

05/02/1991

Ordinance

84-91

ORDINANCE NO. 84-91

AN ORDINANCE AMENDING ARTICLES 8-13(o) AND 8-13(e) (5) OF THE ZONING ORDINANCE SO AS TO ALLOW HELIPOINTS AS A CONDITIONAL USE IN A PROFESSIONAL OFFICE PROJECT IN A PROFESSIONAL OFFICE (P-1) ZONE; AMENDING ARTICLES 8-20(d) AND 8-21(d) OF THE ZONING ORDINANCE SO AS TO ALLOW HELISTOPS AND HELIPOINTS AS CONDITIONAL USES IN THE LIGHT-INDUSTRIAL (I-1) AND HEAVY-INDUSTRIAL (I-2) ZONES.

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment proposed to it so as to allow Helistops as a conditional use in a professional office project in a professional office (P-1) zone and to allow Helistops and Heliports as conditional uses in the light-industrial (I-1) and heavy-industrial (I-2) zones; and

WHEREAS, the Planning Commission did hold a public hearing on this proposed text amendment on March 28, 1991; and

WHEREAS, the Planning Commission did recommend approval of this proposed text amendment by a vote of 7-0; 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 Articles 8-13(o) and 8-13(e) (5) of the Zoning Ordinance of the Lexington-Fayette Urban County Government are hereby amended to read as follows:

8-13(e) Prohibited Uses

5. The above or below-ground storage of any flammable material in gaseous form including compressed natural gas, and the above or below ground storage of more than five (5) gallons of gasoline. However, jet fuel may be stored only in conjunction with a Heliport.

8-13(o) Special Provisions

As a conditional use:

1. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

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Section 2 - That Articles 8-20(d) (14) and 8-21(d) (32) of the Zoning Ordinance of the Lexington-Fayette Urban County Government are hereby enacted to read as follows:

8-20(d) Conditional Uses (I-1)

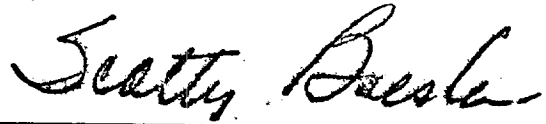
14. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

8-21(d) Conditional Uses (I-2)

32. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

Section 3 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 2, 1991



MAYOR

ATTEST:


Clerk of Urban County Council

PUBLISHED: May 8, 1991-1t

063/J44

0-84-91

Rec'd By MSH
Date: 4-11-91

Urban County Planning Commission
200 East Main St., Lexington, KY

Office of Director
Planning Commission Meeting

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

IN RE: **ZOTA 91-5: AMENDMENT TO ART. 8-13(o) & 8-13(e)(5) TO ALLOW HELIPORTS AS A CONDITIONAL USE IN A P-1 ZONE** - to allow a heliport to be located as a conditional use in a professional office project in the P-1 zone.

Having considered the above matter on March 28, 1991 at a Public Hearing and having voted 7-0 that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend APPROVAL of this matter, adding the I-1 and I-2 zones to this amendment, for the following reason:

1. Heliports may be as appropriate as helistops as conditional uses in Professional Office Projects of ten acres or more in the Professional Office (P-1) zone, such as in allowing medical ambulance services for hospital uses.
2. The Board of Adjustment should examine specific site locations to determine the appropriateness of proposed heliports, and can require additional restrictions and conditions if necessary.
3. The federal, state and local regulations governing this use, including zoning controls, should ensure safe location, design, and operation of heliport uses.
4. Helistops and heliports may also be acceptable, as a conditional use subject to the review and restrictions of the Board of Adjustment, in certain instances in the light industrial (I-1) and heavy industrial (I-2) zones.

ATTEST: This 11th day of April, 1991.

