

11/03/2011

Ordinance

137-2011

AN ORDINANCE CHANGING THE ZONE FROM A SINGLE FAMILY RESIDENTIAL (R-1D) ZONE TO A PLANNED NEIGHBORHOOD RESIDENTIAL (R-3) ZONE FOR 5.0 NET (5.74 GROSS) ACRES, WITH A CONDITIONAL USE PERMIT, FOR PROPERTY LOCATED AT 564 ASBURY LANE (A PORTION OF), SUBJECT TO CERTAIN USE RESTRICTIONS IMPOSED AS CONDITIONS OF GRANTING THE ZONE CHANGE (DMK DEVELOPMENT GROUP, LLC).

WHEREAS, at a Public Hearing held on September 22, 2011, a petition for a zoning ordinance map amendment for property located at 564 Asbury Lane (a portion of), from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone for 5.0 net (5.74 gross) acres, with a conditional use permit, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change; 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 herein by reference.

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

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone for property located at 564 Asbury Lane (a portion of), from a Single Family Residential (R-1D) zone to a Planned Neighborhood Residential (R-3) zone for 5.0 net (5.74 gross) acres; being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be restricted on the subject property via conditional zoning:

- a. No more than twenty-five (25) single family residential dwelling units shall be permitted on the subject property.
- b. Pole lighting shall be limited to a maximum of 20 feet in height on the subject property, and shall be directed downward and away from any adjoining residential or agricultural use.

- c. Allowable Conditional Uses (provided the BOA or Planning Commission approves such a use) are to be limited to the following:
1. Hospitals, nursing homes, rest homes, and orphanages.
 2. Assisted living facilities.

These restrictions are appropriate and necessary for the subject property in order to ensure compatible development in agreement with the Comprehensive Plan, and appropriate density protections for the closest single family homes proximate to this location.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: November 3, 2011

MAYOR



ATTEST:


CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: November 10, 2011-1t

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EXHIBIT A

**ZONE CHANGE DESCRIPTION
A PORTION OF TRACT 2
PALUMBO PROPERTIES, INC.
564 ASBURY LANE
R-1D TO R-3**

All that tract or parcel of land situated south of Citation Boulevard, east of Silver Springs Drive and west of Van Buren Drive in Lexington, Fayette County, Kentucky, being more fully described and bounded as follows, to wit:

BEGINNING at the intersection of the centerlines of Silver Springs Drive and Citation Boulevard (Cab M, SI 726 & 926), said point being the beginning of a curve to the right; thence with said Citation Boulevard centerline for five (5) lines:

- 1) Along said curve having a radius of 1,000.00 feet, an arc distance of 136.81 feet and a chord South 70°19'41" East, 136.71 feet to a point,
- 2) South 66°24'31" East, 242.48 feet to the point of curvature of a curve to the left,
- 3) Along said curve having a radius of 506.50 feet, an arc distance of 98.34 feet and a chord South 71°58'14" East, 98.18 feet to a point,
- 4) South 77°31'57" East, 188.23 feet to the point of curvature of a curve to the right,
- 5) Along said curve having a radius of 493.50 feet, an arc distance of 3.60 feet and a chord South 77°19'26" East, 3.59 feet to the point of intersection with the proposed Asbury Lane centerline;

Thence leaving said Citation Boulevard centerline and with said Asbury Lane centerline for three (3) lines:

- 1) South 12°53'06" West, 51.21 feet to the point of curvature of a curve to the left,
- 2) Along said curve having a radius of 300.00 feet, an arc distance of 140.92 feet and a chord South 00°34'19" East, 139.63 feet to the point of a compound curve to the left,
- 3) Along said compound curve having a radius of 716.20 feet, an arc

distance of 25.82 feet and a chord South 15°03'42" East, 25.81 feet to a point in the line with Green Acres Subdivision, Unit 1E (Cab A, SI 154); Thence leaving said Asbury Lane centerline and with said Green Acres Subdivision, Unit 1E, South 48°18'46" West, 220.82 feet to a point; thence leaving said Green Acres Subdivision, Unit 1E, and through the lands of Palumbo Properties, Inc. (DB 2623, Pg 319, Tract 2), North 69°06'57" West, 590.04 feet to a point in said Silver Springs Drive centerline, at the point of curvature of a curve to the right; thence with said Silver Springs Drive centerline for two (2) lines:

