

AN ORDINANCE AMENDING ARTICLE 1 OF THE ZONING ORDINANCE TO AMEND THE DEFINITION OF A "VEHICLE STORAGE YARD" TO ALLOW INOPERABLE VEHICLES TO BE STORED NO LONGER THAN SIXTY (60) DAYS IN A VEHICLE STORAGE YARD. (URBAN COUNTY PLANNING COMMISSION).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Article 1 of the Zoning Ordinance to amend the definition of a "vehicle storage yard" to allow inoperable vehicles to be stored no longer than sixty (60) days in a vehicle storage yard; and

WHEREAS, the Planning Commission did hold a public hearing on this proposed text amendment on August 22, 2013; and

WHEREAS, the Planning Commission did recommend APPROVAL of the text 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 by reference herein.

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

Section 1 – That Article 1 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended to read as follows:

ZONING ORDINANCE


ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

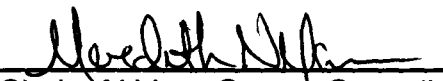
VEHICLE STORAGE YARD – A place where vehicles which have a current vehicle registration and bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

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

PASSED URBAN COUNTY COUNCIL: October 10, 2013


MAYOR

ATTEST:


Clerk of Urban County Council
Published: October 17, 2013-1t

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Recd by _____

Date: _____

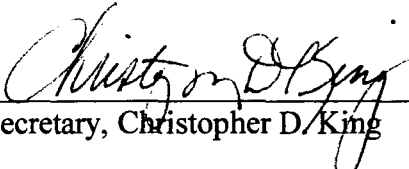
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: ZOTA 2013-8: AMEND THE DEFINITION OF VEHICLE STORAGE YARD – petition for a Zoning Ordinance text amendment to Article 1-11 to amend the definition of “vehicle storage yard” to allow inoperable vehicles to be stored no longer than 60 days in a vehicle storage yard.

Having considered the above matter on **August 22, 2013**, 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 the Staff Alternative Text** of this matter for the following reason:

1. The proposed text amendment to modify the definition of “vehicle storage yards” to permit temporary storage of inoperable vehicles for a maximum of 60 days is logical and consistent with state law, as well as community and national business practices.

ATTEST: This 11th day of September, 2013.



Secretary, Christopher D. King

MIKE OWENS
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Richard Murphy, attorney.**

OBJECTIONS _____

- Mike Markland, 1298 Viley Road
- Todd Strecker, 1404 Parterre Court

OBJECTORS _____

- He is concerned that this text amendment could open the door to more Heavy Industrial uses in the Light Industrial area near his residence.
- He is concerned about the loss of land zoned for Light Industrial use, and that Heavy Industrial uses could “creep” into the Light Industrial zone.

VOTES WERE AS FOLLOWS:

AYES: (8) Beatty, Berkley, Cravens, Drake, Mundy, Owens, Plumlee and Wilson

NAYS: (0)

ABSENT: (3) Blanton, Brewer, Penn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **Approval** of **ZOTA 2013-8** carried.

Enclosures: Text Amendment Application
Recommended Text
Staff Report
Applicable excerpts of minutes of above meeting

RICHARD V. MURPHY, PLC

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July 1, 2013

Lexington Fayette Urban County Planning Commission
101 East Vine Street, 7th Floor
Lexington, KY 40507

Re: Text Amendment Request, L. Roberts Properties, LLC

Dear Members of the Planning Commission:

I represent L. Roberts Properties, LLC, and its owner, Lee Roberts. We are requesting a text amendment to the definition of vehicle storage yard to clarify the terms of use.

Vehicle storage yards are allowed in the zoning ordinance in the I-1 use as a conditional use and in the I-2 use as principal use. A vehicle storage yard is a place where vehicles which have current license plates are temporarily stored. A vehicle storage yard is not a junk yard.

We are requesting a minor change which will remove a practical problem with the definition. Vehicle storage yards receive vehicles which have been towed for a number of reasons. The car may have been parked where it is not allowed, such as a fire lane, and ordered to be removed. It may have been removed because of repeated parking offenses. Or, it may have been ordered to be removed because it was involved in an automobile accident.

The vehicles are then towed to the vehicle storage yard, pending disposition. In the majority of cases, owners come to the vehicle storage yards to claim their vehicles. If a car has been damaged, insurance adjusters come and examine the car and make a decision as to whether the vehicle is not able to be repaired ("totaled"), or whether it can be repaired. If it is considered totaled, the insurance company takes title and removes the car. If it can be repaired, the owner must remove the car and have it fixed elsewhere.

Thus, no work is performed on cars in a vehicle storage yard. It is simply a place where decisions are made as to the future of the vehicle.

