

Gorton
Blues
Gray
Ellinger
James
Lawless
Beard
Feigel
Stinnett
McChord

A G E N D A

PLANNING COMMITTEE

September 21, 2010

1:00 P.M.

- | | | |
|--|----------|---------|
| 1. Fencing Regulations | Blues | (1-4) |
| 2. Secure by Design | James | (5-9) |
| 3. Parks Master Plan Funding | Feigel | (10-39) |
| 4. Tree Related Regulations | James | (40-44) |
| 5. Liberty Road Project Status
<i>Report Provided at Meeting</i> | Stinnett | |
| 6. Newtown Pike Status
<i>Report Provided at Meeting</i> | Blues | |
| 7. Items Referred to Committee | | (45) |

"Planning Committee, to which should be referred matters relating to parks, planning and zoning, housing, transportation, grants, legislation and social services."

Council Rules & Procedures, Section 2.102(1)

POTENTIAL FENCE ORIENTATION LEGISLATION FOR COUNCIL PLANNING
COMMITTEE CONSIDERATION

OPTION 1: AS A GENERAL RULE APPLICABLE TO ALL FENCING

15-4(c) Fence Orientation – In all zones other than agricultural zones, fencing shall be installed with the structural members or framing directed inward toward the property.

Or,

OPTION 2: ONLY ABUTTING PUBLIC PROPERTY OR STREETS

15-4(c) Fence Orientation Abutting Public Property - In all zones other than agricultural zones, where fencing is located adjacent to a public street, park, or other publicly owned property the fencing shall be installed with the structural members or framing directed inward toward the property.

**POSSIBLE REVISIONS TO ZONING ORDINANCE ARTICLE 15: GENERAL REGULATIONS
FOR HEIGHTS, YARDS, WALLS, FENCES, PROJECTIONS, ACCESSORY STRUCTURES and
INFILL/REDEVELOPMENT CONSTRUCTION**

FOR DISCUSSION PURPOSES

Note: Text proposed for deletion is shown ~~stricken through~~; text proposed for addition is shown underlined.

15-4(b) HEIGHT - In any residential, business (except B-4), or professional office zone, a wall or fence no more than six (6) feet in height may be erected or maintained within a front yard or side street side yard, unless the front or side street side yard is created by abutment to an alley. ~~In that case, a fence or wall may be erected up to eight (8) feet in height. In any side or rear yard, a fence or wall no more than eight (8) feet in height may be erected. No height restriction shall be placed on a wall or fence erected or maintained in any industrial zone or in the Wholesale and Warehouse Business (B-4) zone.~~

The maximum height of walls and fences shall be regulated in accordance with the following table:

<u>ZONE</u>	<u>MAXIMUM HEIGHT</u>
<u>1. Any residential or office zone; any business zone other than B-2, B-2A, B-2B or B-4</u>	a. Within 20' of any public or private street right-of-way, except an alley: <u>4 feet</u>, with the following exceptions: 1. Where the front or side street side yard abuts an alley: <u>8 feet</u> 2. Where the property is a double-frontage lot, the frontage abutting an arterial highway or collector street where driveway access is prohibited (e.g., New Circle Road, Man o' War Boulevard, etc.): <u>8 feet</u> 3. Where the principal structure is less than 20 feet from the street right-of-way: <u>4 feet</u> to the front building plane of the structure; thereafter, <u>6 feet</u>. b. Front, side or rear yard areas greater than 20' from any public or private street right-of-way: <u>6 feet</u> to the front building plane of the structure; thereafter, <u>8 feet</u>. c. Any front or side street side yard abutting a street other than an alley, within 3 feet of the public or private right-of-way: <u>4 feet</u>; greater than 3 feet from the right-of-way: <u>6 feet</u>
<u>2. Any B-2, B-2A or B-2B zone</u>	a. Front yard: <u>6 feet</u> b. Side or Rear Yard: <u>8 feet</u>
<u>3. Any agricultural, B-4 or Industrial Zone</u>	a. No limitation

For the purpose of this section, the height of a wall or fence shall be the vertical distance from the established grade at the fence or wall to the top of the fence or wall.

Planning Committee Summary
August 24, 2010

Chair Gorton called the meeting to order at 1:03. All committee members were present except, Gray, James and McChord.

1. Fencing Regulations

Council member Blues explained reasons for referring this issue to the committee, saying Chris King, Planning would explain possible revisions to the zoning ordinance, general regulations for heights, yards, walls, projections, accessory structures and infill/redevelopment construction.

Feigel added she also thought about referring this issue since she'd received questions regarding fencing, especially the direction a fence should face, citing stockade type fencing as an example.

Chris King addressed the committee, showing exhibits of what the ordinance is today, which dates back to 1969. He showed drawings that represented two types of lots. The current ordinance has prescribed minimums of front yard. Under current law no fence can exceed 6 feet in height in the front yard and can not exceed 8 feet in back. He explained specific details of the current fence ordinance such as building line and setback. He talked about fencing in older areas of the city before the zoning was established. He explained how the four foot restriction would apply and how corner lots presented a slightly different situation, since these lots have what might be considered two front yards. He offered what could be reasonable suggestions for this type of lot. He said this presentation was to interpret language in the proposed revision to zoning ordinance, article 15.

Stinnett commented about possible revisions, saying this is a good change for new fences, but there is still a problem with current fences, asking King about how to deal with that. King explained how the focus is on fence height right now, but agreed current fencing needs regulating.

Blues commented on Feigel's remarks saying he thought a number of home owner associations prohibit putting the back side of a fence facing out. King said he does not know of any regulation currently in place on this. He suggested adding some kind of provision requiring solid fabric. Blues said

we might want to look at some deed restrictions. Gorton said this might be two separate issues. Feigel was more interested in this as it relates to corridors. Lawless remarked about fencing with different sides facing and keeping this in mind when looking at revisions. Beard asked how different fence heights in different scenarios might be handled. King said as it's written now; it would go before the Board of Adjustment. He talked about fences along interstates stating they be a matter for the state highway dept.

Gorton summarized King's presentation and council member's comments stating more research should be done on the issue of direction of how a fence faces. Blues suggested Planning and Building Inspection appear before the committee at a later date with more information on this matter. Gorton asked if this should be handled as two separate issues. Feigel said she did not want to hold up Blues original concerns/actions. She suggested considering this as one issue, not two.

Dewey Crowe addressed the committee regarding question about fence facing. He said there is not a city wide requirement, maybe deed restrictions regulate it, but this is not a requirement enforced by LFUCG. Gorton asked Crowe to research how other cities handle this and report findings to the committee at its Sept. 21, 2010 meeting. Crowe said this has potential enforcement issues attached to it and perhaps nuisance issues that are not very straight forward.

Gorton asked Crowe and King to come back in Sept with more information & research about fence facing issues.

2. Secure by Design

This item was tabled until the Sept. 21, 2010 Planning Committee meeting.

3. Items referred to Committee

Motion by Stinnett to remove Parks Master Plan, seconded by Blues, passed without dissent.

Beard asked Feigel about the downtown Lexington building inventory issues. Paul Schoninger, council staff explained this issue will come before the Planning Committee to decide how to use that inventory.

RESOLUTION NO. 311-10

A RESOLUTION AUTHORIZING AND GRANTING AUTHORITY TO THE DIVISION OF POLICE TO ADMINISTER THE SECURED BY DESIGN PROGRAM.

WHEREAS, the goal of the voluntary Secured by Design Program is to encourage safe design and further the development of socially sustainable neighborhoods throughout Lexington-Fayette County via the certification of residential, commercial mixed use developments, parks and green space;

WHEREAS, organizations and community members associated with the built environment are highly encouraged to participate in the Secured by Design program and adhere to the safe design principles; and

WHEREAS, the Council finds it beneficial to the Lexington-Fayette Urban County for the Division of Police to administer the Secured by Design Program by working with planners, developers, builders, other divisions of government and community members to make Lexington-Fayette Urban County neighborhood and developments safe environments for all.

BE IT RESOLVED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 – That the Division of Police is authorized to administer the Secured by Design Program in Lexington-Fayette Urban County.

Section 2 – Certification will be based on design guides created and maintained by the Secured by Design Organization as administered by the Division of Police.

Section 3 – That this Resolution shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL:

Mayor

ATTEST:

CLERK OF URBAN COUNTY COUNCIL

PUBLISHED:

Secured by Design Program Overview

Program Goal: Secured by Design focuses on crime prevention at the design, layout and construction stages of homes, commercial premises and other built features and promotes the use of security standards for a wide range of applications and products. Secured by Design works with developers, builders, architects, and planners to create the safest developments and communities possible, with a goal of creating socially sustainable communities. Socially sustainable communities are communities that succeed now, economically, socially and environmentally, and respect the needs of future generations. They are well-designed places where people feel safe and secure; where crime and disorder, or the fear of crime, doesn't undermine quality of life or community cohesion.

Secured by Design-U.S. is the North American affiliate of Secured by Design, the official United Kingdom Police flagship initiative supporting the principles of "designing out crime". Secured by Design has been in existence in the UK for over 20 years and has been shown to have a dramatic impact on reducing crime through good design principles

Secured by Design and Crime: Secured by Design does not guarantee that a particular area will be crime proof, but indicates that the site has been subject to a design process and improved level of security which, in the experience of the police and other agencies, have been shown to significantly reduce the risks of crime and fear of crime.

Rationale of using good planning to prevent Crime: Safe design and planning makes sense financially, as once a development has been completed the main opportunity to incorporate crime prevention measures has been lost. The costs involved in correcting or managing badly designed development are much greater than getting it right in the first place. This does not mean that planning and safe design alone can prevent crime. However, informed positive planning, particularly when coordinated with other measures, can make a significant contribution to tackling crime. We need to create environments that people want to occupy and use, creating a strong and positive sense of communal identity.

