

2. **ZOTA 2012-6: ALTER THE MEMBERSHIP OF THE HISTORIC PRESERVATION COMMISSION** (6/18/12)\* – petition for a Zoning Ordinance text amendment to alter one of the entities that refers to members to the Historic Preservation Commission from the "Board of the Land and Nature Trust of the Bluegrass," which no longer exists, to the "Bluegrass Conservancy."

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,

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

the Code of Ethics of the Lexington-Fayette Urban County Government Charter, shall apply to members of the Historic Preservation Commission.

#### 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)(4)(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 Zoning Committee Recommended: Approval, for the reasons provided by staff.

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.

Staff Presentation: Ms. Wade presented the staff report, noting that the staff had prepared and distributed a slightly revised staff report. She said that the Urban County Council initiated this text amendment to alter the membership of the Historic Preservation Commission. Currently, the text of Article 13-4(b) of the Zoning Ordinance outlines how the 15 members of the Historic Preservation Commission are either nominated or appointed. The Ordinance specifies that one of the nominations should be made by the Board of Land and Nature Trust of the Bluegrass. That organization has not existed since 2000, so the staff of the Division of Historic Preservation recommended an organization to replace that entity. The Division of Historic Preservation recommended that that organization be replaced by the Bluegrass Conservancy, because their mission is similar to that of the Land and Nature Trust. The Historic Preservation Commission accepted that recommendation, and voted unanimously to request that the Urban County Council initiate a text amendment to Article 13.

Ms. Wade stated that there are two additional sections of Article 13 that the staff is recommending be amended. In Article 13-4(b), the staff found language that was unclear as to what portion of the Zoning Ordinance or Code of Ordinances it referred. The staff is suggesting removing that language, and replacing it with text that refers to Articles 5 and 7 of the Lexington-Fayette Urban County Charter, which relates to how the Mayor makes appointments to boards and commissions, specifically the staggering of terms. Ms. Wade said that the staff is also asking the Commission to consider an amendment to Article 13-9, which discusses compliance with other codes, statutes, and regulations, to remove the language that refers to the BOCA Maintenance Code and the Division of Housing Maintenance. The staff is recommending that all references to the BOCA Maintenance Code be changed to refer to the International Property Maintenance Code, 1998 edition. This proposed change is similar to two text amendments that the Commission recently approved. The staff is also recommending that any reference to the "Division of Housing Maintenance" be changed to the Division of Code Enforcement. Ms. Wade stated that the Zoning Committee recommended approval of this request at their meeting three weeks ago, with one slight change. The Zoning Committee asked that the word "initial" be stricken from the proposed staff alternative, since appointments to the Historic Preservation Commission are no longer initial at this point. The staff is recommending approval of the staff alternative text, for the reasons as listed in the staff report and on the agenda.

Action: A motion was made by Ms. Roche-Phillips, seconded by Mr. Brewer, and carried 8-0 (Blanton, Penn, and Plumlee absent) to approve ZOTA 2012-6, for the reasons provided by staff.