

03/10/1988

Ordinance

50-88

ORDINANCE NO. 50-88

AN ORDINANCE AMENDING ORDINANCE NO. 29-88 TO AMEND ALL REFERENCES TO ARTICLE 6-9(b) OF THE ZONING ORDINANCE TO READ ARTICLE 6-9(b) OF THE LAND SUBDIVISION REGULATIONS; TO MAKE THE EFFECTIVE DATE AUGUST 27, 1987; AND TO REQUIRE THAT 90% OF THE FUNDS COLLECTED PURSUANT TO ORDINANCE NO. 199-87 BE REFUNDED, PRO RATA, TO EACH OF THE DEVELOPERS WHO PAID SUCH FUNDS TO THE URBAN COUNTY GOVERNMENT.

WHEREAS, on February 25, 1988, this Council passed Ordinance No. 29-88 for the purpose of amending Article 6-9(b) of the Land Subdivision Regulations; and

WHEREAS, Ordinance No. 29-88 erroneously referred to Article 6-9(b) of the Zoning Ordinance rather than Article 6-9(b) of the Land Subdivision Regulations; and

WHEREAS, it was the intent of the Council that Ordinance No. 29-88 be effective as of August 27, 1987 rather than February 25, 1988, which was the effective date of Ordinance No. 199-87 which also amended Article 6-9(b) of the Land Subdivision Regulations; and

WHEREAS, it is the intent of this Council that 90% of the funds collected pursuant to Ordinance No. 199-87 be refunded, pro rata, to each of the developers who paid such funds to the government;

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

Section 1 - That all references in Ordinance No. 29-88 to Article 6-9(b) of the Zoning Ordinance be amended to read "Article 6-9(b) of the Land Subdivision Regulations".

Section 2 - That the effective date of the Ordinance be amended to be August 27, 1987.

Section 3 - That the Ordinance contain a new section 3 which shall read as follows:

Section 3 - That 90% of the funds collected pursuant to Ordinance No. 199-87 be refunded pro rata, to each of the developers who paid such funds to the Urban County Government.

Section 4 - That this Ordinance shall be effective as of February 25, 1988.

PASSED URBAN COUNTY COUNCIL: March 10, 1988

Sally Buesch

MAYOR

ATTEST:

Ann Lallier
Acting Clerk of Urban County Council

PUBLISHED: March 16, 1988-1t

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DEPARTMENT OF CLERK

may be used to support the various and diverse
concepts in accordance with the
I do hereby certify that the

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measured from the right-of-way line of the nearest intersecting street or the center line of the nearest intersecting non-residential access point (i.e., driveway).

The minimum spacing on non-residential access points shall be based upon the maximum potential trip generation of the contiguous area which has been zoned and/or planned for non-residential land use that abuts the subject road facility and encompasses the area which has been proposed for development by the developer.

Access to a minor arterial via a service road shall be allowed only in accordance with the spacing standards based upon the trip generation of the total area immediately served by the service road. The determination of potential trip generation shall be made using sources and methods approved by the Lexington-Fayette Urban County Government, Division of Planning. The spacing of access points shall be determined as follows:

$$D = 1400 - (1000 (1 - TE/3000))$$

Where: D = the required distance between access points (in feet)

TE = the maximum potential trip ends of the area in which the development will take place.

If D exceeds 1400 feet, then the minimum standard of 1400 feet shall apply to all access points of that development. D shall be rounded to the nearest 50 feet. For properties fronting along street facilities where the required spacing would not allow an individual access to properties adjacent to the property currently being developed, an arrangement shall be made for the joint use of entrances or the construction of service roads by developers.

6-9 LANDSCAPING AND TREE PLANTING STANDARDS

6-9(a) LANDSCAPE AND LAND USE BUFFERS - All land subdivision plans shall conform to the requirements of Article 18 of the Zoning Ordinance.

6-9(b) STREET TREE PLANTINGS - Shall be required on all new collector and local streets in all residential subdivisions in accordance with the following provisions:

(1) TYPE AND NUMBER - Trees to be planted shall be of the deciduous type, and shall be of a type of root growth pattern which minimizes potential damage to street and utility facilities. A listing of approved trees shall be included in the Planting

Manual. Trees shall be required at the standard of one (1) tree per 45 feet of street frontage for large trees, 35 feet for medium size trees, and 25 feet for small trees, as determined by the Urban County Government landscape examiner.

