



## The Fayette Alliance

603 West Short Street  
Lexington, KY 40508  
(859) 281-1202  
www.fayettealliance.com

### *Board Members*

Larkin Armstrong  
Jim Bell  
Price Bell  
Todd Clark  
Thomas Gaines  
Greg Goodman  
Stan Harvey  
Barry Holmes  
Arnold Kirkpatrick  
Debbie Long  
Patrick McGee  
John Nicholson  
John Phillips  
Tom Poskin  
Beth Pride  
Sam Razor  
Walt Robertson  
Don Robinson  
Mackenzie Royce  
Sasha Sanan  
Jim Shropshire  
David Switzer  
Emma Tibbs  
Jack van Nagell  
Gay Haggin VanMeter  
Griffin VanMeter  
Derek Vaughan  
Judy Worth

### *Advisory Board*

Josephine Abercrombie  
Antony Beck  
Gary Bisantz  
John Hendrickson  
Sally Humphrey  
Nana Lampton  
Deirdre Lyons  
Misdee Wrigley Miller

### *Executive Director*

Knox van Nagell

LFUCG Planning Commission  
Government Center  
200 East Main Street  
Lexington, KY 40507

August 9<sup>th</sup>, 2011

Dear Planning Commissioners,

My name is Knox van Nagell, and I am writing this letter on behalf of The Fayette Alliance.

The Fayette Alliance is Lexington's only land-use advocacy organization dedicated to achieving a sustainable, livable Lexington that benefits all of us by preserving our renowned rural landscape and related agricultural industries in Fayette County, while strengthening our city through responsible development and improved infrastructure.

If meaningfully pursued, this growth approach will better our city and protect our productive and beautiful farmland—creating a quality of life crucial to Lexington Fayette County's economic and environmental success today and in the future.

In furtherance of this mission, The Fayette Alliance respectfully requests that you recommend APPROVAL of ZOTA 2011-8: **AMENDMENT TO AUTHORIZE CHANGES IN PERMITTING AND ENFORCEMENT FUNCTIONS TO THE DIVISION OF PLANNING AND TO CREATE A ZONING COMPLIANCE PERMIT**

Please see the proposed changes to the Zoning Ordinance in the enclosed document.

The Urban County Council, along with the LFUCG Building Inspection Taskforce, Mayor's Transition Team, and Chief Administrative Officer Richard Maloney support ZOTA 2011-8 as a way to increase the efficiency and effectiveness of the development process at city hall. The changes primarily:

1. Transfer the responsibility to interpret and enforce the Zoning Ordinance to the Division of Planning, with Building Inspection continuing to administer the Building Codes and all requirements/issues related to construction.
  - o Permitting processes governing single and two-family dwellings, signs, fences, pools, and paving (which includes Zoning Ordinance interpretation and enforcement) will remain under Building Inspection for the time being—as such development involves life-safety issues.
2. Create a Zoning Compliance Permit that will be issued and enforced by the Division of Planning. This permit will be required

before a certificate of occupancy is awarded for commercial, industrial, and multi-family buildings; and

3. Remove antiquated LFUCG agency references in Articles 7,13, and 27 of the Zoning Ordinance; including a reference to the Division of Planning being part of the Department of Administrative Services, and references to the Division of Housing Maintenance, which is no longer in existence. This is purely a housekeeping measure.

This proposed text amendment streamlines and improves the integrity of our development and permitting process at LFUCG.

Simply stated, by creating a Zoning Compliance Permit, the Division of Planning can guarantee that “what” is proposed and permitted during the zoning process “is” actually built.

For example under the proposed change, if a person wants to construct an office building on property zoned “Professional-One” (P-1), then construction permits are issued for that structure because offices are allowed in the P-1 zone. Towards the end of the development process, the Division of Planning must issue a Zoning Compliance Permit validating the existence of the office “use” on the P-1 property BEFORE the owner can receive certificate of occupancy, etc.

This scenario institutes a needed “check and balance” system in the development process, wherein both the “proposed” and “actual” development project must comply with the requirements of the Zoning Ordinance, before the structure can be occupied. For instance, no longer can an office be proposed for a P-1 zone, permits awarded for the construction of the office, and then a bank be built on the property due to a last-minute change in plans, etc.

Although the Zoning Compliance Permit is an extra “step” in the process, it is actually an improved efficiency.

Historically, Building Inspection enforced both the Zoning Ordinance and administered building permits in the development process. However, the Zoning Ordinance was enforced at different, inconsistent times during the process by an agency whose bailiwick lies primarily in permitting of codes, not the interpretation of the Zoning Ordinance.

The Division of Planning, not Building Inspection, has the expertise to interpret and enforce the Zoning Ordinance—and it will be done by shifting personnel from other LFUCG Departments into Planning at no additional cost to taxpayers.

Therefore, the Zoning Compliance Permit will not only result in better planning and construction practices in the city, but it will be good for government personnel and predictability in the development process—as demonstrated by countless municipalities using this approach across the nation.

The Fayette Alliance commends the Council, LFUCG Building Inspection Taskforce, Mayor Gray’s Transition Team, and Chief Administrative Officer Richard Maloney for recommending this change in process. For decades, Lexington has struggled to comprehensively enforce the Zoning Ordinance. This text amendment is a step in the right direction—giving LFUCG the tools it needs to improve actual construction on the “front-end” of the development process itself.

Lexington-Fayette County has a proud history of innovative land-use planning. The implementation of our Zoning Ordinance is the connection between the “vision” for and the “building blocks” of our community. This link is the cornerstone of our physical and natural environment—impacting how we live, work, and function. Without it, our best-laid plans go to waste; precious opportunities are squandered; and our public safety is compromised.

With more effective and efficient options to enforce our zoning ordinance on the table, LFUCG will be able to promote responsible growth that is a win-win for developers and the community alike.

Therefore, The Fayette Alliance respectfully requests that you APPROVE ZOTA 2011-8: **AMENDMENT TO AUTHORIZE CHANGES IN PERMITTING AND ENFORCEMENT FUNCTIONS TO THE DIVISION OF PLANNING AND TO CREATE A ZONING COMPLIANCE PERMIT.**

Thank you for your consideration, and dedication to Lexington-Fayette County.

Sincerely,

Knox van Nagell, J.D.