City's sustainability goals, the proposed language states that any development that changes, expands, moves, removes, or reconstructs a building structure or vehicular use area (VUA) by twenty-five (25) percent or more shall comply with the new regulations. Additionally, if there were to be a change in the use of property, from a use not required to provide landscaping and buffering to a use that is regulated by this Article, a development would be required to meeting the modern landscaping standards.

Article 18's landscaping requirements discuss minimum seasonal opacity standards, ensuring that zone screening is consistent and promotes public health and safety through the reduction of noise pollution, air pollution, visual pollution, air temperature, and artificial light glare. Therefore, the proposed text updates property perimeter requirements, as well as streamlining zone-to-zone landscape perimeter requirements to match the current VUA requirements. The text also significantly updates the landscaping plan submission requirements, which increased the information available on a landscaping plan (plant species, statistics, elevation, certification information, planting schedule etc.), as well as any other conditions that are required from either the Planning Commission or the Board of Adjustment. This information allows for increased transparency across Divisions within the government, ensuring information is not lost during the development process.

In Article 18-7, Staff is proposing to dissolve the Landscape Review Committee. The intention to dissolve the Landscape Review Committee is primarily driven by Staff's aim to streamline and consolidate the variance process for enhanced efficiency. The Landscape Review Committee was originally formed to provide feedback and review from those experts in the field before the Division of Environmental Services was established. Now that we have dedicated staff and expertise in-house, the need for additional review is not necessarily needed. Should the ZOTA be approved, the Division of Planning, in consultation with the Division of Environmental Services, would oversee all variance procedures. Subsequently, all findings would be forwarded to the Board of Adjustment for final deliberation and approval. Staff has sent this proposal to the Landscape Review Board and has received supporting feedback from the members thus far.



Protecting and preserving urban tree canopy is critical to maintaining the ecological, economic, and social health of urban areas. By incorporating tree protection policies and regulations into planning and development processes, cities can create more sustainable and livable communities that preserve natural resources for future generations. Article 26 provides the Division of Environmental Services and the City's Urban Forester the guidance and the authority to protect our tree canopy by working with developers to prevent unnecessary tree removals and to properly protect the existing canopy during development and construction. As such, Lexington recognizes the importance of trees in urban environments, and reflected those sentiments in the proposed amendments.

The text amendment also heavily amends the definitions listed in Article 26-2, including: approved tree list, critical root zone, diameter at breast height (DBH), drip line, greenway, healthy tree, ISA certified arborist, tree protection area, tree protection barrier and tree protection plan. The current definition of significant tree is outdated; this proposal would update guidelines for significant tree designations; including adding tree species to the current list for protection and lowering the current diameter at breast height (DBH) from thirty-six (36") inches to four (4") inches. The environmental benefits of a tree exist well before a tree reaches thirty-six (36") inches DBH and should be considered for protection well before a tree reaches such size to preserve the existing urban tree canopy.

A foundational goal of the proposed text is to encourage the best use of current natural resources within the Urban Service Area boundary by focusing on the preservation of ecosystems, wildlife habitats, and mitigation of the urban heat island effect. It also focuses on the resiliency and quality of landscaping in commercial development. This text amendment proposal works in tandem with recently recommended regulation changes, including open space requirements.

CONCLUSION

Despite the significant research and outreach that has been conducted, additional review is warranted to incorporate the continued feedback Staff has received from the community. Staff is seeking a postponement in order to address community comments regarding the proposed definitions, potential conflicts with VUA areas, open space requirements, and the usage of columnar trees.

The Staff Recommends: Postponement of the proposed Text Amendment to the Zoning Ordinance, for the following reasons:

1. Staff would like more time to evaluate the proposed language amendments in future development plan implementation, as well as additional modifications of the Zoning Ordinance that would be appropriate.

EM/DAC

5/30/2024

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