- 1) Along said curve, having a radius of 900.00 feet, an arc distance of 6.10 feet and a chord North 13°41'56" East, 6.10 feet to a point,
- 2) North 13°30'17" East, 370.18 feet to the **POINT OF BEGINNING**, containing a net area of 5.00 acres and a gross area of 5.74 acres.

NOTE: This description is adapted from the deed of record in Deed Book 2623, Page 319, Tract 2, and plat of record in Plat Cabinet M, Slide 727. The surveyor of record makes no representation that a field survey was conducted for the purposes of preparing this description.

STATE OF KENTUCKY
JAMES M.
CHAMBLISS
3185
LICENSED
PROFESSIONAL
LAND SURVEYOR

J. Chambliss
6/29/11

VOTES WERE AS FOLLOWS:

AYES: (9) Beatty, Berkley, Blanton, Brewer, Copeland, Cravens, Owens, Roche-Phillips, Wilson
NAYS: (0)
ABSENT: (2) Paulsen, Penn
ABSTAINED: (0)
DISQUALIFIED: (0)

Motion for **Approval of the Planning Commission alternative text of ZOTA 2011-9** carried.

Enclosures: Application
Staff Report
Applicable excerpts of minutes of above public hearing

tw/wls/src

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. APPLICANT INFORMATION:

Name: Rector Hayden Realtors

Address: 998 Governor's Lane - Beaumont Center Circle

City, State, Zip Code: Lexington, KY 40513

Phone Number: 859-276-4811

2. ATTORNEY (Or Other Representative) INFORMATION:

Name: Rena Wiseman & Nick Nicholson

Address: 300 W Vine St., Ste 2100

City, State, Zip Code: Lexington, KY 40507

Phone Number: 859-231-3000

3. DESCRIBE YOUR REQUESTED TEXT CHANGE: Date of Pre-application Conference: 7/14/11

Zoning Ordinance Article # 17-7(e) Specific text change proposed:

Section 17(e)(6)(d): A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages subject to the requirements of Section 17-7(e)(1).

4. DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)

See attached.

5. SIGN THIS APPLICATION:

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.

APPLICANT: *[Signature]* for Rector Hayden

ATTORNEY (or other representative): *[Signature]*

LFUCG EMPLOYEE/OFFICER, if applicable: _____



STOLL · KEENON · OGDEN
PLLC

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DIRECT FAX: (859) 246-3649
Nick.Nicholson@skofirm.com

August 1, 2011

Lexington-Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 E. Vine Street, 7th Floor
Lexington, KY 40507

RE: Text Amendment of Rector-Hayden Realtors

Dear Members of the Planning Commission:

On behalf of Rector-Hayden Realtors, we have filed an application for a text amendment to the Zoning Ordinance for an amendment to Article 17-7(e)(1) of the Sign Regulations. In our application, we are requesting that the Ordinance be amended to allow for additional signage for professional office buildings located inside a Professional Office Park (POP). Specifically, we are requesting to add a new subsection to § 17-7(e)(6) that states: "A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages subject to the requirements of Section 17-7(c)(1)."

While Rector-Hayden understands the need to restrict the amount of signage on buildings, Professional Office Parks are specially regulated by the Planning Commission in regards to the size, location and types of uses. By the very nature of the POP, such buildings are likely to be surrounded by similar uses and zoning. Therefore, the underlying rationale behind the Sign Ordinance should be eased in such locations.