Secured by Design Certification: The main tool for ensuring safe developments that Secured by Design (SbD) uses is the certification of new and existing developments. The certification process covers several different types of developments (residential, commercial, mixed-use, parks, etc..) and is an indicator of a commitment by the developer to a safe and socially sustainable project. The SbD rating systems consists of several minimum design prerequisites and many additional "credits". In order to be certified, a development must meet each prerequisite. While each credit is optional, the achievement of each credit contributes to the project's point total. A minimum point total is required for certification, and higher point scores are required for platinum SbD certification. In addition, a separate "renovation" certification process is also available for existing developments and built structures. Once a project is certified, the certification is good for 5 years, at which time the property must be recertified. The

recertification process helps to ensure the maintenance and continued safety and social sustainability of a location. Importantly, while Secured by Design certification is not a guarantee against crime and disorder, it indicates that an area has been subject to a design process and improved level of security that, in the experience of the police and other agencies, have been shown to significantly reduce the risks of crime and fear of crime.

Secured by Design Certification Levels

- Basic
- Platinum

Secured by Design Certification Categories

- Single Family Homes/Neighborhoods
- Multi-family Homes/Apartment Complexes
- Mixed use developments
- Commercial Developments
- Re-Development projects
- Parks, trails, and green space areas
- Housing Voucher Properties
- Public Housing Projects

Benefits of the Secured by Design Program

- **Reduction in Crime:** Research conducted on the Secured by Design (SbD) program in England has shown that developments that used SbD recommendations had 26% lower *overall* crime than similarly matched Non-SbD developments. In addition, burglary rates at SbD developments were 50-65% less than those at Non-SbD developments and car theft and theft from auto were 42% lower than non-SbD developments.
- **Lower Insurance rates:** In England, where Secured by Design has been in existence for over 20 years, Insurance companies charge lower rates for homes and commercial developments that are SbD certified.
- **Reduced Property Liability:** In general, property owners are required to maintain reasonably safe premises in light of the risk of crime. Specifically, property owners/developers must provide security that is reasonable and proportionate to the risk of crime at that site. As the risk of crime increases, so should the level of security. During 1993-2001 the average liability settlement due to lack of adequate security was \$1,659,706. Safe by Design certification can assist in dramatically reducing potential liability caused by design related safety and security issues.
- **Consumer Choices:** The number one factor in residential housing choices is the presence of low crime and a safe environment. Importantly, research in England shows that home buyers will pay up to \$2,000 more for extra security. More than

anything else, consumers know that an affordable home is simply a house and not a good investment, if it is not safe from crime. Safe by Design certification helps developers to let consumers know that homes in that area are a safe investment not only financially, but in piece of mind as well.

- **Cost Savings:** When design changes are made to a development prior to planning approval and the beginning of the building process, the costs to build in safe design are negligible. Specifically, the average costs associated with SbD requirements are less than \$700. Importantly, the costs of retrofitting a development to provide security that is reasonable and proportionate to the risk of crime at that site have been shown to be financially prohibitive for many developers.
- **Marketability:** The awarding of the Secured by Design certification is highly marketable and has been shown to improve not only the value of homes at original sale, but also helps them hold their value in an ever-changing market. Moreover, developers who consistently earn Secured by Design certifications will earn a reputation as builders of communities, not just developments
- **Long Term Stability:** The 5 year Secured by Design re-certification process helps to ensure a community from neighborhood decline as economic and social changes occur. This focus on maintenance and stability of communities is especially important given the ever-growing encroachment of crime into the suburbs. While Secured by Design is not a guarantee against crime and disorder, it indicates that an area has been subject to a design process and improved level of security that, in the experience of the police and other agencies, have been shown to significantly reduce the risks of crime and fear of crime.

Areas of Secured by Design focus

1. **Access and Movement:** The goal when considering access and movement issues is to create places that are both well connected and secure. Too few connections can undermine the vitality of an area, while too many connections can increase the opportunity for crime. Importantly, sidewalks are to be encouraged because well used sidewalks helps to provide natural surveillance.
2. **Site Design:** An essential aspect to safe neighborhoods is ensuring well thought out and well planned site design. The layout of homes, open spaces, parks and mixed-use areas is key to reducing opportunities for crime. More than any other aspect of safe design, extra thought needs to go into site design, as these decisions are expensive and highly difficult to change after construction.
3. **Surveillance:** Neighborhoods where all publicly accessible spaces are overlooked provide for more safety and less criminal victimization. While cameras and other forms of mechanical surveillance can provide adequate crime prevention in some circumstances, natural forms of surveillance

created by design and neighborhood activity are often superior in impact and cost. Although designing in surveillance should form a core aspect of crime prevention, it should not be relied on as the sole strategy for crime prevention

4. **Lighting:** Research has shown that where lighting is weak or patchy, improving the levels and uniformity of lighting reduces fear of crime and makes people feel more secure. Adequate lighting is crucial to making neighborhoods livable and ensuring legitimate activity after dark. However, it is important to balance the needs of security and livability by avoiding overly bright or harsh lighting.
5. **Ownership:** Neighborhoods that promote a sense of ownership, respect and territorial responsibility generally have lower crime. Uncertainty of ownership can reduce responsibility and increase likelihood of crime in a neighborhood. Neighborhoods should be built and maintained in a manner that encourages residents to take an active part in the ownership and responsibility of their community.
6. **Physical Protection:** Physical protection focuses on the quality of initial construction as well as the inclusion of well designed security measures where appropriate. Physical protection should make a home a more difficult "target" for offenders. A premium is placed on the aesthetic quality of protective measures, so as to ensure that homes and neighborhoods are attractive places to live. Importantly, poorly designed and implemented physical protection can increase fear of crime.
7. **Activity:** Crime can be deterred through "eyes on the street" from legitimate activities in a neighborhood. Neighborhoods where the level of human activity is appropriate create reduced levels of risk of crime and a sense of security. Importantly, too much activity in a neighborhood creates a potential sense of anonymity that can lead to increases in opportunity for crime and reduced prevention benefits.
8. **Maintenance and Management:** The work of the developer is not finished when a neighborhood is completed. One of the most important factors in the reputation of a builder is the look and feel of the neighborhood and how well it maintains its status. Essential to maintaining value and adequate status is developing a maintenance and management proposal for the neighborhood.

A Living Legacy: Louisville's Olmsted landscapes

By Susan M. Rademacher

The history and growth of Louisville can be marked and measured by its interconnecting system of historic parks and parkways, which formed an armature for the city's growth. This system is the last of only five ever created by Frederick Law Olmsted Sr., the "Father of American Landscape Architecture," and stands today as one of the best-preserved of Olmsted's works. As the ultimate park system of his career, it reflects his mature vision and his greatest achievement in purely scenic park design. For Louisvillians, these parks are touchstones and points of reference, oft referred to as Louisville's Emerald Necklace, inexorably tied to personal and neighborhood identity.

Parks had been promoted for Louisville as early as 1799, when George Rogers Clark recommended leaving every third block as open space. But no parks were created until 1880, when Mayor Baxter acquired the first city park, Baxter Square (which was later designed by Olmsted). Colonel Andrew Cowan, a prominent Main Street leather merchant and great admirer of Frederick Law Olmsted's Jackson Park in Chicago, led the Salmagundi organization in proposing the development of three large suburban parks in 1887 as a spur to economic and population growth for Louisville. The "Salmagundi Movement" led to the 1890 establishment of the Parks Commission by act of the Kentucky Legislature. That same year, Mayor Charles Jacob purchased Burnt Knob (now Iroquois

Park) and began planning Grand Boulevard (now Southern Parkway).

The following year, Frederick Law Olmsted Sr., designer of the U.S. Capitol Grounds, New York's Central Park, and Biltmore estate, was recruited to plan the system. Olmsted proposed in his 1891 prospectus to the Parks Commission that designs for the first three large parks -- Shawnee, Cherokee and Iroquois -- each capture the region's three distinct native landscapes. With Shawnee's broad Ohio River terraces, Cherokee's rolling Beargrass Creek valley, and Iroquois' rugged slopes of old-growth forest, the trio of landscapes were planned to complement each other as the essential components of one great urban park.

Totaling 1200 acres, the parks were designed to offer a complete range of park experiences as defined by Olmsted, from civic gatherings and social interactions to organized athletics and personal recreation. The parks' west, south and east locations anchor each distinctive region of the city, and handsome parkways connect people throughout the city to these parks. Shawnee Park is fitted out for a variety of activities that bring people together, including a formal flower garden, a bandstand, and a great lawn for sporting events. Cherokee Park, considered Olmsted's most scenic work, focuses on the landscape experience of traversing from stream valley to ridgeline. Iroquois Park provides Olmsted's recommended "scenic reservation" -- a

wilderness experience that was popularly referred to as "our Yellowstone" -- rewarding those who attain the summit with dramatic views. More than one hundred years of use and adaptation prove the enduring quality of Olmsted's plans.

These parks achieve the hallmarks of Olmsted's social vision. As the source of healthful inspiration -- through mental, physical and social recreation -- the parks provide an antidote to the stresses of modern city life. The parks also provide democratic spaces wherein people can come together, finding common ground to create a stronger community. These parks also exhibit all the classic physical elements of an Olmsted park: Graceful topography and alignments; Ease and accessibility; Balance of uses; Expression of native character and materials; Sanitation and drainage; Separation of traffic modes; and Subjugation of built elements to nature.

Nearly 15 miles of Olmsted-designed parkways -- Northwestern, Southwestern, Algonquin, Southern, Eastern and Cherokee - - connect people throughout the city to these parks. While the parkways were developed incrementally and inconsistently, they nonetheless have achieved Olmsted's idea of unifying the parks and making them accessible, while providing the benefit of linear parks within easy walking distance of many neighborhoods. These were the original greenways.