(2) LOCATIONAL CRITERIA - Two options shall be permitted at the developer's discretion. The first option shall be to place the trees within a planting easement with a minimum width of 5' to be located immediately adjacent and parallel to the street right-of-way. The second option shall be to plant the trees within the street right-of-way between the street curb and the sidewalk in the area commonly called the "utility strip." The developer's choice shall be shown appropriate subdivision and development plans, and shall be consistent on any given street.

(3) PLATTING REQUIREMENT - The cross section to be utilized and tree species shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. Tree species shall be consistent for any given street, and at least one alternative species of the same genus shall be specified. The final plan will also indicate by symbol the number of trees required on each lot based upon Section 6-9(1) above, and its 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 6-9(b)(5) hereinbelow. A note stating that no tree may be removed without the approval of the Tree Coordination Center shall also appear on the final plan.

(4) BUILDING PERMIT - At the time of issuance of a building permit, the builder will sign a statement acknowledging responsibility to plant trees required under this section. The statement will also provide that the builder will warrant any required trees for a period of one (1) year from the date of issuance of an occupancy permit. No occupancy permit shall be issued unless the required trees have been properly installed. However, when weather conditions would prohibit proper tree planting, an occupancy permit shall be issued if the builder provides (to the Division of Building Inspection) a binding contract with a landscaping contractor indicating the required trees will be installed within 90 days of the date of issuance of the occupancy permit. The builder shall replace any required tree which dies within one year of the date of the occupancy permit. The Urban County Government Arborist shall make the

judgement as to whether or not the trees are alive; any disputed cases shall be referred to the Urban County Government Tree Board for final judgement.

(5) MAINTENANCE - The owner of the property shall be responsible for the continued proper maintenance of all street trees and shall keep them in a proper, neat, and orderly appearance free from refuse and debris at all times. 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 permitted for the maintenance of trees required by this Section.

6-10 STANDARDS FOR ENVIRONMENTALLY SENSITIVE AREAS AND GEOLOGIC HAZARD AREAS - It is recognized that certain areas in Lexington-Fayette County, due to environmental or geologic conditions, may pose problems to providing safe development where such conditions are encountered on the land to be developed. These areas are defined and described as follows:

ENVIRONMENTALLY SENSITIVE AREAS - This term applies to any area which due to its natural or physical setting may have environmental problems with regard to development. This is not to say that the land cannot be developed; but if it is determined that development can occur, then some safeguards such as detailed site planning will be necessary to overcome the physical limitations of the land. Lands in question shall include (but shall not be limited to) areas of steep slope (over 15%), floodplains, sinkholes, areas of poor soils, improper fill, wetlands, significant areas of tree stands, aquifer recharge areas, etc.

GEOLOGIC HAZARD AREAS - A geologic hazard area differs from an environmentally sensitive area in that the environmental problems are so numerous that development, even with severe limitations, would pose a serious problem to the immediate area or the surrounding areas. Examples of these areas are areas of excessive floodplain, areas that have potential collapse problems due to caves underneath the rock strata but close to the surface, cliff areas, etc.

The location of most environmentally sensitive and geologic hazard areas are shown in the Comprehensive Plan. Additional maps and other information regarding such areas are on file with the Division of Planning. Whenever a subdivision is proposed on land containing such areas, the following requirements shall apply:

6-10-(a) ENVIRONMENTALLY SENSITIVE AREAS - All such areas shall be identified and located on the preliminary subdivision plan as provided in Article 5. In addition, the developer shall be required to file with the application a general statement describing the nature of the environmentally sensitive areas, and the manner in which and such area is to handled during development of the property, as well as any special design measures taken by the developer to attempt to minimize the development's impact on the environmentally sensitive areas. If, after a review of this general statement and any other available information, the Division of Planning finds that questions remain concerning the development's impact on the environmentally sensitive area, or

the health and safety of future users of the area, the Commission shall refuse to fully approve the preliminary subdivision plan until it is satisfied that the hazards have been eliminated or adequate safeguards provided to ensure the least negative impact on the environmentally sensitive area. To assist it in making this determination, the Commission may require the developer to have comprehensive and detailed environmental assessment studies prepared by qualified professionals for Commission consideration. The Division of Planning shall review all such studies and make specific comments and recommendations to the Commission. Such studies shall be submitted to the Division of Planning no later than five (5) working days prior to the established date of the public hearing at which the Division's comments will be presented.

