

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. APPLICANT INFORMATION:

Name: **Bayer Properties, LLC**
Address: **222 Arlington Avenue**
City, State, Zip Code: **Birmingham, AL 35205**
Phone Number: **205-939-3111**

2. ATTORNEY (Or Other Representative) INFORMATION:

Name: **Nick Nicholson, Stoll Keenon Ogden PLLC**
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:

Zoning Ordinance Article #28-6. Specific text change proposed:
See attached letter.

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

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:  Attorney for Bayer Properties LLC

ATTORNEY (or other representative): 

LFUCG EMPLOYEE/OFFICER, if applicable: _____

NOTE: Attorneys may submit a formal letter instead of this form; otherwise, fill in all box information requested above.



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January 5, 2015

Lexington Fayette Urban County Planning Commission
Lexington-Fayette Urban County Government
101 East Vine Street
Lexington, KY 40507

Re: Zoning Ordinance 28-6(c) Text Amendment

Dear Members of the Planning Commission:

The applicant, Bayer Properties, LLC, requests a text amendment to section 28-6(c) of the Zoning Ordinance applicable to all Mixed-Use zones. The rationale for this proposed text amendment is as follows:

1. The intent of the current language is to ensure that mixed-use projects have a minimal level of building façade articulation throughout the project – basically, the purpose is to prevent long and blank exterior walls. Unfortunately, the current language only provides one option for achieving that goal and is therefore inherently limiting. The architect for The Summit, Michael Dunning with Shook Kelley, contends that most building codes and many zoning codes nationwide provide more than one option to address this type of issue. Indeed, our community has put great emphasis on creative solutions to common problems like long, blank wall space (i.e., recent improvement to the Helix garage and PRHBTN's Lincoln Memorial art piece). The proposed text amendment provides architects with multiple options to creatively solve a basic problem as opposed to arbitrarily using a 5 foot by 8 foot bump out on each building in a mixed-use project. This will result in more appealing and creative building designs in the mixed-use zones throughout Lexington.
2. The proposed language is supplemental in nature. It provides an additional option to achieve the underlying goal of preventing long expanses of blank exterior walls while leaving the existing language intact. It is in keeping with many of the zoning codes around the country and the language follows the current thinking behind the increasingly-popular form-based codes, pattern books, SmartCodes, and other urban design lexicons that many municipalities are utilizing to enforce zoning regulations.
3. The MU zoning districts are intended to support mixed-use development. In many of the successful retail-driven mixed-use projects around the country, the sidewalk widths average about 15 feet. The proportion of the building height to sidewalk and street width is extremely important, as is the adjacency of the sidewalk to the ground floor retail storefronts. The requirement to create 5-foot shifts in the façade plane is egregious to

most pedestrian-friendly environments. It creates many “blind spots” that are detrimental to retail and add security concerns. Simply put, a 5 foot by 8 foot “notch” or “bump out” does not, by itself, create a well-articulated façade or building.

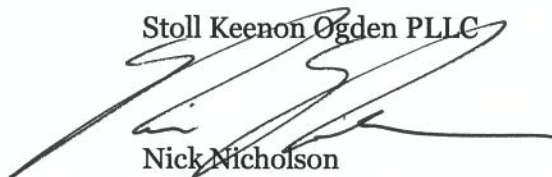
4. The proposed amendment allows for façade changes that result in good building articulation without consuming an inordinate amount of the ground plane (i.e., valuable real estate). In dense, mixed-use projects, every square foot of land is valuable. To arbitrarily have to add or delete 40 SF (5 feet x 8 feet) of ground floor area goes against the entire goal of creating successful and dense mixed-use projects. Additionally, these bump outs do not add any type of building appeal to pedestrians at street level. The proposed text would allow for more flexible building features to achieve the ordinance’s goal of breaking up long planes of wall space while contributing to the success of the mixed-use project itself.
5. Mixed-use environments/developments are inherently complex. Developers and architects/designers need a range of “tools” to help design/solve for many of the complexities. The proposed text amendment allows for design options that benefit all of the different uses and building types that can occur in a mixed-use development. It would lead to incorporating the façade into the building use as opposed to rigid bump out requirements throughout the project.