Franke S. Thompson
Secretary, Dale B. Thoma

W. RUSH MATHEWS
CHAIRMAN

Enclosures: Staff Report w/ proposed text
Applicable Excerpts of minutes of above meeting

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

OBJECTIONS

OBJECTORS

None

None

VOTES WERE AS FOLLOWS:

AYES: (7) Boone, Cooper, Howard, Lucas, Mason, Mathews, Walton

NAYS: (0)

ABSENT: (4) Flynn, Logan, Madden, May

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of ZOTA 91-5: AMENDMENT TO ART. 8-13(o) & 8-13(e)(5) TO ALLOW HELIPORTS AS A CONDITIONAL USE IN A P-1 ZONE (ADDING I-1 AND I-2 ZONES) carried.

REQUEST FOR ZONING ORDINANCE
TEXT AMENDMENT

Applicant: Saint Joseph Hospital, a division of the Sisters of Charity of Nazareth Health Corporation.
One Saint Joseph Drive, Lexington, Kentucky
40504-3754

Attorneys: William A. Hoskins III and W. Rodes Brown
Jackson and Kelly
Suite 500
175 East Main Street
Lexington, Kentucky 40507
(606) 255-9500

Richard V. Murphy
Law Offices of Richard V. Murphy
1010 First National Building
167 West Main Street
Lexington, Kentucky 40507
(606) 233-9811

Requested Change: To add the underlined wording to the following two articles of the Zoning Ordinance:

1. Article 8-13(o) Conditional Use in a Professional Office Project in the P-1 zone:

Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

2. Article 8-13(e)(5) Prohibited uses in the P-1 zone:

The above or below-ground storage of any flammable material in gaseous form including compressed natural gas, and the above or below-ground storage of more than five (5) gallons of gasoline, except in conjunction with a Heliport.

Justification for Request: Saint Joseph Hospital is requesting your approval of a text amendment which would allow a Heliport to be located as a conditional use in a Professional Office Project in the P-1 zone.

"Helistops" are now allowed as conditional uses in Professional Office Projects in the P-1 zone. We are requesting that you add "Heliports" as conditional uses in Professional Office Projects in the P-1 zone. A "Helistop" allows landing, take-off, passenger loading and discharge, and transient storage.

A "Heliport" allows fueling, maintenance and storage of helicopters in addition to the uses allowed at a Helistop.

Saint Joseph Hospital now operates a "Helistop" on property located at Saint Joseph office park, which is located directly across Harrodsburg Road from the hospital. The Helistop is used in connection with the air ambulance service operated by Saint Joseph Hospital.

Adding a "Heliport" as a conditional use in a Professional Office Project will enable the hospital to request a conditional use permit which will allow it to refuel the helicopter and perform simple maintenance at the Harrodsburg Road site.

For a medical helicopter service, the most important commodity is time. Currently, the helicopter must fly from Harrodsburg Road to the airport to refuel, then back to Harrodsburg Road to be on call for emergencies. If a call is received at a time when the helicopter needs refueling, the patient must wait while the helicopter makes a trip to the airport. This, of course, partially defeats the purpose of having a helicopter on call. Allowing refueling and maintenance at the Harrodsburg Road location will also save money for Saint Joseph Hospital, which is a non-profit organization.

The University of Kentucky already refuels its helicopter at its site near University Hospital. The university is, of course, exempt from zoning laws, so it did not need a text amendment to construct its Heliport.

The proposed amendment is very narrow and is confined to Professional Office Projects. The characteristics of Professional Office Projects and the planning that is required prior to construction of Heliports assure that locations will be safe. In addition, under the proposed amendment, Heliports would be conditional uses, which require a full hearing before the Board of Adjustment prior to issuance of any permit. Heliports are already treated as a conditional use in the P-2 zone, which was passed by this Planning Commission last fall.

In addition to meeting all requirements of the Board of Adjustment, any Heliport would also have to meet the requirements of the Urban County Government's fire marshal and its Division of Environmental and Emergency Management as well as the requirements of certain federal and state agencies. Thus, many safeguards will be built into the approval process.