6-10(b) FLOODPLAIN AREAS EXCEPTED - Floodplain areas shall not be required to be contained in reports required under 6-10(a) above, except to the extent they impact or are impacted by another environmentally sensitive areas. Restrictions for floodplain areas shall be as required by Article 1 of the Zoning Ordinance.

6-10(c) GEOLOGIC HAZARD AREAS - All such areas shall be identified and located on the preliminary subdivision plan as provided in Article 5. As a general rule, development shall be designed such that any geologic hazard area shall be left in its natural state as permanent open space. However, if the developer intends to develop within or otherwise impact the geologic hazard area, a comprehensive environmental assessment study of the geologic hazard area prepared by a qualified professional shall be required to be filed at the time of application for plan consideration by the Commission. The Division of Planning shall not accept applications if this report is not provided. The Division of Planning shall review the contents of the study and make specific comments and recommendations to the Commission. The Commission shall refuse to fully approve the subdivision plan unless and until it is satisfied that the safe guards will be provided such that future residents will experience no loss of health, safety or welfare due to development within the geologic hazard area.

6-11 SURVEYING AND MONUMENTATION STANDARDS - The following standards shall be applicable to all major subdivision plans inside the Urban Service Area.

6-11(a) All vertical measurements shall be based upon the North American Vertical Datum 1929 or latest revision or adjustment.

6-11(b) Any required horizontal control monuments to be placed shall meet a minimum of third order accuracy. Third order is defined to be 1:5000:

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ORDINANCE NO. 29-88

AN ORDINANCE AMENDING ARTICLE 6-9(b) OF THE ZONING ORDINANCE SO AS TO REQUIRE A DEVELOPER TO PAY A FEE IN THE AMOUNT OF TEN DOLLARS (\$10.00) PER STREET TREE SHOWN ON A PLAT TO THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT AT THE TIME OF RECORDING A FINAL SUBDIVISION PLAT; TO PLANT THE STREET TREES WITHIN ONE YEAR FROM THE DATE OF RECORDING THE FINAL SUBDIVISION PLAT; AND TO MAINTAIN THE TREES FOR A PERIOD OF ONE YEAR FROM THE DATE OF THEIR PLANTING.

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment proposed to it so as to require a developer to pay a fee in the amount of Ten Dollars (\$10.00) per street tree shown on a plat to the Lexington-Fayette Urban County Government at the time of recording a final subdivision plat; to plant the street trees within one year from the date of recording the final subdivision plat; and to maintain the trees for a period of one year from the date of their planting; and

WHEREAS, the Planning Commission did hold a public hearing on this proposed text amendment on January 21, 1988; and

WHEREAS, the Planning Commission did recommend disapproval of this proposed text amendment by a vote of 6-0; and

WHEREAS, this Council disagrees 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 6-9(b) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as shown on Exhibit "A", attached hereto and incorporated herein by reference.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: February 25, 1988

/s/ Scotty Baesler

MAYOR

ATTEST:

/s/ Ann Sallee

Acting Clerk of Urban County Council

PUBLISHED: March 2, 1988-1t

6-9 LANDSCAPING AND TREE PLANTING STANDARDS

6-9(a) LANDSCAPE AND LAND USE BUFFERS - All land subdivision plans shall conform to the requirements of Article 18 of the Zoning Ordinance.

6-9(b) STREET TREE PLANTINGS - Shall be required on all new collector and local streets in all residential subdivisions in accordance with the following provisions:

(1) TYPE AND NUMBER - Trees to be planted shall be of the deciduous type, and shall be of a type of root growth pattern which minimizes potential damage to street and utility facilities. A listing of approved trees shall be included in the Planting Manual. Trees shall be required at the standard of one (1) tree per 45 feet of street frontage for large trees, 35 feet for medium size trees, and 25 feet for small trees, as determined by the Urban County Government landscape examiner.