A strict reading of the current ordinance would make it impossible to temporarily store vehicles which have been damaged in auto accidents. This technical reading would require that

the owner of a vehicle storage yard maintain two facilities, one for inoperable vehicles and one for operable vehicles. This would make it difficult on all parties, owners and insurance adjusters alike, who are involved in the process.

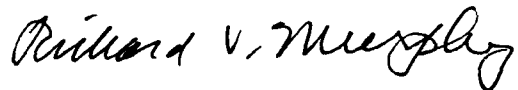
We are requesting a clarification that would allow inoperable vehicles to be stored no longer than 75 days in a vehicle storage yard. This would allow the operator of the storage yard to comply with state law, which requires that he or she keep a vehicle for 45 days for claiming by the owner. After 45 days, the owner of the storage yard may sell the vehicle.

Thus, we are requesting an amendment to the definition of vehicle storage yard, contained in Section 1-11 of the Zoning Ordinance, as follows (proposed new language is underlined):

VEHICLE STORAGE YARD – A place where vehicles which bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 75 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

Thank you for your consideration of this text amendment request.

Sincerely,

A handwritten signature in black ink that reads "Richard V. Murphy". The signature is written in a cursive style with a large, stylized 'M'.

Richard V. Murphy
Attorney for Applicant

Text Recommended by the Planning Commission on August 22, 2013

ZOTA 2013-8: Amend the Definition of "Vehicle Storage Yard"

(Note: Underlined text below indicates an addition, to the current Zoning Ordinance.)

ZONING ORDINANCE

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

VEHICLE STORAGE YARD – A place where vehicles which have a current vehicle registration and bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2013-8: AMEND THE DEFINITION OF "VEHICLE STORAGE YARD"

REQUESTED BY: L. Roberts Properties, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed-through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

VEHICLE STORAGE YARD – A place where vehicles which bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

STAFF REVIEW:

The appellant, L. Roberts Properties, LLC, has requested a text amendment to Article 1-11 of the Zoning Ordinance in order to modify the definition of "vehicle storage yard." Vehicle storage yards are allowed in the Zoning Ordinance as a conditional use in the Light Industrial (I-1) zone, although if they were approved prior to 1985, they are a principal permitted use in that zone. In the Heavy Industrial (I-2) zone, vehicle storage yards are a principal permitted use without restriction. The proposed change will allow the petitioner to explore the possibility of relocating their current vehicle storage yard to a larger site, without the need to locate in a Heavy Industrial (I-2) zone, which are fairly limited throughout the community.

The current definition allows a place for temporary storage of vehicles. However, the definition does not permit storage of any inoperable vehicles, or the wrecking/dismantling of vehicles. This text amendment would allow vehicles, regardless of condition, to be temporary stored in a vehicle storage yard for up to 60 days as long as the vehicle has a current license plate. A vehicle storage yard has commonly included a tow yard or facility, as well as storage of repossessed vehicles.

The petitioner is proposing what appears to be a minor change to the definition of this use in order to address what the petitioner calls a "practical problem" with the definition. Vehicle storage yards receive vehicles which have been towed for a number of reasons, including: parking in a restricted location, excessive parking violations, repossession by a lender, or due to involvement in an accident. In this way, vehicle storage yards typically provide for the temporary storage of both operable and inoperable vehicles. The vehicles are stored temporarily in the yard, pending release to a responsible party. The petitioner has informed the staff that a majority of vehicles towed to these yards are retrieved within 3 business days, but that state law requires that vehicles be kept on the property for 45 days in order to allow adequate time for the owner to retrieve the vehicle, or for an insurance adjuster to examine the vehicle and make a decision as to whether or not the vehicle can be repaired. If the vehicle is not retrieved by the owner or an insurance company, the vehicle storage yard may dispose of the vehicle after the 45-day time period.

No significant work is allowed to be performed on vehicles within the storage yard, it is simply a place where decisions are made as to the future of a vehicle. Vehicles cannot be dismantled, nor can vehicles without current registration and/or license plates be stored on the premises.

A strict interpretation of the current definition would require that inoperable vehicles be taken to an automobile wrecking facility, a junk yard, or directly to an automobile repair facility, as those are the only commercial facilities that will permit inoperable vehicles to be stored for more than 24 hours. In many cases, these options are not appropriate for a vehicle that has sustained accident damage or the vehicle's owner is not able to make an immediate decision as

to the best place to store an inoperable vehicle. Promptly clearing the roadways of these vehicles is necessary in order to maintain traffic safety, manage incidents and avoid undue congestion within the community.