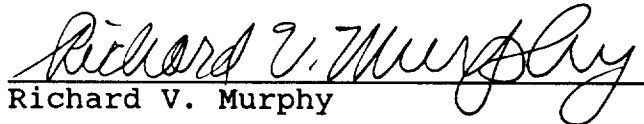
The amendment to the section on "prohibited uses" in the P-1 zone is requested merely to clarify that fuel will be stored at the site, subject to all the conditions mentioned above. Gasoline is not stored. The helicopter uses jet fuel, which is much less combustibile than gasoline.

In summary, we feel that an important community need will be served by allowing Heliports as conditional uses in Professional Office Projects. The characteristics of Professional Office Projects and the numerous levels of review required by the local, state and federal government will assure that the use will be conducted in a safe manner. The time and expense saved in eliminating refueling trips will allow Saint Joseph Hospital to provide better emergency service to its patients.

Thank you for your consideration of this text amendment request.



William A. Hoskins III
W. Rodes Brown



Richard V. Murphy

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 91-5: AMENDMENT TO ARTICLE 8-13,

HELIPORTS IN THE P-1 ZONE

REQUESTED BY: St. Joseph Hospital

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

1-11 DEFINITIONS

HELIPORT - A facility used exclusively for helicopter operations including landing, takeoff, loading, discharging, fueling, maintenance, and/or transient storage of helicopters.

HELISTOP - A facility used exclusively for helicopter landing, take-off, loading, discharging, and/or transient storage of helicopters but not including facilities for maintenance, fueling or long-term storage of helicopters.

8-13(e) Prohibited uses (P-1)

5. The above or below-ground storage of any flammable material in gaseous form including compressed natural gas, and the above or below ground storage of more than five (5) gallons of gasoline. However, jet fuel may be stored only in conjunction with a Heliport.

8-13(o) Special Provisions - A Professional Office Project...

As a conditional use:

1. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

STAFF PROPOSED ADDITION:

8-20(d) Conditional Uses (I-1)

14. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

8-21(d) Conditional Uses (I-2)

32. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

STAFF REVIEW:

St. Joseph Hospital has requested an amendment to the text of the Zoning Ordinance to add heliports as conditional uses in a Professional Office Project in the professional office (P-1) zone. The St. Joseph office park, across Harrodsburg Road from the hospital, currently operates a helistop which is used for air ambulance services by the hospital. St. Joseph Hospital would like to expand this conditional use to include landings, refueling, long-term storage and light maintenance of its medical helicopters, which at present can only be performed at airports or heliports.

The proposed amendment to the prohibited P-1 uses is needed if fuel is to be stored at heliport location. Jet fuel, not gasoline, is used by helicopters. The staff has proposed a minor modification in this portion of the text amendment.

Helistops and heliports are conditional uses in the Office, Industry, and Research Park (P-2) zone. Airports are conditional uses in the Agricultural-Rural (A-R) zone, and obviously can accommodate helicopter traffic and maintenance. Helistops are also conditional uses in the B-2, B-2A and B-2B downtown business zones.

These uses are governed locally not only by zoning regulations, but also by requirements of the Urban County Government's Division of Fire and Division of Environmental and Emergency Management. The Federal Aviation Administration as well as other federal and state regulations govern heliports and helistops. The approval process for these uses can be lengthy, and should ensure adequate safeguards in design and construction of heliports.

The medical helicopter service offered by St. Joseph Hospital can save time and money if a heliport is located in the office park. However, the staff believes that not all Professional Office Park locations would be appropriate for heliports, since some office parks are adjacent to residential subdivisions. The text amendment proposed is narrow in scope, and will require development plan approval by the Planning Commission, and Board of Adjustment approval of a conditional use permit. If this use is to be allowed in ten-acre office projects, individual site approval by the Board of Adjustment is essential prior to construction.