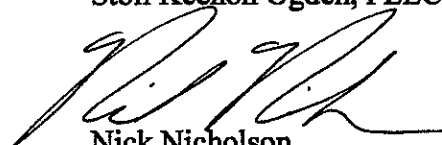
The type of office buildings in a POP, tend to be large structures with multiple tenants. Signage and visibility are crucial to the success of these small businesses. The proposed text amendment would allow for office buildings to better cater to the various tenants' signage needs. By restricting the amendment to office parks, there is no concern that busy visual exteriors near residential zones would be created.

We will be at the September public hearing to make a complete presentation of this application and request your favorable consideration.

Lexington-Fayette Urban County Planning Commission
July 30, 2011
Page 2

Very truly yours,

Stoll Keenon Ogden, PLLC

A handwritten signature in black ink, appearing to read "Nick Nicholson", written over the printed name.

Nick Nicholson
Rena G. Wiseman

991134.801134/3982267.1

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2011-9: AMENDMENT TO ARTICLE 17-7 TO ALLOW ADDITIONAL WALL SIGNAGE IN A P-1 ZONE

REQUESTED BY: Rector Hayden Realtors

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

ARTICLE 17: SIGN REGULATIONS

17-7(e) PROFESSIONAL OFFICE ZONE (P-1) AND MIXED USE 1: NEIGHBORHOOD NODE ZONE (MU-1) - Permitted signs may be either free standing or wall mounted, as specifically noted; signs shall be non-illuminated, indirectly illuminated, or internally illuminated unless otherwise specified. No free-standing sign shall exceed ten (10) feet in height.

- (1) Identification or Business signs, limited to one free-standing sign per building and one wall-mounted sign per street frontage, with a maximum of two such wall-mounted signs per building; free-standing sign not to exceed forty (40) square feet in area; wall-mounted sign not to exceed five percent (5%) of the wall area to which it is attached; minimum setback of ten (10) feet for a free-standing identification sign.

(Note: Where a free-standing sign is not utilized on a lot with only one street frontage, a second wall-mounted sign on a different building face shall be permitted as regulated above in place of the permitted free-standing sign.)

...

- (6) In addition, and within a designated Professional Office Project only:
 - (a) One project identification sign, free standing or wall mounted; not exceeding one hundred (100) square feet in area.
 - (b) One identification sign, wall mounted; not exceeding fifteen (15) square feet in area for a restaurant, cocktail lounge or night club.
 - (c) Project entrance identification signs of permanent construction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height; and no more than two per entrance. Such signs may be located in the right-of-way (in the median or at each side of the street), subject to written authorization of the Commissioner of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.
 - (d) A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages subject to the requirements of Section 17-7(e)(1).

STAFF REVIEW:

Rector Hayden Realtors has requested a text amendment to Article 17-7(e) of the Zoning Ordinance in order to increase the number of allowable identification or business wall-mounted signs from a maximum of two to a maximum of three in a Professional Office (P-1) zone, when the building is located within a designated Professional Office Project and has two street frontages. Over the past few months, the staff has had other similar inquiries.

Currently, the Zoning Ordinance permits a maximum of one wall-mounted sign per street frontage in the P-1 zone (with a limit of two wall-mounted signs per building). This regulation has been in place since 1983 when the entire Zoning Ordinance was re-written, including an overhaul to *Article 17: Signage Regulations*. This regulation has

created some competition for wall-mounted signage among tenants of larger, multi-tenant office buildings, because signage helps to direct patrons to a location, but also offers some advertising value. Tenants that cannot obtain a wall-mounted sign when the Zoning Ordinance signage limit has already been maximized for a building, lot or development, may not realize those same benefits.

The staff agrees that there are legitimate needs for identification purposes in larger Professional Office Projects and there are clear benefits for tenants, owners and patrons, although the intent of the signage regulations as stated in Article 17-1 must also be considered: these sign standards and restrictions are intended "to promote signage that does not unduly detract from the overall aesthetics of the community; which reduces intrusions and protects property values; which provides for improved public safety by minimizing the undue distraction of the motoring public; which provides for the protection and enhancement of the tourist industry by promoting a more harmonious and pleasing community image; which is equitably provided in terms of the nature and scale of the activities to be identified and of non-conforming signs; and which generally enhances and strengthens the economic stability of Lexington-Fayette Urban County." The interests of individual advertising and identification can at times be conflicting with the overall general public interest as stated in the Zoning Ordinance.