In 1999, a Zoning Ordinance text amendment (ZOTA 99-9) was approved by the Planning Commission and Urban County Council to modify the definition of vehicle storage yard, as well as the terms "junk yard," "parking lot, area or structure," and "storage." The ZOTA also created a new definition for "truck terminal." At that time the language about inoperable vehicles was added, as were the requirements for a current license plate in accordance with state law and the minimum duration of 24 hours. Collectively, these changes were intended to clarify the differences between these land uses. The two phrases which were added in 1999, and that will continue to distinguish a vehicle storage yard from the other uses, are that vehicles bear a "current license plate" and a kept "for 24 hours or longer."

In reviewing the requested text amendment, the staff was somewhat concerned about the petitioner's original proposal to limit storage of inoperable vehicles to of a maximum of 75 days. The petitioner and the staff met to discuss this concern, and the petitioner subsequently agreed to modify the proposed text amendment to reduce the maximum length of stay of inoperable vehicles to 60 days. A 60-day time limit is also consistent with recently enacted regulations for "temporary structures" – they are permitted as accessory uses for up to 60-days, and conditional uses for 61 to 180 days. The staff believes that this change is consistent with current business practices within our community and others around the nation. The staff would suggest a minor alteration to the definition to further clarify that the intent is only permit vehicles with a current vehicle registration and license plate.

Staff Alternative Text

VEHICLE STORAGE YARD – A place where vehicles which have a current vehicle registration and bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

The Staff Recommends: Approval of the staff alternative text, for the following reason:

1. The proposed text amendment to modify the definition of "vehicle storage yards" to permit temporary storage of inoperable vehicles for a maximum of 60 days is logical and consistent with state law, as well as community and national business practices.

TLW/WLS

7/31/13

Planning Services/Staff Reports/ZOTA/ 2013/ZOTA 2013-8.doc

1. **ZOTA 2013-8: AMEND THE DEFINITION OF VEHICLE STORAGE YARD** – petition for a Zoning Ordinance text amendment to Article 1-11 to amend the definition of “vehicle storage yard” to allow inoperable vehicles to be stored no longer than 60 days in a vehicle storage yard.

REQUESTED BY: L. Roberts Properties, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition, ~~text dashed through~~ indicates a deletion to the current Zoning Ordinance.)

ARTICLE 1: GENERAL PROVISIONS AND DEFINITIONS

1-11 DEFINITIONS

VEHICLE STORAGE YARD – A place where vehicles which bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

STAFF ALTERNATIVE TEXT:

VEHICLE STORAGE YARD – A place where vehicles which have a current vehicle registration and bear a current license plate in accordance with state law and not used in the conduct of a trade, business, or profession are kept for 24 hours or longer. A vehicle storage yard does not include a yard for storage of dismantled or partially dismantled automobiles, storage of inoperable vehicles for longer than 60 days, a parking lot, truck terminal, automobile wrecking, or junk yards.

The Zoning Committee Recommended: **Approval of the Staff Alternative text**, for the reason provided by staff.

The Staff Recommends: **Approval of the staff alternative text**, for the following reason:

1. The proposed text amendment to modify the definition of “vehicle storage yards” to permit temporary storage of inoperable vehicles for a maximum of 60 days is logical and consistent with state law, as well as community and national business practices.

Staff Presentation: Ms. Wade presented the staff report, explaining that vehicle storage yards are currently permitted in the Light Industrial (I-1) zone as a conditional use. Vehicle storage yards were permitted in the I-1 zone as a principal use prior to 1985, and some of those facilities still exist today; and they are also currently permitted as a principal use in the Heavy Industrial (I-2) zone. The petitioner is requesting to amend the definition of “vehicle storage yard” in the Zoning Ordinance.

Ms. Wade stated that, currently a vehicle storage yard is a place where vehicles that bear a current license plate, and are not used in the conduct of a trade, business, or profession, are kept for 24 hours or longer. The definition excludes or differentiates between some of the other uses in the Zoning Ordinance. It notes that a vehicle storage yard is not a yard for storage of dismantled vehicles; a junkyard; a parking lot; truck terminal; or automobile wrecking yard.

Ms. Wade said that the petitioner is requesting to add a phrase to the existing definition of this use so that inoperable vehicles can be stored in a vehicle storage yard for up to 60 days. She stated that, currently, inoperable vehicles cannot be stored at all at a vehicle storage yard. Following roadway accidents, vehicles are often towed to vehicle storage yards, but that is not actually permitted in the Zoning Ordinance; and those vehicles must instead be stored at a junkyard or repair shop. The petitioner contends that the primary purpose of a vehicle storage yard is to hold vehicles that have been towed due to accidents, parking violations, or repossession. Ms. Wade explained that state law requires that vehicles must be held for 45 days in order to allow for the owner of the vehicle to obtain it; after that time, it is lawful to dispose of it. The proposed definition change would allow the owner of a vehicle storage yard an extra two weeks beyond that state law requirement, to provide for the advertisement and disposal of the vehicles, if necessary.