For the foregoing reasons, the proposed text amendment is appropriate under the Zoning Ordinance, the Subdivision Regulations, and the Comprehensive Plan; and, it is in furtherance of its guiding principles for all three documents.

The proposed text amendment will provide a significant benefit to the design of mixed-use buildings and will do so in a manner that complies with both the letter and the spirit of the Comprehensive Plan and Zoning Ordinance governing Mixed-Use zones. The applicant, therefore, respectfully submits that the text amendment described above is entirely appropriate and should be approved.

Best Regards;

Stoll Keenon Ogden PLLC



Nick Nicholson

NN:NN
Enclosure

28-6 PROVISIONS APPLICABLE TO ALL MIXED-USE ZONES - shall be as follows:

28-6(a) DEVELOPMENT PLAN REQUIRED - All applications for a zone map amendment shall require the accompanying submission of a preliminary development plan. No development or occupancy of any existing structure for mixed use shall occur until a final development plan has been approved and certified. In addition to all requirements for development plans contained in Article 21, the Planning Commission shall consider the following plan features in its review. Approval of a development plan for any mixed use zone shall require a finding that the development plan complies with the provisions of Sections 28-6(b) through (g) below.

28-6(b) PEDESTRIAN ACCOMMODATION - shall be as follows:

- (1) At least one primary street level entrance to a building that faces any public street shall be oriented toward the public street.
- (2) For at least one location adjoining the street, a pedestrian entryway, including landscaping elements, has been provided to the site.
- (3) Where two or more buildings are proposed, they shall be arranged in a manner that provides an open space area, such as a plaza, courtyard or similar feature.
- (4) Convenient and well-defined pedestrian access has been provided to the site, any abutting public transit stops, adjoining neighborhoods, between multiple buildings, open space areas and parking areas.
- (5) A 6-foot minimum unobstructed pedestrian walkway shall be provided to accommodate landscaping, street trees, street furniture, sidewalk cafes or other obstacles. Additional sidewalk width shall also be provided where high pedestrian traffic is anticipated.
- (6) For any development within the Downtown Streetscape Master Plan area, the development shall adhere to the provisions of that plan.

28-6(c) BUILDING FEATURES - shall be as follows:

- (1) For every primary wall plane;

a. A change of at least five (5) feet in depth and eight (8) feet in length shall be made for every 80 feet of length or fraction thereof, or;

b. Implementation of a minimum of two of the following for every sixty (60) feet of length or fraction thereof:

1. A change of at least eight (8) inches in depth;

2. A change in wall height of at least sixteen (16) inches;

3. A change in exterior material type, style, color, finish or orientation;

4. A minimum of twenty (20) percent of the ground floor building face shall be transparent glass, including windows and doors.

(2) For every side or rear wall plane;

a. A change of at least eight (8) feet in length and five (5) feet in depth shall be made for every 100 feet in length, or;

b. Implementation of a minimum of two of the following for every eighty (80) feet of length or fraction thereof:

1. A change of at least eight (8) inches in depth;

2. A change in wall height of at least sixteen (16) inches;

3. A change in exterior material type, style, color, finish or orientation;

4. A minimum of twenty (20) percent of the ground floor building face shall be transparent glass, including windows and doors.

(3) The primary wall plane shall provide at least one of the following features at ground level:

a. A balcony at least 4' x 5'.

b. A bay window with at least a one-foot offset, containing a minimum of twenty (20) square feet.

c. A covered entrance at least 3' x 3'.

d. A porch at least 4' x 6', with a floor at least twelve (12) inches above grade.

e. A recessed entrance at least 3' x 5'.

(4) At least ten percent (10%) of any building face shall be transparent glass, including windows and doors.

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 - b. Implementation of a minimum of two of the following for every sixty (60) feet of length or fraction thereof:
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