(2) LOCATIONAL CRITERIA - Two options shall be permitted at the developer's discretion. The first option shall be to place the trees within a planting easement with a minimum width of 5' to be located immediately adjacent and parallel to the street right-of-way. The second option shall be to plant the trees within the street right-of-way between the street curb and the sidewalk in the area commonly called the "utility strip." The developer's choice shall be shown on appropriate subdivision and development plans, and shall be consistent on any given street.

(3) PLATTING REQUIREMENT - The cross section to be utilized and tree species shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. Tree species shall be consistent for any given street, and at least one alternative species of the same genus shall be specified. The final plan will also indicate by symbol the number of trees required on each lot based upon Section 6-9(1) above, and its 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 6-9(b) (5) hereinbelow. A note stating that no tree may be removed without the approval of the Tree Coordination Center 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 Planning at the time of the recording of the final subdivision plat.

(4) PLANTING - It shall be the responsibility of the developer to plant the street trees within one year from the date of the recording of the final subdivision plat.

(5) MAINTENANCE - The developer shall maintain all trees for a period of one year from the date of their planting and shall replace any required tree which dies within one year of its planting. Upon the expiration of one year from the date of planting, the owner of the subject property shall be responsible for the continued proper maintenance of all street trees and shall keep

them in a proper, neat, and orderly appearance free from refuse and debris at all times. 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 permitted for the maintenance of trees required by this Section.

O - 500-888

Thelma
Chuck
Mallory

ORDINANCE NO. 199-87

AN ORDINANCE AMENDING SECTIONS 6-9(b)(4) AND 6-9(c)(1-3) OF THE SUBDIVISION REGULATIONS SO AS TO REQUIRE A FEE TO BE PAID PRIOR TO THE RECORDING OF THE FINAL SUBDIVISION PLAT FOR THE INSTALLATION AND MAINTENANCE OF STREET TREES.

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered an amendment to the Subdivision Regulations proposed to it so as to require a fee to be paid prior to the recording of the final subdivision plat for the installation and maintenance of street trees; and

WHEREAS, the Planning Commission did hold a Public Hearing on this proposed amendment on July 23, 1987; and

WHEREAS, the Planning Commission did recommend approval of this proposed amendment by a vote of 8-0; 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 herein by reference.

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

Section 1 - That Sections 6-9(b)(4) and 6-9(c)(1-3) of the Subdivision Regulations of the Lexington-Fayette Urban County Government are hereby amended to read as set forth in the attachment, which is incorporated herein by reference.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 27, 1987

ATTEST:

/s/ Scotty Baesler
Mayor

/s/ Ann Saltee, Deputy
Clerk of Urban County Council

PUBLISHED: September 2, 1987-lt

Rec'd By OK
Date: 8/13/87

Urban County Planning Commission
200 East Main Street, Lexington, Ky.

Office of Director
Planning Commission Meeting

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

IN RE: SRA 87-1: STREET TREES - An amendment to the Subdivision Regulations to require a fee to be paid prior to the recording of the final subdivision plat for the installation and maintenance of street trees.

Having considered the above matter on July 23, 1987, at a Public Hearing and having voted 8-0 that this Recommendation be submitted to the Lexington-Fayette, Urban County Council, the Urban County Planning Commission does hereby recommend APPROVAL of this matter for the following reasons:

1. Plantings on Arterial Streets
 - a. The amendments as proposed to the Zoning Ordinance and Subdivision Regulations will provide a more effective means of landscaping arterial streets and freeways.
 - b. These amendments will be a first step in the Urban County Government creating a comprehensive proposal to address future as well as existing development along our arterial streets and freeways.
2. Street Tree Plantings on Local and Collector Streets
 - a. The current provision which allows the builder to install the required trees has been unsuccessful.
 - b. The proposal will provide money for the Division of Parks to contract with private nurseries to plant the trees and maintain them for the first year.

ATTEST: This 13th day of August, 1987.