In the first three decades of the twentieth century, John Charles Olmsted and the Olmsted firm developed thirteen more parks throughout Louisville, ranging from Reform Era neighborhood parks with a Beaux Arts vocabulary to parks designed for African-Americans after passage of the City's racial segregation law in 1922: In addition the

Boone Square and the three flagship parks, the other Olmsted parks are:

Algonquin	Baxter Square
Bingham	Central
Chickasaw	Churchill
Elliot	Seneca
Stansbury	Tyler
Victory	Wayside
Willow	

The Olmsteds' work in Louisville was not limited to parks. Archival records at Fairsted, the National Park Service Historic Site that was home and office to the Olmsted firm, list 188 project numbers. While not all contacts resulted in built projects, or even plans, due to the firm's "costly" fees, their work in Louisville ranged far and wide. It included Bernheim Forest, the Anchorage town plan, Louisville Free Public Library, University of Louisville, Brown Forman Corporation, Barrett Middle School, and numerous private estates and subdivisions, such as Indian Hills, Cherokee Gardens, and Alta Vista. The Olmsted influence is unmistakable in many other projects that were clearly modeled after the firm's exemplary works.

After a period of decline beginning with World War II, the Olmsted Parks and Parkway came under renewed attention in the latter decades of the 20th Century. In the 1960s, the imposition of Interstate 64 through the eastern boundary lands of Cherokee Park and Seneca Park (the last park to be designed by the Olmsted firm) stimulated citizen action on behalf of preserving the parks. While small portions of each park were lost to that project, activists were successful in obtaining a limestone-faced tunnel to preserve Cochran Hill and the nation's first and only overpass bridge designed to carry a bridle trail. A second crisis hit in 1974, when a tornado destroyed eighty percent of Cherokee Park's

hardwood trees, and galvanized new support for restoring the parks. Public concern rose in direct proportion to the deterioration of the Olmsted parks through the 1980s, when the Louisville Friends of Olmsted Parks was founded with support of Metro Parks.

The Friends conducted an inventory of archival resources for Louisville's Olmsted parks, and assessed ground conditions. As a result, they worked with Mayor Jerry E. Abramson to establish the Louisville Olmsted Parks Conservancy, Inc. in 1989 as a private, non-profit partner in renewing the Olmsted Parks system by providing planning and design expertise, raising funds, and involving the community through volunteer programs and projects.

When master planning began in 1991, the parks were in a crisis of disrepair – infrastructure had collapsed, natural systems were threatened and the community was disconnected from its parks. Recognizing that the parks' value had eroded over time, the Conservancy determined not only to arrest that process and preserve the parks, but to invigorate them as well. The master plan addressed a central question: How to introduce new and evolving uses without destroying the Olmsted legacy? Officially adopted by the city in 1994, the *Master Plan for Renewing Louisville's Olmsted Parks and Parkways* called for an investment of more than \$55 million over 20 to 30 years. The plan is notable for its interdisciplinary approach to restoring both the cultural and the ecological landscape, upon a foundation of historic research, public participation, and maintenance/management evaluation.

With joint Conservancy-City funding, the first projects to demonstrate recommendations of the Master Plan were opened to the public in 1996, and include

active sports facilities, woodland and savannah restoration, wetland creation, multi-use recreational paths, reconstruction of bridle and hiking trails, and reinstatement of place names within each park.

Three projects were implemented to illustrate key themes of the plan in core areas of each flagship park. The Shawnee Park project relocated baseball fields from the park's most significant historic space, the Great Lawn, to a new sports complex on annexed property adjacent to the historic park. Current work in Shawnee is focusing on restoration of the Ohio River vistas and the concourses and flower garden along the riverbank.

Baringer Hill was the focus in Cherokee, involving rehabilitation of the tornado-damaged vista and woodlands, reconstruction of an Overlook Shelter, paths, pedestrian bridges, and Baringer Spring's historic dry-laid stone walls, as well as relocation of parking, a playground and restrooms.

The Iroquois project restored a native "knob top" savannah and created wetlands to address storm water problems and improve wildlife habitat. Original Olmsted path alignments were reinstated, and new design standard for rustic architecture was established. Subsequent projects have included reconstructing an extensive bridle trail system, installing prototype signs, and rehabilitating a WPA-era amphitheater.

All the Olmsted Parks will have master plans produced over the next several years to guide future improvements. New master plans have been completed for Chickasaw Park and Shelby Park, and planning is underway for Algonquin Park. The Conservancy and Metro Parks have produced new design standards for the parkways, using planning and development tools to implement them,

and demonstrating the standards at several renovated locations along the parkway system. Community connections have been strengthened as park use increases, and people work together through the Conservancy's volunteer program called "Park Champions," which restores natural areas to ecological health. The overarching goal is to recapture Olmsted's original design intent as closely as possible, so people can see and feel for themselves what an Olmsted space is all about.

The Olmsted Parks are a magnificent work of art that must be restored, preserved, and enhanced to continue their enormous contribution to the quality of life in Louisville. They are an incomparable gift from a remarkable civic partnership that, a century ago, championed planning, raised substantial money, and summoned the goodwill and resources of the community at large. As in most cities, the Olmsted Parks and Parkways were just the beginning.

Today, Louisville has 122 parks totaling 12,000 acres, and needs to acquire thousands more acres. Like their Olmstedian predecessors, these new parks plans must seek the optimum balance of natural systems, historic values, and use and management. The Conservancy is working to ensure that the Olmsted system is viewed as the source of inspiration for parks of the future. It is helping Metro Parks to plan and acquire superb landscapes, never forgetting Frederick Law Olmsted's urging – not so long ago – to adopt an ideal" and to let it guide all future planning and actions.

RECEIVED AND FILED

DATE OCT 25 1985

AMOUNT

8.00

ARTICLES OF INCORPORATION OF
LOUISVILLE OLMSTED PARKS CONSERVANCY, INC. OF KENTUCKY
BY Paula Oliver

The undersigned hereby incorporates a nonprofit corporation without capital stock or stockholders, under the provisions of KRS 273.161 to KRS 273.390, and for that purpose adopts the following Articles of Incorporation:

ARTICLE I

The name of the corporation is Louisville Olmsted Parks Conservancy, Inc. (the "Corporation").

ARTICLE II

(1) Any provision of these Articles of Incorporation to the contrary notwithstanding, the Corporation shall not have capital stock or shareholders and shall not have any purpose or object, nor have or exercise any power, nor engage in any activity, which in any way contravenes, or is in conflict with, the other provisions of this Article II of these Articles of Incorporation.

(2) The objects and purposes of the Corporation, and the powers it shall have and may exercise are as follows:

(a) As general and controlling purposes, to conduct and carry on its work, not for profit, but exclusively for charitable, scientific, literary, or educational purposes within the meaning of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, or corresponding provisions of any subsequent Federal tax laws (the "Code"), in such manner (i) that no part of its income or property shall inure to the private benefit of any donor, director or individual having a personal or private interest in the activities of the Corporation, except as reasonable compensation for services actually rendered, (ii) that it shall not directly or indirectly participate in or intervene in any political campaign on behalf of any candidate for public office, and (iii) that no substantial part of its activities shall be carrying on propaganda or otherwise attempting to influence legislation.

(b) As particular purposes in furtherance of, consistent with, and subject to, the general purposes set forth in Section (2)(a) of this Article II:

(i) To provide continuing leadership and financial support in order to preserve the legacy of Louisville's Olmsted Parks and Parkways for all generations to come; and

(ii) To organize, promote, foster, assist (whether financially or otherwise), and conduct such charitable, scientific, literary and educational enterprises, activities and institutions, as from time to time may be determined, selected or decided upon by the Corporation's Board of Trustees consistent with the purposes stated in Subsections (b)(i) and (b)(ii) above.

(c) In furtherance of, and at all times subject to, the aforesaid purposes, enterprises, activities, and projects:

(i) To solicit and acquire by gift, exchange, or otherwise, property of any and all kinds, and to sell, transfer, and otherwise dispose of any property it so acquires;

(ii) To invest and reinvest any such property and the increments in, and avails or proceeds of, any such property in such investments as may be deemed advisable from time to time by the Corporation's Board of Trustees, including, but not limited to, stocks, bonds, secured and unsecured obligations, undivided interests, leases, commercial paper, financial and governmental instruments, savings and other depository accounts, and other securities and properties;

(iii) To give, donate, and contribute to any of the activities the Corporation may elect to sponsor, or in furtherance of any of the aforesaid purposes for which the Corporation is organized, such money or property, or both, as the Corporation's Board of Trustees may from time to time determine;

(iv) To take title to, and hold in its own name, such real or personal property, or both, and such interests in either such type of property as the Corporation may acquire, for the purposes herein set out, and to sell, transfer, and dispose of any such property or reinvest the proceeds thereof as herein permitted;

(v) To accept gifts, bequests, or devises of property of any kind which any person, firm, or corporation may make to the Corporation, upon the terms, trusts, and

conditions set forth in the deed of gift, will, or other instrument of writing, executed by any such donor or testator, but only for the purposes and upon the terms and conditions and with the powers set forth in these Articles of Incorporation;

(vi) To borrow money and give security therefor by pledging, mortgaging, or otherwise hypothecating any property it may own, or any interest it may have in such property;

(vii) To become a member of any other nonstock or nonprofit corporation organized under the laws of any state, or to become affiliated with any other organization of like character existing under the laws of any state; provided, however, that such corporation or organization is an exempt organization under section 501(c)(3) of the Code;

(viii) To the extent permitted by law, to enter into contracts with any corporate trust company for the purpose of delegating to it the power, or employing it, to make investments on behalf of the Corporation, and to do such other things permitted by these Articles of Incorporation as the parties may agree upon, and without limiting the generality of the foregoing, but in furtherance thereof, to enter into trust agreements, irrevocable or otherwise, with any such corporate trustee, and therein to authorize any such corporate trustee to employ agents, attorneys, accountants, and others in connection with the performance of any duty or trust arising under such agreement; and

(ix) To do any and all things which the Corporation's Board of Trustees may determine, consistent with the provisions hereof, to be necessary or appropriate to effectuate the purposes of which the Corporation is organized as herein set forth, to the extent that the doing of such act or thing is not inconsistent with the provisions of Chapter 273 of Kentucky Revised Statutes, or any other applicable law or statute of the Commonwealth of Kentucky, or section 501(c)(3) of the Code.

