



Lexington-Fayette Urban County Government  
DIVISION OF PLANNING

Jim Gray  
Mayor

Richard Moloney  
Chief Administrative Officer

July 13, 2011

**MENTELLE NGHD ASSOC  
LEWIS GARDNER  
317 HANOVER COURT  
LEXINGTON KY 40502**

Re: Requested Zone Change in Your Neighborhood

Dear Neighborhood Representative:

This letter is to inform you of a request for a zone change in your neighborhood area. This request was submitted by **The Lexington Hearing & Speech Center, Inc.**, for property located at **154 & 158-162 North Ashland Avenue, Lexington, Kentucky**. Dimensional variances have also been requested at this location.

Enclosed are copies of the application and notification area map. A copy of the staff report will be available two weeks prior to the Planning Commission public hearing on this item, which has been scheduled for **August 25, 2011**, at 1:30 p.m. in the Council Chamber, 2<sup>nd</sup> floor, Government Center, 200 East Main Street, Lexington, Kentucky.

If you desire any additional information regarding this zone change request, please feel free to contact me or any other member of the Commission's "Zoning Section" staff at 101 East Vine Street, 7th Floor, or call **258-3160**.

If you are no longer president of your neighborhood association, please forward this notice to the appropriate officer. Then, contact Stephanie Cunningham at 258-3160 so that our records can be updated to keep the leaders of your neighborhood association informed in the future. Thank you for your cooperation.

Sincerely,

Bill Sallee  
Planning Services Manager

Enc. MARV 2011-12  
Application  
Plat

cc: Councilmember Lawless

MARV 2011-12

Date Received 7/1/11

Pre-Application Date 6/17/11

Filing Fee \$470<sup>00</sup>**GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION****1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)**

APPLICANT: The Lexington Hearing &amp; Speech Center, Inc. (f/k/a The Lexington Deaf Oral School) 162 N. Ashland Ave., Lexington, KY 40502

OWNER: Same as above

ATTORNEY: T. Bruce Simpson, Jr./McBrayer McGinnis Leslie &amp; Kirkland, 201 E. Main St., #1000 Lexington, KY 40507 (859) 231-8780

**2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)**

154, 158-162 North Ashland Avenue

**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1D	school/offices	P-1	offices	0.99	1.19
	day care center				

**4. SURROUNDING PROPERTY, ZONING & USE**

Property	Use	Zoning
North	residential/church	R-1D
East	residential	R-1D/R-2
South	residential	R-1D/R-2
West	residential/church	R-1D

**5. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40 % of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO ____ Units

**6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)**

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

**7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)**This is in... ☐ in agreement with the Comp. Plan ☒ more appropriate than the existing zoning ☐ due to unanticipated changes.**8. APPLICANT/OWNER SIGNS THIS CERTIFICATION**I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate. I further certify that I am ☒ OWNER or ☐ HOLDER of an agreement to purchase this property since \_\_\_\_\_APPLICANT The Lexington Hearing & Speech Center, Inc. (f/k/a The Lexington Deaf Oral School) DATE 6/17/11OWNER T. Bruce Simpson, Jr. DATE 6/17/11LFUCG EMPLOYEE/OFFICER, if applicable T. Bruce Simpson, Jr. DATE \_\_\_\_\_

# ( M C B R A Y E R )

McBrayer, McGinnis, Leslie & Kirkland, PLLC

ATTORNEYS AT LAW

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T. BRUCE SIMPSON, JR.  
BSIMPSON@MMLK.COM

201 EAST MAIN STREET, SUITE 1000  
LEXINGTON, KENTUCKY 40507  
(859) 231-8780 EXT. 119  
FAX: (859) 253-0706

July 1, 2011

Carolyn Richardson, Chairperson  
LFUCG Planning Commission  
Phoenix Bldg.  
101 E. Vine St., 7th Floor  
Lexington, KY 40507

Re: Lexington Hearing & Speech Center, Inc.  
Rezoning application for 154 and 158 -162 North Ashland Avenue from the R-1D Zone  
to the P-1 Zone, and Variance Requests

Dear Chairperson Richardson,

I represent The Lexington Hearing & Speech Center, Inc. ("Hearing & Speech Center"), a non-profit organization that has been providing critical speech and hearing services at this location to children for over fifty years. The Hearing & Speech Center, formerly known as The Lexington Deaf Oral School, outgrew its North Ashland Avenue facilities and is in the process of renovating the former Julia R. Ewan Elementary School as its new place of operation.

The property consists of three contiguous R-1D lots on the east side of the street, opposite Heritage Baptist Church. All three properties contain single family residential structures that were substantially modified and expanded for school and office uses and are no longer suitable as single family dwellings. Two of the buildings on 158-162 North Ashland Avenue are connected by a passageway and, therefore, are considered one lot, although they have not been consolidated by plat. The three structures contain classrooms, offices, speech and language pathology rooms, a day care center, a multipurpose room, and other features that are not characteristic of single family residences. The rear portion of the property is taken up by a large playground, and asphalt parking areas and driveways occupy the remainder of the rear yards and almost all of the side yards. The Hearing & Speech Center owns a contiguous vacant R-1D lot at 164 North Ashland Avenue which is not part of this zoning application.