Dale B. Thoma
Secretary, Dale B. Thoma

W. RUSH MATHEWS
CHAIRMAN

Enclosures: Staff Report w/Text
Applicable excerpts of minutes of above meeting

At the Public Hearing before the Urban County Planning Commission, this Petition was represented by the Planning Staff.

OBJECTIONS

None

OBJECTORS

None

VOTES WERE REGISTERED AS FOLLOWS:

AYES: (8) Boone, Cooper, Flynn, Howard, Madden, Lucas, Wharton, Mathews

NAYS: (0)

ABSENT: (3) Walton, May, Quillin

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of SRA 87-1: STREET TREES carried.

SRA 87-1

Landscape Requirements - Street Trees

Proposed by: Urban County Council

Proposed text: (Text underlined indicates an addition; text dashed-through indicates a deletion.)

6-9(b) Street Tree Plantings on Local and Collector Streets
- Shall be required on all new collector and local streets in all residential, office and business subdivisions in accordance with the following provisions:

~~{4}--BUILDING--PERMIT-----At--the--time--of--issuance--of--a building--permit;--the--builder--will--sign--a--statement acknowledging--responsibility--to--plant--trees--required under--this--section;--The--statement--will--also--provide that--the--builder--will--warrant--any--required--trees--for--a period--of--one--{1}--year--from--the--date--of--issuance--of--an occupancy--permit;--No--occupancy--permit--shall--be--issued unless--the--required--trees--have--been--properly--installed; However;--when--weather--conditions--would--prohibit--proper tree--planting;--an--occupancy--permit--shall--be--issued--if the--builder--provides--{to--the--Division--of--Building Inspection}--a--binding--contract--with--a--landscaping contractor--indicating--the--required--trees--will--be installed--within--90--days--of--the--date--of--issuance--of--the occupancy--permit;--The--builder--shall--replace--any required--tree--which--dies--within--one--year--of--the--date--of the--occupancy--permit;--The--Urban--County--Government Arborist--shall--make--the--judgement--as--to--whether--or--not the--trees--are--alive;--any--disputed--cases--shall--be referred--to--the--Urban--County--Government--Tree--Board--for final--judgement;~~

(4) FEE - A fee, as determined by the Urban County Council to be necessary to cover the cost of installation of the required trees, shall be paid by the developer prior to the certification and recording of the final subdivision plan. Funds generated by these fees shall be placed in a special account for the sole purpose of installation and first year maintenance of trees required under this section. Trees shall be planted by the Lexington-Fayette Urban County Government.

6-9(c) STREET PLANTINGS ON ARTERIAL STREETS - Street plantings shall be required for any double frontage lot in any zone, except A-R and A-U, that adjoins an arterial street not maintained by the state and which does not provide direct access to the adjoining property.

(1) Type, Number, and Location - A continuous 6' high hedge shall be required with the same species to

be used for the entire frontage of the development. Where possible, the hedge should be planted in the right-of-way, and 3' from the right-of-way fence. Trees should be planted in the right-of-way with the exact location to be approved by the Traffic Engineer and the Building Inspector. All trees are to be planted a minimum of 10' from the right-of-way fence. Where there is less than 10' between the right-of-way fence and the sidewalk, or, where there is no sidewalk, less than 10' between the right-of-way fence and the curb line of the arterial street, no trees are required. Trees shall be required as follows (The Planting Manual and Plant Materials List shall be used to meet the minimum requirements set forth herein):

<u>Location description</u>	<u>Required Trees</u>
<u>(a) The elevation of the arterial is more than 10' above the elevation of the adjacent property</u>	<u>1 evergreen tree/ 20' OFT planted 20'O.C.</u>
<u>(b) The elevation of the arterial is not more than 10' above or is below the elevation of the adjacent property</u>	<u>1 tree/50' OFT from Group A of the plant list alternated with 1 flowering tree/ 50' OFT</u>
<u>(c) The intersection of a collector street with the arterial</u>	<u>Three (3) evergreen trees planted in a triangular pattern 20' O.C., three deciduous trees from Group A of the plant list planted 40' O.C. and three flowering trees 25' O.C.</u>
<u>(d) Culverts and other wet locations</u>	<u>1 riparian tree/ 40' OFT</u>

Where, due to site restrictions, the planting cannot be placed in the right-of-way, the Commission may allow the landscaping to be placed on the adjacent property.