(3) Notwithstanding any provision heretofore or hereafter stated herein, if at any time the Corporation is determined to be a private foundation or private operating foundation, as defined in section 509 or section 4942 of the Code, then:

(a) The Corporation shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by section 4942 of the Code;

(b) The Corporation shall not engage in any act of self-dealing as defined in section 4941(d) of the Code;

(c) The Corporation shall not purchase nor retain any excess business holdings as defined in section 4943(c) of the Code;

(d) The Corporation shall not make any investments in such manner as to subject it to tax under section 4944 of the Code; and

(e) The Corporation shall not make any taxable expenditures as defined in section 4945(d) of the Code.

ARTICLE III

The Incorporator of the Corporation is Patrick R. Northam, and his address is 3300 First National Tower, Louisville, Kentucky 40202.

ARTICLE IV

If, at any time, this Corporation dissolves, the assets of this Corporation shall be applied and distributed as follows:

(1) All liabilities and obligations of this Corporation shall be paid and discharged, or adequate provision shall be made therefor;

(2) Assets held by this Corporation upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirements;

(3) Assets that have been received and are held by this Corporation subject to limitations permitting their use only for charitable, scientific, literary, educational, and/or similar purposes, and that are not held upon a condition requiring return, transfer, or conveyance by reason of dissolution, shall be transferred or conveyed to one or more corporations, societies, or organizations, organized under the laws of any state, that are exempt under section 501(c)(3) of the Code, or to the Federal government, or to a state or local government, for a public purpose, pursuant to a plan of distribution adopted as provided by law;

(4) Other assets, if any, shall be transferred or conveyed to one or more corporations, societies, or organizations, organized under the laws of any State, that are

exempt under section 501(c)(3) of the Code, or to the Federal government, or to a State or local government, for a public purpose, pursuant to a plan of distribution adopted as provided by law; and

(5) Any assets not disposed of pursuant to the provisions of this Article IV shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the Corporation is then located to such organizations as the court shall determine, which are organized and operated exclusively for charitable purposes and are exempt under section 501(c)(3) of the Code.

ARTICLE V

There shall be no members of the Corporation.

ARTICLE VI

(1) (a) The affairs of the Corporation shall be conducted by a Board of Trustees and by such committees and officers as shall be provided in the By-Laws.

(b) The Board of Trustees shall consist of not less than three (3) persons and, until otherwise fixed by the By-Laws, shall consist of 26 persons. The election of Trustees shall take place at the annual meeting of the Board of Trustees, or as otherwise provided in the By-Laws.

(c) The term of office of each trustee shall be as provided by the Corporation's By-Laws. Each Trustee so elected shall hold office for said term and until his or her respective successor shall have been duly elected and shall have accepted office.

(d) Trustees may be removed from office during their term of office as provided in the By-Laws.

(2) The annual meetings of the Corporation's Board of Trustees shall be held at such time and place as may be fixed by the Corporation's By-Laws.

(3) The duties and powers of the Board of Trustees, committees and officers of the Corporation shall, except as otherwise specifically provided herein or in the By-Laws, be such as are usually incident to similar Boards of Trustees, similar committees and similar officers, and in addition, shall be such as may be conferred upon said Board of Trustees, upon such committees, or upon such officers by law, or by amendment to the Articles of Incorporation or By-Laws, or by appropriate corporate resolution.

ARTICLE VII

The names and post office addresses of the Trustees of the Corporation who are to serve until the first annual meeting of its Board of Trustees, or until the first meeting called to elect the Board of Trustees, are:

Name	Address
Hon. Jerry E. Abramson Mayor of the City of Louisville	Office of the Mayor 601 W. Jefferson Street Louisville, Kentucky 40202
Mr. Douglas D. Stegner	1500 Meidinger Tower Louisville, Kentucky 40202
Mr. Edwin H. Perry	3300 First National Tower Louisville, Kentucky 40202

ARTICLE VIII

Until otherwise changed, the registered office of the Corporation shall be at 3300 First National Tower, Louisville, Kentucky 40202, and the name and address of its resident agent for service of process shall be 3300 Corporation.

ARTICLE IX

The address of the principal office of the Corporation is 1297 Trevillian Way, Louisville, Kentucky 40213, c/o The Louisville Metropolitan Park and Recreation Department.

ARTICLE X

(1) The Corporation's Articles of Incorporation may be amended in the manner provided by law.

(2) The Board of Trustees shall adopt By-Laws for the Corporation and may change or revise such By-Laws at any time and from time to time.

ARTICLE XI

The private property of the incorporator and of the directors shall not be subject to any of the Corporation's debts and liabilities.

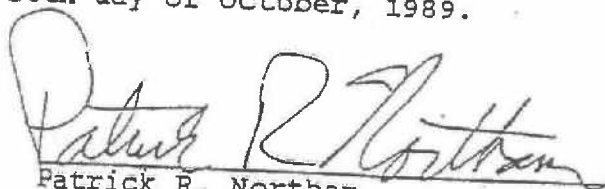
ARTICLE XII

Indemnification of trustees, officers, employees and agents of the Corporation may be as provided for in the By-Laws; provided, such indemnification is not otherwise in conflict with the provisions of Article II of these Articles of Incorporation.

ARTICLE XIII

Except as otherwise provided by applicable law, no trustee of the Corporation shall be personally liable to the Corporation for monetary damages for breach of his duties as a trustee, provided that this provision shall not eliminate or limit the liability of a trustee for the following: (i) for any transaction in which the trustee's personal financial interest is in conflict with the financial interests of the Corporation; (ii) for acts or omissions not in good faith or which involve intentional misconduct or are known to the trustee to be a violation of law; or (iii) for any transaction from which the trustee derived an improper personal benefit. This Article XIII shall continue to be applicable with respect to any such breach of duty by a trustee, as a trustee, notwithstanding that such trustee thereafter ceases to be a trustee, and shall inure to the personal benefit of his heirs, executors and administrators.

IN TESTIMONY WHEREOF, witness the signature of the undersigned as of the 20th day of October, 1989.


Patrick R. Northam
Sole Incorporator

**AMENDED AND RESTATED
BYLAWS
OF
LOUISVILLE OLMSTED PARKS CONSERVANCY, INC.**

January 21, 1999

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BYLAWS
OF
LOUISVILLE OLMSTED PARKS CONSERVANCY, INC.**

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AMENDED AND RESTATED
BYLAWS
OF
LOUISVILLE OLMSTED PARKS CONSERVANCY, INC.

ARTICLE 1
MEMBERS

1.1 No Members. There shall be no members of the Louisville Olmsted Parks Conservancy, Inc. ("Conservancy").

ARTICLE 2
REGISTERED OFFICE

2.1 Registered Office. The registered office of the Conservancy shall be at 1297 Trevilian Way, Louisville, Kentucky 40213, c/o the Louisville and Jefferson County Parks and Recreation Department, but the location of such office may be, from time to time, otherwise designated and changed by the "Board" (as defined in Section 4.1).

ARTICLE 3
NO CAPITAL STOCK

3.1 No Capital Stock. The Conservancy shall have no capital stock or stockholders, and its business and affairs shall not be conducted for private pecuniary gain or profit, nor shall any of its gain, profit or property inure to the incorporators thereof, nor to any officer or trustee thereof.

ARTICLE 4
BOARD OF TRUSTEES

4.1 Powers. The property and affairs of the Conservancy shall be managed by a Board of Trustees ("Board"). The members of the Board shall be determined as set forth in Section 4.3, and shall be referred to herein and in all documents and business of the Conservancy as the "Trustees."

4.2 Number of Trustees. The number of Trustees shall not be in excess of 42, as prescribed in Section 4.3.

4.3 Selection and Powers of Trustees. The Trustees shall be selected as follows:

(a) *Ex Officio Trustees.* The persons holding the following positions shall serve as Ex Officio Trustees:

(i) the President of the Friends of Olmsted ("Friends"), or any successor officer;

(ii) the Director of the Louisville and Jefferson County Parks and Recreation Department, or any successor officer ("Parks Director");

(iii) the President of the Conservancy, provided such person is also the Executive Director of the Conservancy; and

(iv) the Chairman of the Parks Advisory Commission.

4.4 Appointed Trustees. No more than three persons shall be appointed by the Mayor of the City of Louisville ("Mayor"), at least one of whom shall be from the Mayor's office, to serve as Appointed Trustees.

4.5 General Trustees. Up to 36 persons may be elected to serve as General Trustees.

4.6 Terms of Office.

(a) Terms For General Trustees. Effective with the Trustees elected for terms beginning in 1999, there shall be three classes of General Trustees, Class A, Class B and Class C. The Trustees elected as Class A Trustees shall initially serve for a term ending at the next annual meeting of the Trustees after their election; the Trustees elected as Class B Trustees shall initially serve for a term ending at the second annual meeting of the Trustees after their election; and the elected as Class C Trustees shall initially serve for a term ending at the third annual meeting of the Trustees after their election. Thereafter, each General Trustee (i) shall be elected by a plurality vote of all Trustees voting together as one voting group, and (ii) shall hold office until the third annual meeting of the Trustees following his or her election and until his or her successor shall have been selected and shall have assumed office, or until his or her death, resignation or removal, whichever shall first occur. All Trustees shall have the same powers, rights and obligations, and shall differ only in the time at which their respective terms of office shall expire.

(b) Terms For Appointed Trustee. Each Appointed Trustee shall hold office until the Mayor appoints a successor.

(c) Ex Officio Trustee. Each Ex Officio Trustee shall at all times be the incumbent or acting officer named in Section 4.3.

4.7 Honorary and Emeritus Trustees. The Board or the Executive Committee may elect, by a majority vote, one or more Honorary or Emeritus Trustees of the Conservancy. Each Honorary or Emeritus Trustee shall hold office until his death or resignation. An Honorary or Emeritus Trustee shall be entitled to notice of and attendance at all meetings, but shall not be (a) counted in determining a quorum; (b) entitled to vote on any matter submitted to the Board for a vote; or (c) considered a Trustee for any other purpose.

