

March 6, 2017

Mr. William Wilson, Chairman
Lexington-Fayette Urban County Planning Commission
200 East Main Street
Lexington, Kentucky 40507

RE: Zoning Ordinance Text Amendment ("ZOTA"), Article 8-20

Dear Chairman Wilson:

Please be advised that we represent One Venue, LLC ("One Venue"), a real estate development company headquartered here in central Kentucky. On behalf of One Venue, I propose amending Article 8, Section 20 of the Lexington-Fayette Urban County Zoning Ordinance ("Zoning Ordinance") to expand the kindergarten/nursery school/child care use in the Highway Service Business (B-3) zone. Specifically, we propose the following amendments to the Zoning Ordinance:

§8-20(b) Principal Uses

22. Kindergartens, nursery schools and child care centers, ~~where enrollment of children is sponsored and licensed by established churches and non-profit community-based groups, and/or where enrollment may be limited to children of employees and staff of an office, business or commercial establishment which is located on or abutting the same lot as the proposed child care facility.~~ A fenced and screened play area shall be provided in an area, located a minimum of ten (10) feet from a collector or arterial street, and shall contain not less than 25 square feet per child.

26. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers, provided that none shall be located within a 500-foot radius of any agricultural or residential zone, any elementary or secondary school, any kindergarten, nursery school, child care center, any park attended by persons under 18 years of age, or within a 1,000-foot radius of any other similarly regulated adult business.

As you can see, the request involves two changes to the Zoning Ordinance. One change removes a requirement from the existing regulation that the kindergarten/nursery school/child care use be affiliated with a church, non-profit community group, or "on-site" childcare for business located in the zone. The other change ensures that any adult uses are adequately separated from the kindergarten/nursery school/child care use.

We believe this proposed change to the Zoning Ordinance is relatively minor in scope and is appropriate given the intent and general function of the B-3 zone. As you can see from the proposed changes, the kindergarten/nursery school/child care use is already contemplated as a principal use in the zone. However, the use as presently is tied only to on-site business that provide child care or non-profit or religious organizations. The amendment we propose merely removes the “affiliation” requirement, and expands the use to all providers of child care. From a functional perspective, there would be little to no externally observable difference between a child care facility operated by a religious or non-profit group and one operated by a for-profit entity. In other words, from a use perspective, there would be little noticeable difference to the public at large in approving this ZOTA. Additionally, we submit that the child care use is substantially similar to the “schools for academic instruction” use, which is a principal permitted use in the zone. Aside from (potentially) the age of the children present at the site, there is little distinction between a child care facility and an elementary school.

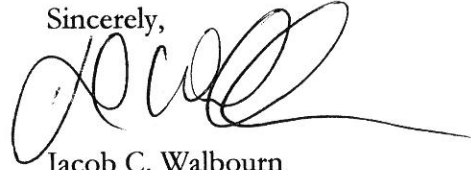
Additionally, we submit that the B-3 zone is appropriate for this use. As a threshold matter, and as mentioned above, the “use” (albeit a narrower version) is already permitted in the zone, as are uses like schools, which are vastly similar in character. Furthermore, the primary/typical location of B-3 zoning is along significant roadways in our community, including major and minor arterial roadways. Obviously, many residents in our community utilize the child care use, and drop off or pick up children while commuting to work. Accordingly, permitting the child care use along significant roadways would be convenient for the many commuters who also utilize child care services. In fact, ideally, this may lead to shorter commutes for parents. As you are aware, reducing Lexington’s carbon footprint is one of the goals of the 2013 Comprehensive Plan.

We are mindful that the B-3 zone does permit some more “intense” uses than the B-1 and P-1 zones, where the child care use is permitted as a principal use. In recognition of that fact, we have added the child care use as one that needs to be physically separated from the adult uses permitted in the B-3 zone. We believe this is appropriate based on the inclusion of schools in the existing regulation. Though many B-3 developments, particularly those more recently zoned, restrict adult uses via conditional zoning restrictions, in light of the universal nature of a text amendment, we felt it appropriate to include this restriction.

On balance, we submit that this text amendment is a relatively minor one, but one that would have positive results for Lexington citizens. The kindergarten/nursery school/child care use is one that is already permissible in the zone, albeit only when affiliated with a business, non-profit, or religious entity. Simply stated, we believe broadening the use to include all providers of child care is not only appropriate, but in fact could enhance the community and provide more convenient locations for parent commuters to utilize for their child care needs. We have attempted to be mindful of the permitted adult uses in the zone, and their incompatibility with the child care use. To that end, we have restricted the location of the adult uses in the same manner as schools, which we believe is a comparable use.

Of course, we look forward to working with staff and addressing any questions they may have in regard to this application. We thank you for your attention to it as well, and look forward to discussing it with you. We appreciate your consideration, and would ask for your support of this request.

Sincerely,



Jacob C. Walbourn
Counsel for One Venue, LLC

JCW/klm

4829-5337-7347, v. 1