- (2) Platting Requirement - The cross section to be utilized and tree species shall be determined at the time of Commission action on the preliminary subdivision plan, and shall also be reflected on the final subdivision plan. Tree species shall be

consistent for any given development, and at least one alternative species of the same genus shall be specified. The final subdivision plan shall also contain a note stating that the arterial street plantings required herein shall be maintained by the developer for one year from the date of planting. Such maintenance shall include replacing required plantings which die within the first year. After the first year, the Urban County Government shall maintain the plantings.

- (3) Completion of the Arterial Street Plantings - The required arterial street plantings shall be considered a public improvement and as such shall be fully installed prior to Commission consideration of the final record plan. The Commission may, however, permit the plan to be approved and recorded prior to the completion of the plantings with the posting of a surety as provided in Article 4-7 herein.

ZOTA 87-10

AMENDMENTS TO ARTICLE 18: LANDSCAPE AND LAND USE BUFFERS

Proposed by: Urban County Council

Proposed text: (Text underlined indicates an addition, text dashed through indicates a deletion.)

18-3(a)(1) PROPERTY PERIMETER REQUIREMENTS

A.	B.	C.	D.
When the following.....	adjoins the following.....	a minimum buffer area *1 of this average width (with 3' as the least dimension) is re- quired. *3 *4	which will contain this material, to achieve opacity required. *5 *8
4. Any-zone-(unless-the property-within-the zone-is-used-for-ve- hicle-sales-facil- ity-or-service station)-except agricultural-zones:	A-freeway-or-arterial street-prohibiting driveways:	20' for residential zones and 10' for all other zones adjacent to freeway or arterial.	1 tree/30', OFT, Group A or B, plus continuous 6' high planting, hedge, wall, fence (not to exceed 8' in height at street grade) or earth mound. <u>Such plantings are to be shown on a unified plan for the devel- opment.</u>
4. <u>Any double frontage lot (as defined by the Subdivision Reg- ulations) in any zone except A-U and A-R, unless the lot is used for a vehi- cular sales facility or a service station.</u>	<u>Any state maintained freeway or arterial street not providing direct access to the property.</u>		

18-3(a)(3) WHO PROVIDES LANDSCAPE BUFFER AREA - The landscape buffer area and material required adjacent to any vehicular use area under Section 18-3(a)(2) shall be provided by the property-owner person in charge of or in control of the property whether as owner, lessee, tenant, occupant or otherwise, unless the authority building the street has fully met all requirements on the street right-of-way. When adjacent to other common boundaries, the landscape buffer area and materials (a) may be placed on either adjoining parcel, or astride the boundary, if both are owned and being processed by the same owner; or (b) generally shall be placed on the activity listed under Column A of 18-3(a)(1) and 18-3(a)(2) when adjoining parcels have different owners; or (c) may be placed astride the boundary of adjoining parcels having different owners if a written agreement, signed by both owners, is filed with the Division of Building Inspection as a public record; or (d) shall be placed on the activity or parcel being processed when adjoining property is already developed with the exception of 18-3(a)(1) lines 4 and 5; or (e) shall not be required along the common boundary if the requirements of this article have been fully complied with on the adjoining property, in fulfillment of the requirements of this 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. 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 owner-of-the-property 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 material 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 3 months. 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. 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.

Staff Review (Plantings on Arterial Streets)

In order for the screening of arterials to function properly, it was necessary to split the requirements between the Zoning Ordinance and the Subdivision Regulations.

In the Zoning Ordinance, Article 18-3(a)(1) is to be revised to address the screening of double frontage lots that adjoin a state maintained freeway or arterial street (a list of such streets is attached). This requirement would be tied to the development of the property with the landscaping to be installed (or bonded) on the private property prior to the issuance of an occupancy permit.

The Subdivision Regulations would provide a means of obtaining screening on arterial streets maintained by the Urban County Government. On these streets the landscaping would be installed on the right-of-way. It would be included in the public improvements such as streets and sewers, that are required to be in place prior to the recording of the final record plat subdividing the property. Unlike the street trees on local and collector streets, which are now to be planted by the Urban County Government, the plantings on the locally maintained arterials would be done by the developer of the property. The locally maintained arterials are shown on the attached list.