4.8 Resignations. Any Trustee may resign at any time by delivering written notice to the Conservancy. The resignation shall take effect at the time specified in the notice; unless required by the terms of the notice, acceptance shall not be necessary to make the resignation effective. Failure of any Trustee to attend three consecutive meetings of the Board without excuse shall, in the discretion of, and upon action by, the Board, operate as a resignation.

4.9 Removals. Any General Trustee may be removed by the Board with or without cause, provided there is a quorum of not less than a majority of the Trustees present at the meeting of the Board at which such action is taken. Any Appointed Trustee may be removed with or without cause by action of the appointing authority named in Section 4.4.

4.10 Vacancies. Vacancies in the Board shall be filled as follows:

(a) *Ex Officio Trustees.* Shall be filled by sponsoring entity.

(b) *Appointed Trustees.* Shall be filled by the Mayor or, in default of appointment, shall not be filled.

(c) *General Trustees.* Shall be filled by a majority vote of the remaining Trustees, voting together as a single voting group, at such time, if any, as such Trustees shall deem appropriate. In the event the Trustees decide to elect a General Trustee to fill a vacancy created by the death, resignation or removal of a General Trustee, the person elected shall fill the unexpired term of such General Trustee. In the event the Trustees decide to elect a General Trustee to fill a vacancy created by any other means, the Trustees shall decide the class of General Trustees to which the person is to be elected, and once elected, that person shall fill the remaining term of all other General Trustees in that class.

4.11 Board of Friends. When possible, the Board shall take such steps as are reasonably necessary to ensure that at least one of the General Trustees is also a member of the board of directors of the Friends.

ARTICLE 5 MEETINGS OF TRUSTEES

5.1 Powers. The annual meeting of the Board shall be held at such time, place and on such date as the Chairman of the Board may designate.

5.2 Regular and Special Meetings. The Board shall hold at least six meetings (including the annual meeting) at times fixed by the Board. The Chairman may call, and upon written demand signed by not less than one-fifth of the entire Board shall call, special meetings of the Board.

5.3 Place of Meetings. Meetings shall be held at a place within the City of Louisville fixed by the Board or designated in the notices of meeting or waivers of notice of meeting.

5.4 Notice of Meetings. Written notice shall be given of all meetings of the Board. Notice of a special meeting shall state (a) the place, date, and hour of the meeting; (b) the purpose or purposes for which the meeting is called; and (c) that it is being issued by or at the direction of the persons calling the meeting. A copy of the notice of each meeting shall be given, personally or by first class mail, to each Trustee not less than 10 nor more than 30 days before the meeting. The notice shall be served upon or mailed to each Trustee at his address appearing in the records of the Conservancy maintained by the Secretary.

5.5 Waiver; Lack of Protest. Notice of a meeting need not be given to a Trustee who submits a signed waiver of notice, before or after the meeting, or who attends a meeting without protesting before the meeting or at its commencement the lack of notice.

5.6 Quorum. A quorum at a meeting of the Board shall be at least 14 Trustees of which not less than 12 shall be General Trustees. Vacancies of General Trustees may be filled as provided in Section 4.10 by less than a quorum of the Board.

5.7 Required Vote. Except as otherwise required by the Kentucky Non-Profit Corporations Act, action of the Board shall be by majority vote of the Trustees present at the time of the vote, except that the election of General Trustees shall be by a plurality of the votes cast. Each Trustee shall have one vote.

5.8 Action Without a Meeting; Electronic Participation. Any action required or permitted to be taken by the Board or any committee thereof may be taken without a meeting if all the members of the Board or the committee consent in writing to the adoption of a resolution authorizing the action and the consent is filed with the minutes of the proceedings of the Board or committee; provided, that a failure to file such consent shall not affect the validity of the action taken. Any one or more Trustees may participate in a meeting of the Board or a committee thereof by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

ARTICLE 6 COMMITTEES

6.1 Standing Committees. At its annual meeting, the Board shall elect by majority vote of the entire Board the Chair of the following Standing Committees:

(a) **Executive Committee.** An Executive Committee to consist of (i) the Chairman of the Board; (ii) an Appointed Trustee; (iii) the Chairman of each of the Committees listed below; (iv) the Parks Director; (v) the Treasurer; and (vi) if he or she is then the President, the Executive Director of the Conservancy.

(b) **Finance Committee.** A Finance Committee to consist of not less than three General Trustees.

(c) *Planning and Capital Improvements Committee.* A Planning and Capital Improvements Committee to consist of not less than three General Trustees.

(d) *Nominating and Board Development Committee.* A Nominating and Board Development Committee to consist of not less than three General Trustees.

(e) *Marketing and Community Relations Committee.* A Marketing and Community Relations Committee to consist of not less than three General Trustees.

(f) *Development Committee.* A Development Committee to consist of not less than three General Trustees.

(g) *Public Programs Committee.* A Public Programs Committee to consist of not less than three General Trustees.

The Chairman of the Board shall be an ex officio member of each of the Standing Committees, in addition to the enumerated Trustees. Members of the Standing Committees shall serve at the pleasure of the Board.

6.2 *Authority of Standing Committee.* No Standing Committee shall have authority as to (a) the filling of vacancies in the Board or any committee; (b) the amendment or repeal of the Articles of Incorporation or these By-Laws or the adoption of new By-Laws; (c) the amendment or repeal of any resolution of the Board which by its terms shall not be so amendable or repealable; or (d) any decision to increase or decrease the amount or amounts budgeted for a particular fiscal year of the Conservancy.

6.3 *Executive Committee.* The Executive Committee shall have and exercise all the authority of the Board during intervals between meetings of the Board, except as limited by Section 6.2. The Executive Committee shall review the Conservancy's annual operating budget prepared pursuant to Section 8.2 and any subsequent modifications thereto or appropriations thereunder. In addition, the Executive Committee shall be kept informed of the status of the operating budget and approve long-term commitments affecting Conservancy finances. Further, the Executive Committee shall have the responsibility for reviewing the Conservancy's capital construction program and related contracts and expenditures and for establishing policies in regard to accounting and salaries. The Executive Committee shall also have the responsibility for (i) recommending members for new committee membership, (ii) recommending replacements as vacancies occur in committee memberships, including the Executive Committee (whether resulting by resignation, death or removal of a committee member or by the increase in the number of committee members permitted under these By-Laws), (iii) establishing policies with respect to matters relating to insurance and other benefits for employees of the Conservancy, (iv) long and short range planning, and (v) community relations.

6.4 *Finance Committee.* The Finance Committee shall have general charge of the monies, securities and other assets of the Conservancy, with the authority to invest and reinvest the same. The Finance Committee may authorize the purchase, sale, transfer, exchange, or

redemption of stocks, bonds, or other securities of the Conservancy, may contract with a bank or trust company to act as custodian of property of the Conservancy, and may contract with a bank, trust company, or other qualified investment adviser, including without limitation, The Louisville Community Foundation, to carry out investment policies and programs authorized by the Finance Committee in accordance with the procedures and restrictions established from time to time by the Finance Committee and approved by the Board or the Executive Committee. The Finance Committee may delegate to any member of the Finance Committee or the Treasurer authority to act for the Finance Committee in carrying out such investment policies and programs with such bank, trust company or investment adviser.

6.5 *Nominating and Board Development Committee.* The Nominating and Board Development Committee shall have the responsibility for recommending to the Board for their approval persons to fill vacancies on the Board (regardless of how occurring). These nominees shall be presented to the Board as the situations may arise. For the annual meeting the Nominating and Board Development Committee shall present a slate of officers to be voted on by the Board. The Nominating and Board Development Committee shall report to the Board on the adequacy of the size and structure of the Board, and the committees to conduct the business of the Conservancy. In addition, the Nominating and Board Development Committee shall be responsible for identifying and cultivating individuals who have, and would be willing to contribute, the experience, skills and resources needed by the Board and the committees.

6.6 *Development Committee.* The Development Committee shall be responsible for carrying out the policies and procedures established by the Board in regard to development activities of the Conservancy, and shall exercise such other authority and control, and have such other responsibilities, as may be granted to it from time to time by the Board.

6.7 *Marketing and Community Relations Committee.* The Marketing and Community Relations Committee shall be responsible for communicating the value and benefits of the Louisville Olmsted Parks to the community at large in order to improve and increase park use and for advising the Conservancy in its marketing and public affairs issues.

6.8 *Planning Committee.* The Board may, at such time as it shall deem necessary or appropriate, create a Planning Committee having such duties and authority consistent with that title as the Board shall, in its discretion, determine.

6.9 *Public Programs Committee.* The Public Programs Committee shall be responsible for designing and implementing programs that enrich and diversify use, draw people to the parks and improve park usage. The Committee shall also oversee the effort to expand and maintain the Park Champions program.

6.10 *Planning and Capital Improvements Committee.* The Planning and Capital Improvements Committee shall be responsible for guiding the implementation of the Master Plan and for developing plans for the entire system of Olmsted parks and parkways. The Committee will also be responsible for overseeing efforts to improve stewardship of the Olmsted parks and parkways, including landscape management.

6.11 Special Committees. The Board may, at any time or from time to time, create such Special Committees of the Board as it deems appropriate and such Committees shall have only the powers delegated to them by the Board, in no event including the powers denied in Section 6.2. Members of Special Committees shall be appointed by the Chairman of the Board, with the consent of the Board and shall serve at the pleasure of the Board.

6.12 Procedures for Committees.

(a) **Appointment of Chairmen and Meeting Procedure.** The Chairman shall be, or shall appoint, the chairman of the Executive Committee and shall appoint from among the members of each Standing and Special Committee one Trustee as chairman of each such Committee. Unless otherwise provided by resolution of the Board, each committee shall adopt its own rules governing the time and place of holding and the method of calling its meetings and the conduct of its proceedings. In the absence of any resolution or rules, proceedings of committees shall be governed by these By-Laws to the extent practicable.

