

04/10/2008

Ordinance

61-2008

ORDINANCE NO. 61-2008

AN ORDINANCE AMENDING ARTICLE 1-11 AND ARTICLE 8-15(d), 8-15(n), AND 8-15(o) OF THE ZONING ORDINANCE TO CHANGE THE DEFINITION OF EXTENDED-STAY HOTEL AND TO PERMIT EXTENDED-STAY HOTELS IN THE PROFESSIONAL OFFICE (P-1) ZONE.

WHEREAS, the Lexington-Fayette Urban County Planning Commission considered a text amendment proposed to it to permit extended-stay hotels in the Professional Office (P-1) zone; and

WHEREAS, the Planning Commission did hold a public hearing on the proposed text amendment on February 28, 2008; and

WHEREAS, the Planning Commission recommended APPROVAL, INCLUDING THE STAFF ALTERNATIVE TEXT by a vote of 9-0; and

WHEREAS, the Council AGREES with the recommendation of the Planning Commission; and

WHEREAS, the Planning Commission's recommendation form is attached hereto and incorporated herein by reference.

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

Section 1 – That the definition of “extended-stay hotel” in Article 1-11 of the Zoning Ordinance is hereby amended to read as follows:

EXTENDED-STAY HOTEL – Multiple family dwelling(s) with rental or lease of less than one week, provided such rentals or leases of less than one week shall comprise less than 50% of the total dwelling units within the structure(s).

Section 2 – That Article 8-15(d) of the Zoning Ordinance is hereby amended to read as follows:

8-15(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

6. Extended-stay Hotels, except as permitted in a Professional Office Project.

Section 3 -- That Article 8-15(n) of the Zoning Ordinance is hereby amended to read as follows:

8-15(n) Off-Street Parking

Extended-Stay Hotels – One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.

Section 4 – That Article 8-15(o) of the Zoning Ordinance is hereby amended to

read as follows:

8-15(o) Special Provisions

A Professional Office Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, upon the approval of a preliminary development plan and a final development plan as provided in Article 21, and subject to the P-1 zone regulations.

Subdivision of land in a Professional Office Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

As a principal permitted use:

1. Extended-stay Hotels.

As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.

As a conditional use:

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurants, with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided the following conditions are met:

- a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.
- b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
- c. It shall have no more than one public entrance and one service entrance directly to the outside of the building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.
- d. It shall have no drive-in or drive-through food service.
- e. There shall be no more than two restaurants within an office

- building, provided that the 25% limitation is not exceeded.
- f. Signs permitted per office building may be used to identify the restaurant and/or the office use.

Section 5 - That this Ordinance shall be effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: April 10, 2008


MAYOR

ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: April 16, 2008-1t

Recd by Qd
Date: 03/13/08

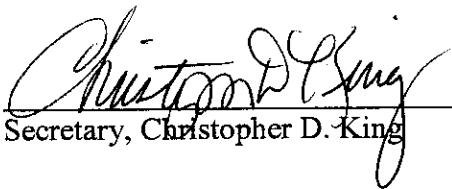
RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: **ZOTA 2008-1: AMENDMENT TO ARTICLE 8-15(d) & 8-15(o): EXTENDED-STAY HOTELS IN PROFESSIONAL OFFICE (P-1) ZONE** – petition for a Zoning Ordinance text amendment to permit extended stay hotels in the Professional Office (P-1) zone.

Having considered the above matter on **February 28, 2008**, at a Public Hearing and having voted **9-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL, INCLUDING THE STAFF ALTERNATIVE TEXT** for this matter, for the following reasons:

1. This Zoning Ordinance text amendment to Article 8-15 is a timely update to the Ordinance, as several locations have required rezoning to accommodate this use in the recent past.
2. Extended-stay hotels cater to the professional business traveler. Locating extended-stay hotels in a Professional Office Project is a natural progression in land use, given the residential character of this specialized use.
3. Outside of a Professional Office Project, the Board of Adjustment should review individual requests for extended-stay hotels on a case-by-case basis.

ATTEST: This 13th day of March, 2008.


