

ORDINANCE NO. 155 -2009

AN ORDINANCE AMENDING ARTICLES 27-6(d) AND 27-7 OF THE ZONING ORDINANCE TO DELAY THE ISSUANCE OF DEMOLITION PERMITS IN THE COURTHOUSE DESIGN AREA OVERLAY ZONE, AND TO STAY ALL WORK ONCE AN APPEAL TO THE PLANNING COMMISSION HAS BEEN FILED UNTIL AFTER THE HEARING BEFORE THE PLANNING COMMISSION.

WHEREAS, the Planning Commission, at the request of the Courthouse Area Design Review Board, initiated a text amendment to assure that any appeal of a decision of the Courthouse Area Design Review Board to the Planning Commission would provide meaningful due process by delaying or stopping work during the course of the appeal process; and

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to delay the issuance of demolition permits in the Courthouse Area Design Overlay zone by the Division of Building Inspection for seven days following issuance of the Authorization Permit from the Design Review Officer, and to further require that all work be delayed or suspended upon the filing of a timely appeal until such time as the Planning Commission has heard that appeal; and

WHEREAS, the Planning Commission did hold a public hearing on this proposed text amendment on June 25, 2009; and

WHEREAS, the Planning Commission did recommend APPROVAL of this proposed text amendment by a vote of 10-0; and

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

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

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

Section 1 — That Article 27-6(d) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

EFFECT OF AUTHORIZATION PERMIT – Upon receipt of the Authorization Permit from the Design Review Officer, a seven (7) day waiting period shall begin in which no demolition activity may be undertaken by the applicant or its agents, and no demolition permits may be issued. Upon

completion of the waiting period, the Division of Building Inspection shall issue a demolition or wrecking permit, as appropriate, in accord with the Authorization Permit, provided the application meets all other requirements of law. In the instance an applicant is required to obtain a building permit, no mandatory waiting period shall apply, and the Division of Building Inspection shall issue a building permit upon receipt of the Authorization Permit from the Design Review Officer, provided the application meets all other requirements of law.

Section 2 - That Article 27-7 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

APPEALS – Any person or entity claiming to be injured or aggrieved by any decision of the Board to approve or deny any request for an Authorization Permit may appeal such decision to the Planning Commission within thirty (30) days of the Board's action. Such appeal shall be in writing and shall fully state the grounds upon which the appeal is sought. Upon receipt of the appeal, the Secretary to the Planning Commission shall notify in writing the Divisions of Building Inspection and Engineering, and the Design Review Officer, who shall promptly transmit the entire record of the Board, including tapes and transcripts, if any. In addition, within five (5) days of the filing of the appeal, the Secretary to the Planning Commission shall, by certified mail, notify the applicant of the appeal, if the applicant is not the appellant. Regardless of whether any permit has been issued pursuant to Section 27-6(d), no building or demolition activity may be undertaken or continued by the applicant or its agents; and no building, demolition, or other permits may be issued by the Divisions of Building Inspection and Engineering until after the Commission holds a public hearing and takes action on the appeal. The Commission shall then hold a de novo hearing on the appeal and render a decision within ninety (90) days of the date of filing the appeal.

Section 3 - That Article 27-7(b) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

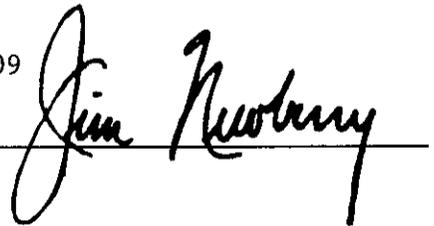
APPEAL TO THE FAYETTE CIRCUIT COURT – Any person or entity claiming to be injured or aggrieved by any order of the Planning Commission to affirm, modify or set aside the Authorization Permit and/or final decision of the Board may appeal from the Planning Commission's action to the Fayette Circuit Court within thirty (30) days of that order in the manner as established in KRS 100.347.

All orders of the Planning Commission which have not been appealed within thirty (30) days shall become final.

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

PASSED URBAN COUNTY COUNCIL: July 7, 2009

MAYOR



ATTEST:


Clerk of Urban County Council

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