(b) **Quorum of Committees; Required Vote.** Except as may be permitted by Section 5.8, all action of committees shall be taken at meetings thereof. A quorum at a committee meeting shall be a majority of the members in attendance at the meeting. Action by the committee shall be by majority vote.

6.13 Membership on Committees. Only Trustees shall be members of the Executive Committee and the Nominating Committee. In order to encourage involvement of non-Trustees with the Conservancy, there may be appointed to the other committees members who are not Trustees.

6.14 Vacancies; Secretary; Minutes. Vacancies in the membership of any Committee shall be filled by action of the entire Board, except for the Planning Committee and the Community Relations Committee, which shall be filled by the Executive Committee. At each meeting of a committee, a secretary shall be appointed, but failure to appoint a secretary shall not affect the validity of any action taken. Each committee shall keep regular minutes of its proceedings and report them to the Board when required, but failure to keep minutes or to make reports shall not affect the validity of any action taken.

ARTICLE 7 OFFICERS

7.1 Officers; Qualifications. The officers of the Conservancy shall be elected by the Board, and shall be a Chairman of the Board of Trustees ("Chairman of the Board"), one or more Vice Chairmen of the Board of Trustees ("Vice Chairman of the Board" or "Vice Chairmen of the Board"), a Treasurer, a Secretary and such additional officers. Unless otherwise approved by the Board, (i) no such additional officer shall also be a Trustee, and (ii) no Ex Officio Trustee, other than the Conservancy Executive Director, shall also be an officer. Any two or more offices may be held by one person.

7.2 Terms. Each officer other than the Chairman of the Board shall hold office for one year and until his or her successor shall have been elected and shall have assumed office, or until his death, resignation or removal, whichever is sooner, provided, that the Chairman of the Board shall hold office for a term of two years, or until his or her death, resignation or removal, whichever is sooner.

7.3 Resignations. Any officer may resign at any time by delivering written notice to the Conservancy. The resignation shall take effect at the time specified in the notice; unless required by the terms of the notice, acceptance shall not be necessary to make the resignation effective.

7.4 Removals. Any officer may be removed with or without cause at any time by the Board.

7.5 Vacancies. Any vacancy in any office, however arising, shall be filled by the Board for the unexpired term.

7.6 Chairman and Vice Chairmen. The Chairman of the Board shall preside at all meetings of the Board. The Chairman of the Board shall be, ex officio, a member of all committees of the Board or the Conservancy. In case of a vacancy in the office of Chairman of the Board, or during his or her absence or inability to act, the powers and duties of the Chairman of the Board shall be exercised by the senior Vice Chairman of the Board present and able to act, or in the case of the unavailability of all the Vice Chairmen of the Board, by the senior General Trustee (as determined by length of service to the Conservancy) present and able to act.

7.7 President. The President, if that office shall be filled, shall, in general, perform all duties incident to the office of President, and such other duties as may be prescribed by the Board from time to time. In the absence of the Chairman and the Vice Chairmen, the senior officer shall preside at all meetings of the Board.

7.8 Treasurer. The Treasurer shall receive and disburse all funds of the Conservancy under the direction of the Board and shall deposit all funds in the name of the Conservancy and all securities in such depository or depositories as the Board may from time to time designate or approve. The Treasurer shall maintain custody of and preserve all records and documents relating to the property of the Conservancy and keep proper books of accounts which shall be open at all times to inspection by the Board. The Treasurer shall render to the Board upon request a report of all the transactions of the Treasurer, and at least once a year he or she shall submit to the Board a statement of the financial condition of the Conservancy, certified by independent accountants, consisting of a balance sheet and related statements of income and expenses and of changes in all funds for the fiscal year then ended. The Board may require the Treasurer to obtain such insurance and in such amount as it shall determine. The Treasurer need not be a Trustee.

7.9 Secretary. The Secretary shall cause notices to be issued of all meetings of the Trustees, and of all committees and a record to be made of the proceedings of the same. The Secretary shall also attend to all official correspondence, shall have custody of and preserve the

corporate seal and the archives, and shall affix the seal under the direction of the Chairman of the Board or the Board. The Secretary need not be a Trustee.

7.10 Additional Officers. Additional officers shall have such responsibilities, powers, and duties as the Board may from time to time prescribe.

ARTICLE 8 FINANCE

8.1 Conservancy Funds. All funds of the Conservancy shall be managed by the Board and shall not be commingled with funds of the City of Louisville or any other person, entity, organization, or unit of government.

8.2 Conservancy Budget. At the annual meeting of the Board, the Conservancy Executive Director shall present to the Board for consideration a budget showing estimated income and expenses of the Conservancy for the ensuing fiscal year. Any budget adopted by the Board shall without further action authorize the Treasurer to pay out the amounts included in such budget from time to time on request or pursuant to a fixed schedule. The budget as adopted by the Board may be amended or modified from time to time in accordance with such procedures and subject to such limitations as the Board may prescribe. The Treasurer shall pay out no funds and no officer or employee shall incur any expense in addition to the amounts specified in the budget as approved or so amended.

8.3 Transfers of Securities. Any two of the Chairman of the Board, the Vice Chairmen of the Board, the Treasurer, the Chairman of the Finance Committee or any two individuals designated by the Board shall have authority to execute any form of transfer and assignment customary or necessary to constitute a transfer of stocks, bonds, or other securities standing in the name of or belonging to the Conservancy. Any individual transferring any stocks, bonds, or other securities pursuant to a form of transfer or assignment so executed shall be fully protected and shall be under no duty to inquire whether the Board has taken action in respect thereof.

8.4 Signing of Checks. Pursuant to written policies and procedures adopted by the Board, the Chairman of the Board, the Vice Chairmen of the Board and certain officers of the Conservancy may sign, make, and evidence in the name of the Conservancy checks, vouchers, drafts, warrants, orders for the payment of money or receipts.

8.5 Fiscal Year. The Board of Directors shall have the power to fix, and from time to time change, the fiscal year of the Conservancy by resolution; provided that unless and until otherwise so provided by the Board, the fiscal year of the Conservancy shall be that of the City of Louisville.

ARTICLE 9 GENERAL PROVISIONS

9.1 Seal. The Board of Directors may adopt by resolution a corporate seal which shall be circular in form and shall have inscribed thereon the designation "SEAL" and such other information as the Board of Directors may deem advisable.

9.2 Compensation; Interested Trustees and Officers. No Trustee or Officer of the Conservancy, other than the President, shall receive compensation for his services in that capacity. If a Trustee or an officer is interested, directly or indirectly, in a contract or transaction affecting the Conservancy or he or a member of his family is proposed to be compensated for services actually rendered to the Conservancy: (a) the material facts as to the Trustee's or officer's interest must be disclosed in good faith to the Board, and (b) the contract, prior to its execution, the transaction, prior to its consummation or the compensation, prior to any payment, must be approved by a majority vote of the Board, the interested Trustee not being counted for the purpose of establishing a quorum and not voting.

9.3 Indemnification. The Conservancy shall, to the fullest extent permitted by, and in accordance with the provisions of, the Kentucky Revised Statutes Chapter 273 (or corresponding provisions of any subsequent state laws), indemnify each Trustee, officer and employee of the Conservancy against expenses (including attorneys' fees), judgments, taxes, fines and amounts paid in settlement incurred by such person in connection with, and shall advance expenses (including attorneys' fees) incurred by such person in defending, any threatened, pending or completed action, suit or proceeding (whether civil, criminal, administrative or investigative) to which such person is, or is threatened to be made, a party by reason of the fact that such person is or was a Trustee, officer or employee of the Conservancy, or is or was serving at the request of the Conservancy as a Trustee, director, officer, member, partner, employee or agent of another domestic or foreign corporation, partnership, joint venture, trust or other enterprise. Advancement of expenses shall be made upon receipt of an undertaking, with such security, if any, as the Board may reasonably require, by or on behalf of the person seeking indemnification to repay amounts advanced if it shall ultimately be determined that such person is not entitled to be indemnified by the Conservancy as authorized herein.

9.4 Nonexclusivity of Indemnification. The indemnification provided for by Section 9.3 shall not be deemed exclusive of any other rights to which Trustees, officers or employees of the Conservancy may be entitled under any statute, agreement or action of the Board, or otherwise, and shall continue as to a person who has ceased to be a Trustee, officer or employee of the Conservancy, and shall inure to the benefit of the heirs, executors and administrators of such a person.

9.5 Insurance. The Conservancy may purchase and maintain insurance on behalf of any person who is or was a Trustee, officer, employee or agent of the Conservancy, or is or was serving at the request of the Conservancy as a Trustee, officer, member, partner, employee or agent of another domestic or foreign corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against such person and incurred by such person in such

capacity or arising out of such person's status as such, whether or not the Conservancy would have the power or be obligated to indemnify such person against such liability under the provisions of Section 9.3 or Kentucky Revised Statutes Chapter 273 (or corresponding provisions of any subsequent state laws).

9.6 Construction. Unless the context specifically requires otherwise, any reference in these By-Laws to any gender shall include all other genders, any reference to the singular shall include the plural, and any reference to the plural shall include the singular.

9.7 Severability of Provisions. If any provision of these By-Laws or its application to any person or circumstance is held invalid by a court of competent jurisdiction, the invalidity does not affect other provisions or applications of these By-Laws that can be given effect without the invalid provision or application, and to this end the provisions of these By-Laws are severable.

ARTICLE 10 AMENDMENTS

10.1 Amendment. These By-Laws may be amended or repealed, in whole or in part, by a majority vote of the Trustees at any meeting of the Board, provided, that notice of the proposed amendment or repeal, together with the text of the principal substantive changes, shall have been given with the notice of the meeting.

The above By-Laws of the Conservancy were adopted by the Board of Trustees as of January 21, 1999.