Secretary, Christopher D. King

RANDALL VAUGHN
CHAIR

OBJECTORS

- None

OBJECTIONS

- None

VOTES WERE AS FOLLOWS:

AYES: (9) Aten, Cravens, Day, Godfrey, Holmes, Mahan, Penn, Roche-Phillips,
Whitman

NAYS: (0)

ABSENT: (2) Richardson, Vaughn

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for **Approval, including of the Staff Alternative text** for **ZOTA 2008-1** carried.

tw/wls/src

Enclosures: Minutes of PC meeting initiating this request
Staff Report
Staff Alternative Text
Applicable excerpts of minutes of above public hearing

VII. STAFF ITEMS – Staff items, if any, will be considered at this time.

- A. INITIATION OF ZONING ORDINANCE TEXT AMENDMENT FOR EXTENDED-STAY HOTELS IN THE P-1 ZONE** – The staff will request that the Planning Commission initiate a text amendment to Article 8-15 of the Zoning Ordinance to allow Extended-stay hotels in the P-1 zone. If initiated, this text amendment could possibly proceed to a public hearing as early as next month.

Staff Comments – Mr. Sallee stated that this zoning issue has been discussed with the Commission for several months. He said that the staff is requesting that the Planning Commission initiate a text amendment to Article 8-15 of the Zoning Ordinance to allow Extended-stay hotels in the P-1 zone. In the last few months, this had been discussed at the Zoning Committee meeting, as well as at one of the Planning Commission hearings. He said that if the Planning Commission were to initiate the text amendment, then the staff would prepare the appropriate staff reports, as well as send out proper notification. He noted that the staff would review the text amendment with the Commission prior to a public hearing.

Action: A motion was made by Mr. Holmes, seconded by Ms. Whitman and carried 9-0 (Godfrey and Penn absent) to initiate a text amendment to Article 8-15 of the Zoning Ordinance to allow Extended-stay hotels in the P-1 zone.

- B. INITIATION OF ZONING ORDINANCE TEXT AMENDMENT TO PUD-1 ZONE** – The staff will request that the Planning Commission initiate a text amendment to Article 22A-2(a) of the Zoning Ordinance to eliminate an outdated reference to the Comprehensive Plan that appears in the Zoning Ordinance. The "Growth Functional Planning Area" is no longer defined in the Comprehensive Plan. After consultation with the Department of Law, this provision should be removed from our Ordinance.

Staff Comments – Mr. Sallee stated that the staff has discovered that the PUD-1 zone has a locational criterion that has not been reviewed in a number of years. He said that the PUD-1 zone has been utilized only one time in the Urban Service Area. In the late 1980s or early 1990s, the PUD-1 zone was applied to a development through a zone change, and a development plan. He said that the locational criterion refers to "the Growth Function Planning Area, as defined in the Comprehensive Plan." Mr. Sallee said that the 1980 and 1988 Comprehensive Plans did define the Growth Functional Planning Area; however, the 1996, 2001, and 2007 Comprehensive Plan had not addressed that issue. After having discussions with the Department of Law, it was determined that the locational criterion should be removed from the Zoning Ordinance, or in the alternative, amending the 2007 Comprehensive Plan. He said that the staff suggests addressing this through a text amendment, which could then remove the outdated provision from the Zoning Ordinance.

Planning Commission Questions – Mr. Holmes asked if the PUD-1 zone has only been used once. Mr. Sallee replied that there is only one area that is zoned PUD-1. Mr. Holmes then asked what the context of that zone change was. Mr. Sallee stated that when this was first requested there were a number of different types of housing being proposed on a large farm. He said that the housing included multi-family residential, single family residential, and townhouse residential, as well as a neighborhood clubhouse. The end result on this land was for mostly single family detached housing with a small portion for townhouse and patio homes. The applicant had pursued a single family market and the development did not look noticeably different from any other residential subdivision.

Mr. Holmes then asked if there is a zoning classification that would allow a Mixed Use zone. Mr. Sallee said that the Planning Commission had considered a draft for a new Mixed Use PUD zone in the Infill and Redevelopment Areas, and in 2007, the staff had reviewed this issue, noting that this would be discussed with the Commission at some point in the future. He said that there are adopted Mixed Use zones available for use inside the New Circle Road area and they are similar to a PUD-1 zone. Even though they both have low setback requirement, the development plan, the location of buildings and arrangements are much more important in the Mixed Use zone.