Staff Recommended: Approval, for the following reasons:

- a. The amendments as proposed to the Zoning Ordinance and Subdivision Regulation will provide a more effective means of landscaping arterial streets and freeways.
- b. These amendments will be a first step in the Urban County Government creating a comprehensive proposal to address future as well as existing development along our arterial streets and freeways.

Staff Review (Street Tree Plantings on Local and Collector Streets)

The Council has initiated a text amendment to the Subdivision Regulations relating to the installation and maintenance of street trees which are required on local and collector streets in residential office and business subdivisions.

Under the provisions of the current ordinance, the builder signs a statement agreeing to install and maintain the trees. No occupancy permit is to be issued until this is done. This "honor system" has been wholly unsuccessful. In one section of Cumberland Hill Subdivision, 81 new lots were surveyed for compliance with the street tree regulations. Twenty-one (21) lots had no trees and of the remaining 60 lots that did have trees, 45 had the wrong species, had the trees planted in the wrong place, or were substandard in size.

The proposed text would require a fee to be paid prior to the recording of the final plat to cover the cost of the tree, planting, and the first year's maintenance. The work would be the responsibility of the Urban County Government. Probably, a private nursery would be contracted to do this work.

The Staff Recommended: Approval, for the following reasons:

- a. The current provision which allows the builder to install the required trees has been unsuccessful.
- b. The proposal will provide money for the Division of Parks to contract with private nurseries to plant the trees and maintain them for the first year.

Staff Review (Responsibility to provide and maintain landscaping)

The Council has also proposed a text amendment to the Zoning Ordinance to make the lessee responsible for providing and maintaining the landscaping. This would aid enforcement, particularly in business areas, where responsibility for small portions of the property can be difficult to define. It is also difficult, and sometimes impossible, to determine the terms of the lease which may make the lessee responsible for the continued maintenance of the property.

Staff recommended: Approval, for the following reasons:

- a. The proposed amendment will aid in the enforcement of the maintenance provisions of the landscape ordinance.

Attachment

Urban County Government Maintained Arterials (Inside USA)

Man o' War Boulevard
 Alumni Drive/Road "D"
 Clays Mill Road
 Limestone (Euclid to Paris Pike)
 Liberty Road (3rd Street to New Circle Road)
 Bryan Station Road (Limestone to New Circle Road)
 Russell Cave Road (Loudon Avenue to New Circle Road)
 Rose Street
 Maxwell Street (Broadway to High Street)
 High Street (Broadway to Maxwell Street)
 Loudon Avenue (Newtown to Third)
 Mason Headley/Waller Avenue/Cooper Drive to Tates Creek
 Wilson Downing Road
 Reynolds Road
 Forbes Road
 Armstrong Mill Road
 Alexandria Drive/Lane Allen Road
 Third/Fourth Street (proposed arterial)

Expressways (State Maintained)

New Circle Road (Georgetown Road west to Richmond Road)
 Interstate 64/75

State Maintained Arterials (Inside USA)

Versailles Road (US 60)
 Winchester Road (US 60)
 Harrodsburg Road (US 68)
 Broadway (US 68)
 Paris Pike (US 68)
 Leestown Road (KY 421)
 Main Street (KY 421 and US 25)
 Georgetown Road (US 25)
 Richmond Road (US 25)
 Newtown Pike (KY 922)
 Russell Cave Road (KY 358)
 Liberty Road (New Circle to Todds)(KY 1927)
 Todds Road (KY 1927)
 Euclid/Bolivar (KY 1974)
 Tates Creek Road (KY 1974)
 Nicholasville/Limestone (County line north to Euclid)
 (US 27)
 New Circle Road (Georgetown east to Richmond Road)(KY 4)
 Old Frankfort Pike (KY 1681)

C. PUBLIC HEARING ON ZONING ORDINANCE TEXT AMENDMENT AND LAND SUBDIVISION REGULATIONS TEXT AMENDMENT - The Chairman announced that a public hearing on a Zoning Ordinance text amendment and a Land Subdivision Regulations text amendment would be held at this time.