Anita Solomon, Secretary

Allison M Hallett

From: Allison M Hallett
Sent: Wednesday, September 15, 2010 10:56 AM
To: 'Cheryl Feigel'; Cheryl B Feigel
Subject: parks conservancy
Attachments: 501c3 recommendations from law.doc
Council Member Feigel,

Attached is a combined version of the recommendations from Mike Sanner in the Department of Law for modeling the parks conservancy program after Louisville's Olmsted Parks Conservancy.

Allison Hallett

Legislative Aide, 5th District
Council Member Cheryl Feigel
Lexington-Fayette Urban County Council
425-2283

Articles of Incorporation

- Article 1** – need a name
- Article 2** – probably want the same or similar powers as Louisville
- Article 3** – need name and address of the incorporator
- Article 4** – probably want same provisions as Louisville
- Article 5** – keep the same if modeling after Louisville
- Article 6** – need to determine how many trustees will serve on the board
- Article 7** – need names and addresses of the initial trustees or board
- Article 8** – need a registered office address for service of process
- Article 9** – need a principal office address
- Articles 10 – 13** are general articles

Bylaws

- Article 1** – keep the same if modeling after Louisville
- Article 2** – need an address for a registered office
- Article 3**
- Article 4** – need to decide the makeup of the board of trustees and their number
 - need to decide the length of term for each trustee type
 - probably want the remainder of this article regarding resignation, removal and vacancies to be the same as Louisville
- Article 5** – need to decide the number of meetings per year
 - need to decide who qualifies for a quorum and what the quorum will be based on the number of trustees
 - need to decide if want the same notice requirement as Louisville
 - Section 5.8 will need to be deleted if government run
- Article 6** – need to decide if want the same committees as Louisville (if government run, will be subject to open meetings act)
- Article 7** – need to decide on officers and their duties
- Article 8** – need to decide if want same finance structure as Louisville
- Articles 9 and 10** are general articles


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How to Start a 501c3 Nonprofit Organization

originated by: Anonymous, Thomas Wrobel, Esq., Ben Rubenstein, Jack Herrick (see all)

Have you always wanted to leave the world a better place than you found it by starting a nonprofit corporation? Here's a simple, straightforward guide on how to successfully establish a 501(c)(3) nonprofit corporation. Much love, me.


[edit](#)

Steps

- 1 **Understand what a nonprofit is:** an organization whose primary objective is to support some issue or matter of private interest or public concern (such as the arts, charities, education, politics, religion, research, or some other endeavor) for non-commercial purposes. There are different kinds of nonprofits, one of them being a 501(c)(3), which is exempt from income and (sometimes) property tax, and able to receive tax-deductible charitable contributions. While it can be helpful to consult with an attorney who is experienced in the area of nonprofit law to help avoid mistakes that people sometimes make when they try to incorporate by themselves, many people have been successful establishing a non-profit on their own. For those that are interested in proceeding without an attorney, sources found in books and on the Internet such as Secretary of State web sites may provide the necessary forms and information needed to establish a new non-profit.

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www.LegalZoom.com
- 2 **Formulate a mission statement.** As a non-profit organization, you exist to accomplish your mission, which should be crafted based upon your purpose, services and values. The mission statement is a concise expression that covers in one or two sentences who the organization is, what it does, for whom and where. It should also be compelling, as it will be used in all published materials, funding requests and public relations. It should also portray how your organization is distinct from others. (See Tips for a sample mission statement.)
- 3 **Form a Board of Directors.** Forming a board requires careful thought and extensive recruitment efforts. Each state has regulations that determine the minimum size of the board, typically three, but the optimum number of people who sit on the board should be determined by the needs of the organization. Based on what your organization would like to accomplish, you should decide what special skills and qualities you will require of the individuals on your board. Identify qualified individuals who are supportive of your mission and are willing to give of their talents and time (see Tips for more information).
- 4 **File Articles of Incorporation.** Articles of Incorporation are official statements of creation of an organization filed with the appropriate state agency. They are important to protect both board and staff from legal liabilities incurred by the organization, making the corporation the holder of debts and liabilities, not the individuals and officers who work for the organization. The specific requirements governing how to incorporate are determined by each state. You can obtain the information you need to proceed with this step from your state Attorney General's office or your state Secretary's office. Before you spend your money, at least consult with an attorney who is experienced in the area of nonprofit law so that you do not make one of the many major mistakes that people make when they try to incorporate by themselves.
- 5 **Draft bylaws.** Bylaws are simply the "rules" of how the organization operates. Although Bylaws are not required to file for 501(c)(3) status, they will help you in governing your organization. Bylaws should be drafted with the help of an attorney and approved by the board early in the organization's development.
- 6 **Develop a budget.** Creating a budget is often one of the most challenging tasks when creating a nonprofit organization. A budget is the expression, in financial terms, of the plan of operation designed to achieve the objectives of an organization. New organizations may start the budgeting process by looking at potential income – figuring out how much money they have to spend.

- 7 **Develop a record-keeping system.** Legally, you must save all Board documents including minutes and financial statements. It is necessary to preserve your important corporate documents, including board meeting minutes, bylaws, Articles of Incorporation, financial reports, and other official records. You should contact your appropriate state agency for more information on what records you are required to keep in the official files.
- 8 **Develop an accounting system.** If your board does not include someone with a financial or accounting background, it is best to work with an accountant familiar with non-profit organizations. Nonprofits are accountable to the public, their funders, and, in some instances, government granting bodies, and it is vital to establish a system of controls (checks and balances) when establishing the organization's accounting practices. Responsible financial management requires the establishment of an accounting system that meets both current and anticipated needs.
- 9 **Apply for a federal employer identification number.** Regardless of whether or not you have employees, nonprofits are required to obtain a federal Employer Identification Number (EIN) — also referred to as the federal ID number. Available from the IRS, this number is used to identify the organization when tax documents are filed and is used not unlike an individual's Social Security number. If you received your number prior to incorporation, you will need to apply for a new number under the corporate name. Ask for Form SS-4 when applying for your EIN.
- 10 **File for 501(c)(3) status.** To apply for recognition of tax-exempt, public charity status, obtain Form 1023 (application) and Publication 557 (detailed instructions) from the local IRS office. The filing fee depends upon the size of the organization's budget. The application is an important legal document, so it is advisable to seek the assistance of an experienced attorney or certified public accountant when preparing it. Both of these documents can be downloaded from IRS web site listed below.
- 11 **File for state and local tax exemption.** In accordance with state, county, and municipal law, you may apply for exemption from income, sales, and property taxes. Contact your state Department of Revenue, your county or municipal Department of Revenue, local Departments of Revenue, and county or municipal clerk's offices.
- 12 **Fulfill charitable solicitation law requirements.** If your organization's plans include fundraising, be aware that many states and few local jurisdictions regulate organizations that solicit funds within that state, county, or city. Usually compliance involves obtaining a permit or license and then filing an annual report and financial statement. Contact the state Attorney General's office, the state Department of Commerce, state and local Departments of Revenue and county or municipal clerk's offices to get more information.
- 13 **Apply for a nonprofit mailing permit.** The federal government provides further subsidies for nonprofits with reduced postage rates on bulk mailings. While first-class postage rates for nonprofits remain the same as those for the for-profit sector, second- and third-class rates are substantially less when nonprofits mail to a large number of members or constituencies. For more information on eligibility, contact the U.S. Postal Service and ask for Publication 417, Nonprofit Standard Mail Eligibility (also available at the link below)

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www.FoundationSource.com

Non-Profit Filings Business Filing & Compliance Info For Non-Profits Of All Sizes.
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Tips

edit

Sample mission statements: "The National Mental Health Association is dedicated to promoting mental health, preventing mental disorders and achieving victory over mental illnesses through advocacy, education, research and service." "The National Consumer Supporter Technical Assistance Center's purpose is to strengthen consumer organizations by providing technical assistance in the forms of research, informational materials, and financial aid." "The mission of Texas Mental Health Consumers is to organize, encourage, and educate mental health consumers in Texas." "TMHC supports and promotes the mental health recovery process through peer directed and operated services, advocacy, economic development, and participation in public mental health policy design."

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What to look for in a board member: Look for individuals whose values reflect your statement of purpose. Although it is recommended that the majority of your board be consumers, include the community at large, not just your specific community of focus (e.g. the mental health community). Consider the religious community, local service clubs, legal professionals, and colleges and universities as sources for prospective a Board of Directors. Do not overload people who already serve on many committees — seek a balance between old and new leadership.

The organization needs to open a bank account and ascertain whether to use the accrual or cash method of accounting. The difference between the two types of accounting is when revenues and expenses are recorded. In cash basis accounting, revenues are recorded when cash is actually received and expenses are recorded when they are actually paid (no matter



Lexington-Fayette Urban County Government
TREE BOARD

Jim Newberry
Mayor

Karen Angelucci
Chair

Dear Council Members and Mayor Newberry,

On behalf of the Tree Board, I would like to propose several amendments to various Ordinances to help improve the requirements for trees in our City. As you are well aware, trees are a very important aspect of our city in terms of the environment as well as the quality of life of residents in Fayette County. It is the Tree Boards contention that these proposed changes will provide benefits to the whole community.

Members of the Tree Board have been working collaboratively with staff from the Division of Engineering and the Division of Planning, with assistance from the Department of Law, for more than 12 months to prepare a set of text amendments that will best address several significant issues related to street trees, including street trees not being planted in subdivisions due to developer bankruptcy; and street trees only being planted along new residential streets within the community.

The proposed text amendments are attached for your consideration. By way of this communication, the Tree Board would request that the Urban County Council take action in support of trees in our community by initiating these collective amendments.

Sincerely,

Karen Angelucci

PROPOSED ORDINANCES CHANGES

August 19, 2010

Zoning Ordinance

1) **Article 18 of the Zoning Ordinance** – Landscape and Land Use Buffers

The proposed amendment to Article 18-4(d) will require compliance with the Planting Manual and national standards for maintenance and installation of landscape materials. The additional text also identifies the existing Ordinances for specific landscape plans that have been adopted by the Urban County Council. The proposed addition of Article 18-8 clearly states that violations of Article 18 are subject to enforcement and civil penalties that are already identified in Article 5 of the Zoning Ordinance.