Mr. Holmes then asked what development classification are being used for the Mixed Use beyond New Circle Road. Mr. Sallee said that the Professional Office (P-1) and Neighborhood Business (B-1) zones do allow a mixture of uses, but B-1 is very restrictive in terms of allowable height. He said that the staff is also researching how mixed uses could be encouraged more beyond New Circle Road.

Mr. Holmes said that there is a concern with removing this section from the Zoning Ordinance, unless there is something in place that would continue to promote mixed use development outside New Circle Road. Mr. King said that the staff had prepared several text amendments that have been part of community conversations, and in giving both the public concerns and the initiations of the Infill and Redevelopment Task Force, the public had requested a little breathing space in order to process it. He said that there are plans to reevaluate the text amendments at the conclusion of the Infill and Redevelopment Task Force process, and the ideas that continue on will be brought back in front of the Commission.

Mr. Vaughn stated that this is a request to initiate a text amendment to Article 22A-2(a) of the Zoning Ordinance to eliminate an outdated reference to the Comprehensive Plan that appears in the Zoning Ordinance. He then directed the Commission's attention to the proposed text to be eliminated, which reads: "within the Growth Functional Planning Area, as defined in the Comprehensive Plan."

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

APPROVED BY THE PLANNING COMMISSION ON 2/28/2008

EXTENDED-STAY HOTEL - Multiple family dwelling(s) with rental or lease of less than one week, provided such rentals or leases of less than one week shall comprise less than 25% 50% of the total dwelling units within the structure(s).

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2008-1: AMENDMENT TO ARTICLE 8-15(d) & 8-15(o): EXTENDED-STAY
HOTELS IN PROFESSIONAL OFFICE (P-1) ZONES**

REQUESTED BY: Urban County Planning Commission

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

ARTICLE 8-15: PROFESSIONAL OFFICE (P-1) ZONE

8-15(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

6. Extended-stay Hotels, except as permitted in a Professional Office Project.

8-15(n) Off-Street Parking

Extended-stay Hotels – One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.

8-15(o) Special Provisions

A Professional Office Project may be permitted by the Planning Commission for a tract of land with a minimum of ten (10) acres, upon the approval of a preliminary development plan and a final development plan as provided in Article 21, and subject to the P-1 zone regulations.

Subdivision of land in a Professional Office Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

As a principal permitted use:

1. Extended-stay Hotels.

As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.

As a conditional use:

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurants, with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided it meets the following conditions are met:

- a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.
- b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
- c. It shall have no more than one public entrance and one service entrance directly to the outside of the

- building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.
- d. It shall have no drive-in or drive-through food service.
- e. There shall be no more than two restaurants within an office building, provided that the 25% limitation is not exceeded.
- f. Signs permitted per office building may be used to identify the restaurant and/or the office use.

STAFF REVIEW:

The Planning Commission, at the request of the staff, has initiated a text amendment to allow extended-stay hotels in the Professional Office (P-1) zone. Currently, extended-stay hotels are an allowable conditional use in the High Rise Apartment (R-5) zone, and an allowable principal use in the Downtown Business zones, in the Highway Service Business (B-3) zone, in the Office, Industry and Research Park (P-2) zone, and in the Interchange Service Business (B-5P) zone. In B-2, B-2A, B-2B, B-3, P-2, and B-5P zones, this use is allowed as a hotel use. The proposed text amendment would allow an extended-stay hotel as a conditional use on any P-1 zoned property and as a principal permitted use within a designated Professional Office Project of 10 acres or more in size.

There have been several recent zone change requests for new extended-stay hotels to locate in our community. In one instance, a P-1 lot in a Professional Office Park was rezoned to R-5, in order to permit this use in that development a few years ago. (Ironically, that extended-stay hotel did not develop at that location.) Locating extended-stay hotels in the P-1 zone is a natural relationship of land uses, given their similarity to residential uses, and one that tends to cater to the professional business traveler.