Ms. Wade stated that the petitioner has indicated that, on average, vehicles stay in the storage yard for only three days. The petitioner also noted that they make it a practice to work with vehicle owners in order for them to regain their property as soon as possible, so it is unusual for any vehicle to remain in the storage yard for the full 45 days.

Ms. Wade added that no work would be done on the vehicles while they were stored in a storage yard; the vehicles could not be dismantled; and the vehicles must have a current license plate. The staff is recommending additional language to require that vehicles also have a current registration, in addition to bearing a current license plate. Ms. Wade stated that the staff and the Zoning Committee are recommending approval of this request, for the reason provided by staff in the staff report.

Petitioner Representation: Richard Murphy, attorney, was present representing the petitioner. He stated that the primary

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

reason for the proposed text amendment is to provide the petitioner with an extra 15 days to dispose of unwanted vehicles after the 45-day waiting period required by state law. He noted that the proposed text amendment would actually impact very few vehicles, since most are removed from the vehicle storage yard within a few days.

Mr. Murphy noted that the proposed text amendment does not relate in any way to the recent rezoning request filed by Pull-A-Part, which was for a junkyard. He said that, as a vehicle storage yard, the petitioner cannot work on cars, remove parts from them, or sell parts to customers. The petitioner's facility retains vehicles, usually for a few days, until they are reclaimed by their owners or inspected by insurance adjusters.

Mr. Murphy clarified, with regard to the staff's proposed additional language that would require stored vehicles to have a current registration, as well as a current license plate. However, the petitioner occasionally receives cars that do not have current registration stickers on their license plates. He explained that the petitioner had discussed that issue with the staff, and the staff agreed that, in emergency situations, it would be allowable for the petitioner's facility to receive such a vehicle.

Commission Questions: Mr. Wilson asked if a vehicle owner would be allowed to remove a part from a car that was stored at the petitioner's vehicle storage yard. Mr. Murphy answered that the vehicle would have to be removed from the premises prior to the removal of any parts.

Citizen Comments: Mike Markland, 1298 Viley Road, stated that he was concerned that text amendments such as this one could "blur the lines between Light Industrial and Heavy Industrial" uses, although he is not opposed to the petitioner's vehicle storage yard facility. He said that he did not want the proposed text amendment to be the first step toward allowing a junkyard in the Light Industrial zone.

Mr. Markland said that he had also attended the recent Pull-A-Part public hearing, during which one of the Commission members had commented that the nearby residents had moved into a subdivision near an industrial park. He stated that he and many of his neighbors had moved into the neighborhood years ago, and that the Planning Commission then allowed zone changes that permitted the industrial park to locate in his neighborhood. Mr. Markland said that he and his neighbors depended on the zoning that was in place when they bought their homes to protect their single largest investments. He asked the Commission members to "not forget the people who lived there before."

Todd Strecker, 1404 Parterre Court, stated that he was also concerned about that property that had been proposed for rezoning by the Pull-A-Part company. He said that he is not opposed to the proposed text amendment, but he is concerned about the loss of Light Industrial property, as well as the possibility of Heavy Industrial uses "creeping" into the Light Industrial zone. Mr. Strecker submitted a written statement for the record, and asked that the Commission not allow the lines between Light Industrial and Heavy Industrial uses to become blurred, which could allow a facility such as Pull-A-Part to locate in an I-1 zone.

Petitioner Rebuttal: Mr. Murphy stated that the petitioner is not proposing to change the zones in which vehicle storage yards are permitted, but is merely "tweaking" the definition of the use. He said that the petitioner understands the citizens' concerns about the possibility of the proposed text amendment altering the I-1 zone such that an automobile salvage yard could be located there. Mr. Murphy said that the applicant and the staff believe that the proposed text has been drafted in such a way that that would not occur.

Staff Rebuttal: Ms. Wade stated that the staff had discussed with the petitioner the necessity to secure a conditional use permit for their vehicle storage yard if they choose to locate in an I-1 zone. That would require a filing to the Board of Adjustment, with required mailed notice and a public meeting. She said that, should the petitioner choose to locate in an I-2 zone, the vehicle storage yard would be permitted as a principal use.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 8-0 (Blanton, Brewer, and Penn absent) to approve ZOTA 2013-8, for the reasons provided by staff, with the staff alternative text.