The applicant has drafted this text amendment request to allow one additional wall-mounted sign only if the building to which it is affixed is (1) located within a designated Professional Office Project, and (2) has two (or more) street frontages. The applicant notes in the justification for their request that Professional Office Projects are designated by the Planning Commission through the development plan review process; thus, the Commission has authority over the land use relationships of a Professional Office Project with its surrounding uses. Article 8-15(o) of the Zoning Ordinance (Special Provisions of the P-1 zone) also specifically requires that a minimum of ten (10) acres is necessary to constitute a Professional Office Project. Additionally, the type of buildings within a Professional Office Project tend to be large structures with multiple tenants, and often buildings have a similar architectural look, so that they are not as easily differentiated from each other.

In evaluating the proposed text, the staff reviewed other model sign ordinances and several ordinances from communities of similar size to Lexington-Fayette County (Ann Arbor, Michigan; Loveland, Colorado; Spokane, Washington; and Winston-Salem, North Carolina). This provided some perspective for the petitioner's request. However, these communities generally approach wall-mounted signage based upon a lot frontage calculation, with an allotted maximum total square footage, and require that the signs be mounted along a primary building façade, which made it difficult to compare their regulations to our P-1 zone requirements. Lots in a designated Professional Office Project are exempt from any minimum lot frontage requirements.

The proposed limitations to this signage regulation relaxation are acceptable to the staff, although the proposed language is fairly vague in terms of where the third wall-mounted sign could be located (i.e., on the same façade with another sign or on a separate façade). Therefore, the staff recommends approval of an alternative text, which would address this concern.

Staff Alternative Text:

(d) A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages subject to the requirements of Section 17-7(e)(1). Such sign shall be located on a separate wall face of the building not already displaying a wall-mounted sign, not to exceed five percent (5%) of the wall area to which it is attached.

The Staff Recommends: Approval of the Staff Alternative Text for the following reasons:

1. The proposed text amendment will allow an appropriate and timely relaxation of the wall-mounted signage regulation for buildings located within a Professional Office Project and with two street frontages.
2. Professional Office Projects are designated by the Planning Commission, tend to have multiple large structures with multiple tenants, and often the buildings have a similar architectural look, so that differentiation among buildings can be difficult. The addition of one (1) wall-mounted sign will allow for improved business identification.

1. ZOTA 2011-9: AMENDMENT TO ARTICLE 17-7 TO ALLOW ADDITIONAL WALL SIGNAGE IN THE P-1 ZONE (2/1/12)*
– a Zoning Ordinance text amendment to allow a third wall-mounted identification or business sign for buildings with two street frontages within a Professional Office Project in the Professional Office (P-1) zone.

REQUESTED BY: Rector Hayden Realtors

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

ARTICLE 17: SIGN REGULATIONS

17-7(e) PROFESSIONAL OFFICE ZONE (P-1) AND MIXED USE 1: NEIGHBORHOOD NODE ZONE (MU-1) - Permitted signs may be either free standing or wall mounted, as specifically noted; signs shall be non-illuminated, indirectly illuminated, or internally illuminated unless otherwise specified. No free-standing sign shall exceed ten (10) feet in height.

- (1) Identification or Business signs, limited to one free-standing sign per building and one wall-mounted sign per street frontage, with a maximum of two such wall-mounted signs per building; free-standing sign not to exceed forty (40) square feet in area; wall-mounted sign not to exceed five percent (5%) of the wall area to which it is attached; minimum setback of ten (10) feet for a free-standing identification sign.

(Note: Where a free-standing sign is not utilized on a lot with only one street frontage, a second wall-mounted sign on a different building face shall be permitted as regulated above in place of the permitted free-standing sign.)