Under the current Zoning Ordinance, an extended-stay hotel could be built with restrictions. Because an extended-stay hotel room, which has kitchen and lodging facilities, is similar to a dwelling unit, they would probably be allowed in the P-1 zone, as long as the rooms were not located on the first floor of a building, and rented on a weekly basis, or longer. The proposed text amendment would simply allow an extended-stay hotel to contain rental rooms on the first floor of a building and would allow up to 25% of the occupancy to be less than one week in duration. This is a reasonable and timely update to the Zoning Ordinance.

In areas other than in a Professional Office Project, this use should be subject to review and approval by the Board of Adjustment, on a case-by-case basis.

The Staff Recommended: **Approval**, for the following reasons:

1. This Zoning Ordinance text amendment to Article 8-15 is a timely update to the Ordinance, as several locations have required rezoning to accommodate this use in the recent past.
2. Extended-stay hotels cater to the professional business traveler. Locating extended-stay hotels in a Professional Office Project is a natural progression in land use, given the residential character of this specialized use.
3. Outside of a Professional Office Project, the Board of Adjustment should review individual requests for extended-stay hotels on a case-by-case basis.

JWE/BJR/WLS
2/5/08
Staff Reports/ZOTA/2008/ZOTA2008-1.doc

Note: Mr. Holmes returned to the meeting at this time.

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS

1. ZOTA 2008-1: AMENDMENT TO ARTICLE 8-15 TO ALLOW EXTENDED-STAY HOTELS IN THE P-1 ZONE - petition for a Zoning Ordinance text amendment to permit extended-stay hotels in the Professional Office (P-1) zone.

REQUESTED BY: Urban County Planning Commission

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

ARTICLE 8-15: PROFESSIONAL OFFICE (P-1) ZONE

8-15(d) Conditional Uses (Permitted only with Board of Adjustment approval.)

6. Extended-stay Hotels, except as permitted in a Professional Office Project.

8-15(n) Off-Street Parking

Extended-stay Hotels – One (1) space for every dwelling unit, plus one (1) space for each employee on the maximum shift.

8-15(o) Special Provisions

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Subdivision of land in a Professional Office Project is permitted, subject to the following regulations:

1. There shall be no minimum lot size, lot frontage, yard or open space, nor maximum lot coverage or height requirements for each subdivided lot; however, all said requirements for the approved final development plan shall be applicable to the subdivision.
2. Each subdivided lot shall have access to adjacent streets or joint parking areas, as provided by appropriate easements shown on the final development plan and the final record plan.

In addition to the uses otherwise permitted in the Professional Office zone, the following uses shall be permitted in the Professional Office Project:

As a principal permitted use:

1. Extended-stay Hotels.

As accessory uses:

1. Receiving, shipping, and storage of new fixtures, equipment and other non-perishable materials for distribution to corporate or affiliated units subsidiary to the tenant(s) of a principal structure. Such activity, including loading and unloading, shall be conducted entirely within the walls of the principal structure and shall be limited to a maximum of twenty percent (20%) of the total floor area of said principal structure.

As a conditional use:

1. Helistops and heliports, provided such facilities conform to the requirements of all appropriate Federal, State and local regulations.

In addition to the uses otherwise permitted in the Professional Office zone, the following accessory use shall be permitted in a P-1 area of at least twenty (20) contiguous acres:

Restaurants, with or without a cocktail lounge, entertainment, dancing, and sale of alcoholic beverages, provided it ~~meets~~ meets the following conditions are met:

- a. It shall be located in an office building containing a minimum of 40,000 square feet of floor area.
- b. It shall occupy not more than twenty-five percent (25%) of the building in which it is located.
- c. It shall have no more than one public entrance and one service entrance directly to the outside of the building, and that this use shall be at least one hundred fifty (150) feet from any residential zone.
- d. It shall have no drive-in or drive-through food service.
- e. There shall be no more than two restaurants within an office building, provided that the 25% limitation is not exceeded.

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

- f. Signs permitted per office building may be used to identify the restaurant and/or the office use.

The Zoning Committee Recommended: Referral to the full Commission. There were questions related to the current definition of an Extended-stay Hotel.

The Staff Recommended: Approval, for the following reasons:

1. This Zoning Ordinance text amendment to Article 8-15 is a timely update to the Ordinance, as several locations have required rezoning to accommodate this use in the recent past.
2. Extended-stay hotels cater to the professional business traveler. Locating extended-stay hotels in a Professional Office Project is a natural progression in land use, given the residential character of this specialized use.
3. Outside of a Professional Office Project, the Board of Adjustment should review individual requests for extended-stay hotels on a case-by-case basis.