These uses may also be appropriate in industrial zones as conditional uses. The staff has included language in this text amendment proposal to allow helistops and heliports conditionally in the light industrial (I-1) and heavy industrial (I-2) zones.

The Staff Recommended: Approval, for the following reasons:

1. Heliports may be as appropriate as helistops as conditional uses in Professional Office Projects of ten acres or more in the Professional Office (P-1) zone, such as in allowing medical ambulance services for hospital uses.
2. The Board of Adjustment should examine specific site locations to determine the appropriateness of proposed heliports, and can require additional restrictions and conditions if necessary.
3. The federal, state and local regulations governing this use, including zoning controls, should ensure safe location, design, and operation of heliport uses.

4. Helistops and heliports may also be acceptable, as a conditional use subject to the review and restrictions of the Board of Adjustment, in certain instances in the light industrial (I-1) and heavy industrial (I-2) zones.

WLS/FT/ejh
revised 3/12/91
3/6/91
March cases

- C. ZONING ORDINANCE TEXT AMENDMENTS - The Chairman announced that a hearing on a zoning ordinance text amendment would be held at this time.

Note: The Commission took the following action at the beginning of the meeting regarding ZOTA 91-5.

Action: A motion was made by Dr. Cooper, seconded by Mrs. Howard, and carried 7-0 (Flynn, Logan, Madden, May absent) to hold an abbreviated hearing for ZOTA 91-5 due to the fact that there were no objectors present at the meeting, and the matter otherwise fits the criteria of an abbreviated hearing.

1. ZOTA 91-5: AMENDMENT TO ART. 8-13(o) & 8-13(e)(5) TO ALLOW HELIPORTS AS A CONDITIONAL USE IN A P-1 ZONE - to allow a heliport to be located as a conditional use in a professional office project in the P-1 zone.

PROPOSED TEXT: (Text underlined indicates an addition; text ~~dashed through~~ indicates a deletion.)

1-11 DEFINITIONS

HELIPORT - A facility used exclusively for helicopter operations including landing, takeoff, loading, discharging, fueling, maintenance, and/or transient storage of helicopters.

HELISTOP - A facility used exclusively for helicopter landing, take-off, loading, discharging, and/or transient storage of helicopters but not including facilities for maintenance, fueling or long-term storage of helicopters.

8-13(E) Prohibited uses (P-1)

5. The above or below-ground storage of any flammable material in gaseous form including compressed natural gas, and the above or below ground storage of more than five (5) gallons of gasoline. However, jet fuel may be stored only in conjunction with a Heliport.

8-13(o) Special Provisions - A Professional Office Project...

As a conditional use:

1. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

STAFF PROPOSED ADDITION:

8-20(d) Conditional Uses (I-1)

14. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

8-21(d) Conditional Uses (I-2)

32. Helistops and Heliports, provided such facilities conform to the requirements of all appropriate federal, state and local regulations.

The Zoning Committee and Staff Recommended: Approval, for the following reasons:

1. Heliports may be as appropriate as helistops as conditional uses in Professional Office Projects of ten acres or more in the Professional Office (P-1) zone, such as in allowing medical ambulance services for hospital uses.
2. The Board of Adjustment should examine specific site locations to determine the appropriateness of proposed heliports, and can require additional restrictions and conditions if necessary.

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

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

3. The federal, state and local regulations governing this use, including zoning controls, should ensure safe location, design, and operation of heliport uses.

Representation - Mr. Richard Murphy, attorney; Mr. Rodes Brown, attorney.

Staff/Committee Reports - The report on this proposed text amendment was presented by Mr. Sallee. (A copy of the revised staff report is attached as an appendix to these minutes.) The text amendment was proposed by St. Joseph Hospital. He pointed out that the proposal had been revised since the Zoning Committee meeting and that the revision appears on the agenda and the revised staff report.