1. SPA 87-1: STREET TREES - An amendment to the Subdivision Regulations to require a fee to be paid prior to the recording of the final subdivision plat for the installation and maintenance of street trees.

The Staff Recommended: Approval, for the following reasons:

- a. The current provision which allows the builder to install the required trees has been unsuccessful.
 - b. The proposal will provide money for the Division of Parks to contract with private nurseries to plant the trees and maintain them for the first year.
2. ZOTA 87-10: LANDSCAPE REQUIREMENTS - An amendment to the Zoning Ordinance to provide for screening of expressways and arterial streets, to delete requirements for screening of dumpsters (in favor of amendments to the Code of Ordinances), and to make both the owner and tenant responsible for providing and maintaining landscaping.

The Staff Recommended: Referral to the Full Commission. The staff desires further time to study this matter and will report at the public hearing.

Note: The above text amendments were acted on simultaneously.

Staff Report - Ms. Skillman presented the staff report for the proposed text amendments listed above. (A copy of the staff report, including the proposed text, is attached as an appendix to these minutes.) The screening of dumpsters will be accomplished through other amendments pending before the Urban County Council. Therefore, this portion of the Zoning Ordinance amendment was deleted. The revised proposal would read as follows: "An amendment to the Zoning Ordinance to make both the owner and tenant responsible for providing and maintaining landscaping."

These proposals actually involve three amendments to the Regulations and Ordinance: (1) a requirement for providing screening on arterial streets by the developer on rights-of-way; (2) a requirement for providing street tree plantings on local and collector streets whereby a fee covering the cost would be paid prior to recording of the final plat; and, (3) a requirement to make the lessee responsible for providing and maintaining the landscaping.

Ms. Skillman reported that these amendments were proposed by the Urban County Council because the previous provisions for providing said plantings under the "honor system" has been unsuccessful and difficult to regulate. Under the proposed revisions, the cost for plantings would be paid prior to recording of the final plat, and the Urban County Government would contract the work to be done, most likely from a private nursery. The fee would cover the first year's maintenance would be included in this cost. In addition, the amendment would make the lessee responsible for providing and maintaining the landscaping.

The Staff Recommended: Approval of the proposed revisions, as follows:

1. (SRA 87-1) Plantings on Arterial Streets, for the following reasons:
 - a. The amendments as proposed to the Zoning Ordinance and Subdivision Regulations will provide a more effective means of landscaping arterial streets and freeways.
 - b. These amendments will be a first step in the Urban County Government creating a comprehensive proposal to address future as well as existing development along our arterial streets and freeways.

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

** - Denotes at least a portion of the property contains an environmentally sensitive area.

2. (SRA 87-1) Street Tree Plantings on Local and Collector Streets, for the following reasons:
 - a. The current provision which allows the builder to install the required trees has been unsuccessful.
 - b. The proposal will provide money for the Division of Parks to contract with private nurseries to plant the trees and maintain them for the first year.
3. (ZOTA 87-10) Responsibility to Provide and Maintain Landscaping, for the following reason:
 - a. The proposed amendment will aid in the enforcement of the maintenance provisions of the landscape ordinance.

Objections - There were no objections.

Supporters - Mr. Terry McBrayer, attorney representing the Home Builders' Association, stated that the Home Builders' Association supported the proposed amendments. He also stated that they had worked with the Committee making the proposals, Council Member Fernita Wallace, and Chuck Mallory of the Building Inspection Division.

Action - A motion was made by Dr. Cooper, seconded by Mrs. Howard and carried 8-0 (May, Walton, Quillin absent), to approve SRA 87-1: Street Trees, and ZOTA 87-10: Landscape Requirements, for the reasons listed by the staff.

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

** - Denotes at least a portion of the property contains an environmentally sensitive area.

11/9/87

Met w/Pam Miller re: Amendment of LSR re: Street Trees

1. \$10 fee at recording of plat - no special account - ~~local~~ revenue
2. developer to plant w/c one yr of recording according to specs of Art 18 -
3. 2nd inspection ~~two~~^{one} years after planting

Recording plat



4. Check w/ Chuck re: notice of filing plat
5. remedy - citation to it for failure to plant & maintain

