

ORDINANCE NO. 196-97

AN ORDINANCE AMENDING ARTICLE 8-18(d) OF THE ZONING ORDINANCE SO AS TO ALLOW CHURCH USES IN THE HIGHWAY SERVICE BUSINESS (B-3) ZONE.

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment proposed to it so as to allow church uses in the highway service business (B-3) zone; and

WHEREAS, the Planning Commission held a public hearing on this proposed text amendment on August 28, 1997; and

WHEREAS, the Planning Commission recommended approval of this proposed text amendment by a vote of 11-0; 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 8-18(d) of the Zoning Ordinance of the Lexington-Fayette Urban County Government be and hereby is amended to read as set forth in the Planning Commission's Recommendation which is 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: October 2, 1997



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: October 9, 1997-lt

0-196-97
1st 2

Recd by MS
Date: 9-11-97

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

IN RE: **ZOTA 97-7: CHURCHES IN THE B-3 ZONE** - a text amendment to account for church uses in the highway service business (B-3) zone.

Having considered the above matter on **August 28, 1997**, at a Public Hearing and having voted **11-0** 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 reason:

1. Allowing churches and Sunday schools as conditional uses in the B-3 zone will increase the number of sites available for churches, address an omission in the Zoning Ordinance, and allow the Board of Adjustment to make case by case decisions in order to ensure proper development.

ATTEST: This 11th day of September, 1997.

Dale B. Thoma
Secretary, Dale B. Thoma

WALTER W. MAY
CHAIRMAN

8. Denote treatment of rear and side yard to be resolved at the final development plan stage.
9. Resolve sanitary sewer adequacy at the final development plan stage.

Note: Applicant was advised that economic data on the number of units would be expected at the final development plan stage.

(A brief recess was called by the Chairman at 2:40 p.m., with the same members returning at 2:55 p.m.)

- C. **PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENTS** - The Chairman announced that public hearings would be held on Zoning Ordinance text amendments at this time.

1.

ZOTA 97-7: CHURCHES IN THE B-3 ZONE - a text amendment to account for church uses in the highway service business (B-3) zone.

INITIATED BY: Urban County Planning Commission (at the request of the Board of Adjustment)

PROPOSED TEXT: (Text underlined indicates an addition to the Zoning Ordinance.)

8-18(d) Conditional Uses (B-3)

10. Churches and Sunday Schools.

The Zoning Committee and Staff Recommended: Approval of the Proposed Text, for the following reason:

1. Allowing churches and Sunday schools as conditional uses in the B-3 zone will increase the number of sites available for churches, address an omission in the Zoning Ordinance, and allow the Board of Adjustment to make case by case decisions in order to ensure proper development.

Staff Report - Mr. Sallee presented the staff report on this petition, noting that the Board of Adjustment had requested the initiation of this text amendment to allow churches in the B-3 zone. After reviewing the request, the staff recommended that they be allowed as a conditional use since some B-3 locations may not be appropriate for churches and Sunday schools. As a conditional use, the Board could then address specific requests on a case-by-case basis, as noted in the staff's reason for approval. (A copy of the staff report is attached as an appendix to these minutes.)

Objections - There were no objections.

Action - A motion was made by Dr. Cooper, seconded by Mrs. Lucas and carried 11-0, to approve ZOTA 97-7: Churches in the B-3 Zone, for the reason listed by the staff.

Note The following Zoning Ordinance text amendment was postponed from the August 21, 1997, meeting

2. **ZOTA 97-6: ADDITION TO ARTICLE 8-13(b), BEAUTY SHOPS IN THE P-1 ZONE** - a text amendment which would add beauty shops as a principal use in the professional office (P-1) zone.

REQUESTED BY: Debra Scandore

PROPOSED TEXT: (Note: Underlined Text indicates an addition to the Zoning Ordinance)

8-13(b) Principle Uses [in the P-1 zone.]

19. Beauty Shops

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

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

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Mr. Bill Sallee, Planning Staff**.

OBJECTIONS

None

OBJECTORS

None

VOTES WERE AS FOLLOWS:

AYES: (11) Ballentine, Bratt, Cooper, Gregg, Harper, Logan, Lucas, May, Mays, Robinson, Vose

NAYS: (0)

ABSENT: (0)

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **APPROVAL** of **ZOTA 97-7: CHURCHES IN THE B-3 ZONE** carried.

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

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 97-7: CHURCHES IN THE B-3 ZONE

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STAFF REVIEW:

The Board of Adjustment heard the administrative appeal of the Kentucky Satsang Society on June 27, 1996. (A-97-55) At that time, the Society was requesting to use an existing property in a B-3 zone for a hybrid school/church use. The Board denied their request because of the church use and posited that the problem should more appropriately be addressed through the initiation of a text amendment.

Church uses are permitted or allowed as a conditional use in the majority of Lexington's residential and business zones. Churches and Sunday Schools are a permitted use in B-1 and B-2 zones, both less intense in use than B-3. However, churches, Sunday Schools, and church related schools are allowed as conditional uses in the B-4 and I-1 zones, both more intense use zones than B-3. The staff believes that allowing churches in the B-3 zone is a logical fulfillment of an omission in the Zoning Ordinance.

The B-3 zone is found along state highways, not interstate interchanges, and currently allows schools and kindergartens as permitted uses. Allowing churches to locate in B-3 zones will allow smaller groups and others to use existing and new facilities for church purposes, increasing the number of available sites for churches in Lexington. However, not all B-3 areas are appropriate for churches. Allowing churches as a conditional use will allow the Board of Adjustment to make specific decisions concerning specific properties, thus addressing any adverse affects churches in a B-3 zone may cause before the fact.

Other communities around the country also allow, either as a permitted use or conditional use, churches in their highway service zones. Of the ten surveyed, six permit churches by right, three prohibit them, and one community allowed them as a conditional use.

The Staff Recommended: Approval of the Proposed Text, for the following reason:

1. Allowing churches and Sunday schools as conditional uses in the B-3 zone will increase the number of sites available for churches, address an omission in the Zoning Ordinance, and allow the Board of Adjustment to make case by case decisions in order to ensure proper development.

CHA/WLS/FT
7/23/97

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