Mr. Sallee noted that he had included the definitions of both a heliport and a helistop on the agenda and the staff report. While they are similar, he noted that a heliport would allow the fueling, maintenance and long-term storage of helicopters whereas a helistop does not allow that comprehensive activity.

Mr. Sallee stated that at present helistops are conditional uses in the P-1 zone for only professional office projects which must, among other things, be at least 10 acres in size. He described office projects as they are defined in Art. 8-13 of the Zoning Ordinance.

Mr. Sallee stated that St. Joseph's Hospital had proposed this text amendment in order to add heliports as a conditional use in the P-1 zone for professional office projects. A revision of the language had also been proposed for the prohibited uses section of the P-1 zone to allow storage of flammables. He explained that jet fuel, which is used by helicopters, is a flammable material, and the Ordinance does not allow above or below ground storage of this type of material in a P-1 zone. There was some concern that this section of the Ordinance could prohibit the development of heliports. Therefore, the staff and petitioner's attorney had agreed upon language for the prohibited uses section to allow the storage of jet fuel only in conjunction with a heliport in the P-1 zone.

At the Zoning Committee meeting, there was discussion of allowing heliports as a conditional use in the industrial zones. Mr. Sallee stated that these uses are already allowed in the P-2 zone and may equally be compatible with a modern industrial park, or for a large industrial employer. Therefore, the staff believes that this text amendment provides a good opportunity for adding heliports to the conditional uses of the I-1 and I-2 zones. He stated that the Zoning Committee had expressed their agreement with the staff's views, and the staff had amended the proposed text amendment accordingly.

Mr. Sallee reiterated that heliports are allowed in the newly created P-2 zone. Additionally, helistops are allowed as conditional uses in the downtown business zones. Mr. Sallee noted that two or three helistops had been approved for the downtown area.

Mr. Sallee stated that, in addition to the local governing agencies, the Federal Aviation Administration also regulates helistops and heliports. There are also other state and local regulations which are enforced through our Division of Fire Protection and the Office of Emergency and Environmental Management. The staff believes that existing regulations at several levels are sufficient to ensure that these uses will be safe within the community.

Mr. Sallee stated that the Hospital intended to expand their medical ambulance service to allow the long-term storage and fueling of their helicopters on an office park development across from the hospital. The staff believes that this is an example of an appropriate setting for a heliport in a P-1 zone. However, many office parks are located near residential developments and, for this

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reason, the approval of heliports in office parks must be done under the strict supervision of the Board of Adjustment.

Mr. Sallee then reviewed the staff's reasons for recommending approval of the proposed text amendment.

Discussion - Mr. Boone inquired as to whether the Hospital could establish a commercial helicopter service for other hospitals, or would they be restricted to serving only St. Joseph's. Mr. Sallee stated his opinion that, unless restricted by the Board of Adjustment, the Hospital could do so under the language of this text amendment. He noted that this use would not be accessory to another use.

Petitioner's Presentation - Mr. Richard Murphy, attorney, stated that he was representing St. Joseph Hospital along with Rodes Brown of Jackson & Kelley. He stated that the petitioner agrees with the staff's recommendation of approval. He noted that the language had been changed in response to some concerns that were raised. He stated that the petitioner agrees with those changes regarding storage of jet fuel.

Mr. Murphy noted that the language regarding heliports in I-1 and I-2 had also been added. He stated that the Hospital is not directly involved in those changes and he had no comments to make on that issue. He stated that the Hospital does not object to adding heliports as a conditional use to the industrial zones.

Objections - There were no objections.

Action on Text Amendment - A motion was made by Dr. Cooper, seconded by Mrs. Lucas, and carried 7-0 (Flynn, Logan, Madden, May absent), to approve ZOTA 91-5: Amendment to Art. 8-13 (o) & 8-13(e)(5) to allow heliports as a conditional use in a P-1 zone, adding the I-1 and I-2 zones to this amendment, for the reasons listed by the staff on the revised staff report.

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