Staff Presentation: Mr. Emmons presented the staff report, stating that this proposed amendment to the Zoning Ordinance would allow extended-stay hotels to locate in the P-1 zone. In most of our P-1 zoned areas, those hotels would be a conditional use, and would require the approval of the Board of Adjustment. If an extended-stay hotel wished to locate in a Professional Office Project, however, it could do so as a principal permitted use, which would require the approval of the Planning Commission rather than the BOA. The staff felt that that distinction was important due to the existence of P-1 zoned properties that do not have development plan requirements, versus those required to receive an extra level of review by the Planning Commission.

Mr. Emmons stated that the Zoning Committee recommended referral of this request, mostly due to concerns about the Zoning Ordinance's current definition of "Extended-stay Hotel." Extended-stay hotels are differentiated from other hotels by the typical length of stay. The Ordinance requires that 75% of the rentals in extended-stay hotels be for one week or longer, with 25% of the rentals allowed to be by the night. That restriction was included in the definition of extended-stay hotel in order to protect residential properties surrounding R-5 zones, where extended-stay hotels are allowed as a conditional use. Mr. Emmons stated that some members of the Zoning Committee expressed concern that the 25% limitation was too restrictive for these uses. In doing research on how other communities have regulated extended-stay hotels, Mr. Emmons discovered that very few communities regulate those hotels in a similar manner, because most cities do not allow them in residential zones. He said that the staff would not be concerned if the Planning Commission wished to increase the allowable number of per-night stays for extended-stay hotels, and provided appropriate language is added to this text amendment, should the Commission choose to do so. Mr. Emmons did note that the staff would be concerned with increasing the number of per-night rentals to a number greater than 50%, because that could blur the line between extended-stay and more traditional hotels.

Mr. Emmons stated that the staff is recommending approval of this request, for the reasons listed in the staff report and on the agenda, and that those findings would also be applicable if a change to the definition of this use is also recommended.

Commission Questions: Mr. Day asked if the staff could recommend an appropriate percentage to which the Commission could increase the allowable number of per-night stays. Mr. Emmons stated that the staff had provided draft text to allow an increase from 25% to 33% or 50%. He believed that the 33% may be awkward, but the staff would also be comfortable with an increase up to 50%. He noted that the only drawback of such an increase would be the blurring of the line between an extended-stay hotel and a traditional hotel.

Ms. Whitman stated that she believed that extended-stay hotels located in the P-1 zone would attract more "true" extended-stay customers, rather than overnight travelers. She noted, however that she would be in favor of an increase to 50% in overnight stays.

Mr. Penn stated that he believed that the percentage should be maintained at 25%, since he has concerns about extended-stay hotels in the R-5 zone and their proximity to residential uses. He added that there is no shortage of hotels in our area.

Staff Comments: Mr. Emmons noted that extended-stay hotels have been allowed in all the zones that allow traditional hotels as a principal permitted use. Mr. Sallee added that the definition change would affect the extended-stay hotels currently located in an R-5 zone. According to the Division of Building Inspection, there have been no enforcement actions to date related to those establishments in the R-5 zone.

Commission Questions: Ms. Godfrey asked how many extended-stay hotels are currently located in an R-5 zone. Mr. Sallee answered that there are probably four or five such extended-stay hotels in existence.

Mr. Aten asked if other communities have similar regulations with regard to extended-stay hotels. Mr. Emmons responded that most of the communities he researched define an extended-stay hotel according to whether or

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

not it provides kitchen facilities, not length of stay. None of those communities, however, allow extended-stay hotels in their residential zones.

Action: A motion was made by Ms. Whitman, seconded by Mr. Mahan, and carried 9-0 (Richardson and Vaughn absent) to approve ZOTA 2008-1, for the reasons provided by staff, and changing the definition of extended-stay hotels to read as follows: "Multiple family dwelling(s) with rental or lease of less than one week, provided such rentals or leases of less than one week shall comprise less than 25% 50% of the total dwelling units within the structure(s)."

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