- (6) In addition, and within a designated Professional Office Project only:
- (a) One project identification sign, free standing or wall mounted; not exceeding one hundred (100) square feet in area.
 - (b) One identification sign, wall mounted; not exceeding fifteen (15) square feet in area for a restaurant, cocktail lounge or night club.
 - (c) Project entrance identification signs of permanent construction, free standing or wall mounted; not exceeding thirty-two (32) square feet in area; not exceeding eight (8) feet in height; and no more than two per entrance. Such signs may be located in the right-of-way (in the median or at each side of the street), subject to written authorization of the Commissioner of Public Works, who shall determine that the signs would not be located in the sight triangle and would not cause a hazard to traffic. Proof of permanent maintenance and an encroachment permit shall be provided by the applicant prior to the issuance of a permit for a subdivision entrance identification sign located in the right-of-way.
 - (d) A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages subject to the requirements of Section 17-7(e)(1).

Staff Alternative Text:

- (d) A third wall-mounted identification or business sign shall be allowed for buildings with two street frontages subject to the requirements of Section 17-7(e)(1). Such sign shall be located on a separate wall face of the building not already displaying a wall-mounted sign, not to exceed five percent (5%) of the wall area to which it is attached.

The Zoning Committee Recommended: Approval, for the reasons provided by staff.

The Staff Recommended: Approval of the Staff Alternative Text, for the following reasons:

1. The proposed text amendment will allow an appropriate and timely relaxation of the wall-mounted signage regulation for buildings located within a Professional Office Project and with two street frontages.
2. Professional Office Projects are designated by the Planning Commission, tend to have multiple large structures with multiple tenants, and often the buildings have a similar architectural look, so that differentiation among buildings can be difficult. The addition of one (1) wall-mounted sign will allow for improved business identification.

Staff Presentation: Ms. Wade presented the staff report, explaining that the petitioner was requesting the ability to have a third wall-mounted sign in a Professional Office Project, which is permitted in the P-1 zone, if the building has two

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

street frontages. She said that the Zoning Ordinance currently permits one wall-mounted sign per street frontage for a building in a P-1 zone, as well as other types of signage.

Ms. Wade stated that the staff agreed that there was a legitimate need for signage for businesses, although there was also a need to restrict signage in order to protect the community, and those two concerns could sometimes conflict. The staff believes, however, that the petitioner's proposed changes to the Zoning Ordinance were drafted succinctly, in that they would permit a third wall-mounted sign only in a Professional Office Project. Ms. Wade explained that Professional Office Projects can exist only when a P-1 zone is at least 10 acres in size, and they must be designated as such by the Planning Commission on a development plan. She displayed a map of the existing P-1 zones in Fayette County, rendered to denote the P-1 properties; 10-acre tracts zoned for P-1 development; and those areas already designated as Professional Office Projects, noting that there were 10 such existing projects in the county. Professional Office Projects typically have larger buildings, each with several tenants, and the buildings sometimes have similar architectural characteristics. Those similarities could sometimes lead to confusion for those attempting to navigate the area, so the staff believed that allowing a third wall sign could assist in the identification of businesses in those situations. Ms. Wade stated that there had been some questions about where a third sign could be mounted, and the staff believed that it should be mounted on a third face of a building, rather than permitting multiple signs on one face, so they have recommended an alternative text to address that concern. Ms. Wade said that the staff was recommending approval of the staff alternative text, for the reasons as listed in the staff report and on the agenda.

Petitioner Representation: Nick Nicholson, attorney, was present representing the petitioner. He stated that the petitioner was in agreement with the staff's recommendation, including the staff alternative text. The petitioner believes that signage is crucial in order to identify where their offices are located in large office parks. Mr. Nicholson said that, since the community has designated Professional Office Parks as the appropriate locations for these types of uses, it is important to encourage tenancy in those areas, in order to keep them viable.

Citizen Comments: There were no citizens present to comment on this item.

Action: A motion was made by Ms. Blanton, seconded by Mr. Owens, and carried 9-0 (Paulsen and Penn absent) to approve the staff alternative text for ZOTA 2011-9, for the reasons provided by staff.