The property is zoned for low density, single family (R-1D) uses. The facility was originally granted a conditional use permit for 154 North Ashland to allow the property to operate as a school for children with hearing and speech impairments. Over time, the Hearing &

Speech Center's facilities expanded to the adjoining lots and additional programs were added, including the day care center, all of which were approved by the Board of Adjustment.

The rezoning to professional office (P-1) uses is justified on the basis that the existing zoning is inappropriate and the proposed zoning is appropriate. The property has been renovated over time to be suitable for non-residential uses rather than use as single family dwellings. The interior of the buildings has been structurally modified for classrooms, offices, day care and other non-residential uses. Similarly, although the exteriors of the structures retain the appearance of single family dwellings, the rear yards are characteristic of non-residential uses, with the large playground and asphalt parking. It would be unreasonably expensive to convert the three structures back to single family residential dwellings. The structures could be demolished and replaced with new single family residences, but the additional cost to demolish the structures would make it highly unlikely that new dwellings would be of a similar size and character that is compatible with other dwellings in the neighborhood. Also, it is a waste of resources to demolish perfectly useable buildings in excellent condition to replace them with new structures.

The proposed zoning is appropriate because it would permit the adaptive re-use of three buildings that perfectly complement the residential dwellings in the area. The proposed P-1 zoning will allow small scale offices or another school, day care or similar child oriented use that will have the same or less impact on the neighborhood than the current activities on the site in terms of traffic, noise, and intensity of use. The adaptive re-use of the property by retaining the existing structures will enable economically viable new uses on the site without impairing the residential character of the area and will enhance the stability of the neighborhood by allowing new uses on the property that are appropriate in scale, intensity and type to the existing uses on the property.

The following conditional zoning restrictions are offered in order to ensure that the uses on the property will be compatible with the character of the existing neighborhood:

Only the following uses and their accessory uses shall be permitted:

1. Offices for business, professional, real estate, governmental, civic, social fraternal, political, religious and charitable organizations;
2. Schools for academic instruction;
3. Libraries, museums, art galleries, and reading rooms;
4. Studios for work or teaching of fine arts such as photography, music, drama, dance and theater;
5. Community centers, private clubs, houses of worship and associated schools for religious instruction;
6. Kindergartens, nursery schools and child care centers for four or more children. A fenced and screened play area shall be provided, which shall contain not less than 25 square feet per child; and

7. Dwelling units on upper floors of structures in which the first floor is occupied by another permitted use in the P-1 zone, with no mixing of dwelling units and other permitted uses on any floor.

### Variances

In addition to rezoning the property, we are requesting variances as part of our application, as authorized under Section 6-4(c) of the Zoning Ordinance:

1. To reduce the minimum on-site allowable parking by 50%, from 49 spaces to 25 spaces, pursuant to Sec. 8-15(n) and Sec. 16-10 of the Zoning Ordinance.
2. To increase the maximum building height under Sec. 8-15(m) of the Zoning Ordinance from 8' to 20' for 154 N. Ashland and from 0' to 24' for 158-162 N. Ashland.
3. To reduce the minimum side yard for 158-162 N. Ashland from 12' to 9', and for 154 N. Ashland from 12' to 2', pursuant to Sec. 8-15(i) of the Zoning Ordinance.
4. To reduce the zone to zone perimeter screening requirements set out in Sec. 18-3(a)(1) from 15' to 0', and to eliminate the requirement for trees and shrubs for 154 and 158-162 N. Ashland.
5. To reduce the minimum required interior landscaping for the vehicular use area, pursuant to Sec. 18-3(b)(1), from 5% to 3% for 158-162 N. Ashland.

These variances are necessary and appropriate to allow the adaptive re-use of the property for P-1 uses. Granting the variances will not adversely affect the public health, safety and welfare, nor will it alter the character of the area or allow an unreasonable circumvention of the requirements of the regulations. Granting the variances will result in no physical change of the property but will allow the existing landscaping, parking and other characteristics of the property to remain in place. Strict application of the requirements of the Zoning Ordinance would deprive the applicant of the reasonable use of the property and create an unnecessary hardship because it would substantially impair the adaptive re-use of the property and require alterations that would be incompatible with the surrounding neighborhood.

I am honored to represent the Hearing & Speech Center in this matter which, if approved, will allow it to move to a site that is better suited to its growing student population and will permit the North Ashland property to be used for a purpose that is appropriate in scale, intensity and character to its present use. Along with the applicant's representatives, I will be available at

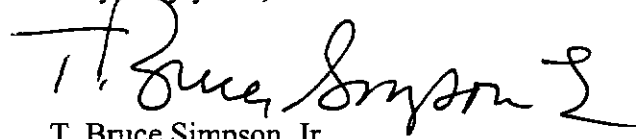
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**(MCBRAYER)**  
McBrayer, McGinnis, Leslie & Kirkland, PLLC  
ATTORNEYS AT LAW

the Commission's committee meetings and at the hearing on August 25 to answer questions and present more information in support of this request.

Very truly yours,

A handwritten signature in black ink, appearing to read "T. Bruce Simpson, Jr.", with a stylized flourish at the end.

T. Bruce Simpson, Jr.

TBS/emr