18-4 (d) MAINTENANCE AND INSTALLATION – ~~All landscaping materials shall be installed in a sound, workmanship like manner, and according to accepted, good construction and planting procedures. All landscaping required by this Article shall be installed and maintained by the owner in compliance with the standards specified in Section 4 of the Planting Manual and the American National Standards (ANSI A300), and, as applicable, the requirements specified in Lexington-Fayette Urban County Government Ordinances No. 1-91 and No. 34-92 (Man O War Boulevard), No. 134-89 (Old Frankfort Pike), No. 133-89 (Georgetown Road), No. 213-83 and No. 286-87 (Richmond Road), No. 42-98 (Downtown Street Tree), and No. 85-2008 (Newtown Pike), all available in the offices of the Division of Building Inspection, or any other future amendments to these ordinances.~~ Any landscape material which fails to meet the minimum requirements of this Article at the time of installation shall be removed and replaced with acceptable materials. The person in charge of or in control of the property whether as owner, lessee, tenant, occupant, or otherwise shall be responsible for the continued proper maintenance of all landscaping materials, and shall keep them in a proper, neat, and orderly appearance, free from refuse and debris, at all times. All unhealthy or dead plant materials shall be replaced within one year, or by the next planting period, whichever comes first; while other defective landscape material shall be replaced or repaired within three (3) months. Sizes for the above-mentioned replacements shall be as provided in Section 18-4(c)(2). Topping trees or the severe cutting of limbs to stubs larger than three (3) inches in diameter within the tree crown to such a degree as to remove the normal canopy shall not be considered proper or permitted for the maintenance of trees as required by this Article. Except as provided above, the removal of landscape materials requires the approval of the Division of Building Inspection. When trees are removed other than as permitted above, such trees shall either be replaced with the necessary number of 2½-inch caliper trees to equal the total caliper of trees removed or with trees of the same caliper as those which were removed. All replacement trees shall be planted in the original location unless an alternate location is approved by the Division of Building Inspection. Violation of these installation and maintenance provisions shall be grounds for the Division of Building Inspection to refuse a building occupancy permit, require replacement of landscape material or institute legal proceedings to enforce the provisions of this Article.

18-8 ENFORCEMENT – Violations of Article 18 are subject to the penalty provisions in Article 5-8 and may be enforced through the issuance of a civil citation pursuant to Article 5-9.

2) **Article 26 of the Zoning Ordinance – Tree Protection Standards**

The purpose statement of Article 26 should be revised to clarify that the regulations are applicable to property being redeveloped or infilled anywhere in Lexington-Fayette County. The existing text leaves open the possibility that redevelopment sites would not need to adhere to the regulations of Article 26. This amendment will address development plans, while another proposed text change will address redevelopment when a subdivision plat is required, thus addressing the issue as much as possible.

26-1 PURPOSE – The Urban County Government recognizes the importance of trees as a vital component in counterbalancing the effects of an urban setting by providing cooling shade, by reducing noise and glare, by significant contribution to urban aesthetics, by improving air quality through carbon dioxide reduction and replenishing oxygen to the atmosphere, by improving surface drainage and reducing the effects of storm drainage flooding, by filtering non-point source pollution from area streams, by stabilizing soil thereby minimizing erosion, and providing habitat for wildlife. The purpose of this Article is to establish standards and procedures for countywide tree protection and planting in new developments and re-developments subject to review by the Planning Commission.

Land Subdivision Regulations

3) **Article 6 of the Land Subdivision Regulations - Street Tree Planting Locations**

The proposed deletion of the word “new” in Article 6-10(b) of the Subdivision Regulations would clarify that the regulations are applicable to property being subdivided along all existing and new residential collector or local streets anywhere in Lexington-Fayette County. This proposed change is a companion to the change in Article 26 of the Zoning Ordinance above. Currently, a subdivision along an existing residential street does not require street trees. The Tree Board is of the opinion that street trees should be installed for all residential subdivisions, new or old.

6-10(b) STREET TREE PLANTINGS FOR RESIDENTIAL LOCAL AND COLLECTOR /CONNECTOR STREETS - Street plantings shall be required on all ~~new~~-collector/connector and local streets in all residential subdivisions in accordance with the following provisions:

4) **Article 6 of the Land Subdivision Regulations – Fee Assessment and Collection**

The proposed amendment to Article 6-10(b)(3) would remove the Division of Building Inspection as the designated collector of the street tree fee. The Tree Board feels that fees paid at the time of recordation of a final subdivision plan by the applicant should be handled by one government entity/division, thus simplifying the process for the applicant. The Division of Planning currently collects recording fees payable to the Fayette County Clerk for all residential subdivisions and may be the logical entity to collect such a fee from the standpoint of convenience and consistency..

6-10(b)(3) PLATTING REQUIREMENT - The cross-section to be utilized shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. The final subdivision plan shall contain a note

stating that the maximum number of any one species of trees to be used is 25 or 25 percent of the total number of trees, whichever is greater. At least four (4) and no more than six (6) alternative species shall be listed on the final plat. The final plan will also indicate (by symbol) the number of trees required on each lot, based on Section 6-10(b)(1) above, and their general location. The final subdivision plan shall also contain a note stating that the street trees required herein, either within the right-of-way or designated easement, shall be maintained by the property owner in accordance with Section 6-10(b)(5) herein below. A note stating that no tree may be removed without the approval of the Urban Forester shall also appear on the final plan. A fee in the amount of ten dollars (\$10.00) per tree shown on the plat, payable to the Lexington-Fayette Urban County Government, shall be paid by the developer and collected ~~by the Division of Building Inspection~~ at the time of the recording of the final record plan.

5) Article 6 of the Land Subdivision Regulations – Timing of Tree Planting

The proposed amendment to Article 6-10(b)(4) of the Subdivision Regulations would remove the timing requirement for planting of street trees within one year of the recordation of a final record plat. Currently, there is little oversight of planting and no consequences have been identified for developers who do not install street trees within the one-year time frame. No street trees can be seen as a detriment to the neighborhood and the LFUCG has little recourse once the residences are occupied. The Tree Board has worked with the Division of Engineering and the Department of Law to draft revised timing requirements for such planting. This requirement will be stated in Appendix E of the Engineering Procedures Manual as part of the surety release provisions. More specifically, the developer would be able to bond the street trees much like other public improvements and release a portion of the surety amount as trees are planted. The Division of Engineering should work with the Urban Forester to determine a suitable average cost for small, medium and large trees.

6-10(b)(4) PLANTING - It shall be the responsibility of the developer to plant the required street trees in accordance with the Engineering Manuals ~~within one year from the date of the recording of the final record plan.~~

Code of Ordinances

6) Chapter 5, Article 3 of the Code of Ordinances

The Tree Board identified an inconsistency in the LFUCG Ordinances that should be rectified. Section 5-31 should be deleted once Appendix E of the Engineering Procedures Manual is updated to include street trees as an item on the "punch list" of public improvements that should be installed and verified. The proposed amendment would eliminate a section of the Code which has not been enforced (i.e. the fee designated has not been collected) because developers are now responsible for planting the trees. Section 5-31 was adopted to provide adequate funds for the LFUCG to plant street trees. Since the local government is no longer responsible for this task, the text should be deleted.

~~Sec. 5-31. Fee for installation of required street trees.~~

~~Where an application is made for a building permit pursuant to a subdivision plan for which planting of street trees is required, an additional fee of one hundred dollars (\$100.00) shall be paid per required tree.~~

~~(Ord. No. 49-84, § 1, 4-19-84)~~

7) Chapter 17-B-8 of the Code of Ordinances

The proposed amendment would clarify that invasive plants or vines that mask potential defects to the street trees should be removed as part of regular maintenance.

Sec. 17B-8. Tree maintenance, public rights-of-way or designated tree planting easement. Owners of street trees shall provide reasonable care and maintenance to trees within the urban county government right-of-way or tree planting easement, including as appropriate, watering, pruning, insect control and removal of dead or diseased limbs, and removal of any vine or other invasive plant or growth that masks potential defects of the tree.

It shall be unlawful for the owner or occupant of any building or lot to permit any tree, including street trees, to grow in a manner which interferes with a normal sidewalk located on such lot or within an urban county government right-of-way adjoining such lot, or street traffic, or to grow so as to pose a threat to safety or public rights-of-way due to obstruction of view, obstruction of passage, or in any other manner.

The minimum clearance of any overhanging portion thereof shall be seven (7) feet over sidewalks and twelve (12) feet over all streets except truck routes which shall have a clearance of fourteen (14) feet.

(Ord. No. 70-94, § 1, 5-5-94; Ord. No. 30-2005, § 1, 2-10-05)

LFUCG Engineering Manuals

8) Division of Engineering – Procedures Manual, Appendix E

The Division of Engineering's Procedures Manual is also proposed for amendment in order to address the timing of street tree plantings within residential subdivisions and to formalize the bonding/warranty of street trees by developers. These changes can be adopted by the Division of Engineering as a required administrative change.

Planning Committee- Issues Outstanding

08.05.2010

Issue	Member Referred	Date Referred	Status
• Liberty Road Project Status	Stinnett	Jan 06	Bi Monthly Report
• Newtown Pike Status	Blues	Feb 06	Bi Monthly Report
• Fence Height Regulations	Blues	Dec 07	Sept 2010
• Mobile Home Trailer Park Quality of Life	James	Dec 07	June 2010/ Nov 2010
• Infill Redevelopment Committee Recommendations	Gray	Feb 08	
• Management Audit Recommendations	Crosbie	May 08	Fall 2010
• Art 16 Zoning Ordinance re Rear Yard Parking in Residential Areas	Henson	Apr 09	Related to Moratorium Issue
• Downtown Lexington Building Inventory	Feigel	June 09	Oct 2010
• Encroachment Issue	Stinnett	Jan 10	Nov 2010
• Parks Master Plan Funding	Feigel	Jan 10	Fall 2010
• Secure by Design	James	Jul 10	Sept 2010