

2. **ZOTA 2015-5: AMENDMENT TO THE DEFINITION AND REGULATION OF "DAY SHELTERS"** – a Zoning Ordinance text amendment to amend the definition and regulation of "day shelters."

INITIATED BY: Urban County Council

PROPOSED TEXT: *(Available upon request, and for viewing at:
<https://drive.google.com/file/d/0B0aBvWAKyfxaNXFUTUZITWfRU0/view?usp=sharing&pli=1>)*

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

The Staff Recommends: Approval, for the following reasons:

1. The proposed text amendment will regulate day shelters in the same manner as are community centers, which will facilitate their co-location and could provide additional services to the community. The amendment will also more clearly define "day shelter."
2. The proposed changes to the Zoning Ordinance are supported by the 2013 Comprehensive Plan. These text amendments will help to provide more accessible community facilities and services to meet the health, safety and quality of life need for both residents and visitors, especially those persons who are less fortunate (consistent with Theme D, Goal #2 of the Plan).

Staff Presentation: Ms. Wade presented the staff report, explaining that this text amendment to Articles 1, 8 and 23 of the Zoning Ordinance was initiated by the Urban County Council. The proposed text would modify the definition of "day shelter" in Article 1; make changes to Articles 8 and 23, and would adjust the regulations for that use. The text proposes for day shelters to be regulated in a manner similar to how community centers are currently regulated.

Ms. Wade noted that, because the Council initiated this text amendment, the Planning Commission has 60 days to act upon it. If it is not acted upon at this meeting, the Commission will be required to do so at their next meeting in two weeks.

Ms. Wade said that, currently, community centers are permitted in several zoning categories, and are principal uses in several business zones. However, day shelters, which can often serve the same clientele, are more restrictive. Prior to 2012, day shelters were considered community centers; a text amendment that year was initiated by the Council that resulted in the creation of definitions for "adult day care center" and "day shelter." The Council considered the text amendment in committee, and decided to split the two uses, in order to regulate them differently. Adult day care centers were made principal uses in the P-1, P-2, B-1, B-2A, and B-2B zones; day shelters were made conditional uses (which are more restrictive) in those zones. Community centers typically provide overnight care, while day shelters provide daytime support, often for the same individuals. In many instances, the two types of uses are located on the same property.

Ms. Wade explained that the Department of Law began reviewing the definition and regulation of day shelters when a complaint was filed with the federal Department of Housing and Urban Development (HUD) related to the way community centers and day shelters are defined and regulated by the Zoning Ordinance. The HUD complaint was forwarded to the Department of Justice, which spurred additional action in addressing the inconsistencies in the regulations. That complaint asserted that the Zoning Ordinance is a violation of the Fair Housing Act, which provides some level of protection for the nation's homeless population. Ms. Wade said that, under the current regulations, even though they can serve the same population, the two uses are regulated differently. The purpose of the proposed text amendment is to reconcile those differences, and regulate day shelters and community centers consistently.

Ms. Wade stated that the proposed text would make a day shelter a principal use in the P-1, B-1, B-2A, B-2B, P-2, B-6P, and CC zones. In addition, it would make day shelters a conditional use in the R-3, R-4, R-5, and I-1 zones, which would be consistent with the regulations for community centers. Ms. Wade noted that principal uses are allowed by right; conditional uses require mailed notice to property owners within 500 feet, and Board of Adjustment approval. The text amendment also proposes redefining "day shelter" in order to remove the term "homeless" from that definition.

Ms. Wade said that, although no new day shelters have been proposed in Lexington-Fayette County since the adoption of the 2012 text amendment, the staff feels that it would be appropriate to modify the text in order to address any perceived inequities. The staff also believes that it is appropriate for day shelters and community centers to be regulated in the same way, which will allow for co-location of those uses in one facility.

In reviewing the 2013 Comprehensive Plan, Ms. Wade said that the staff found that the proposed text amendment is in agreement with Theme D, Improving a Desirable Community, which encourages to "providing accessible community facilities to meet the health, safety, and quality of life needs of all citizens and visitors." Ms. Wade stated that the staff and Zoning Committee recommended approval of this text amendment, for the reasons as listed in the staff report and on the agenda.

Citizen Comment: There were no citizens present to comment on this request.

Action: A motion was made by Mr. Wilson, seconded by Mr. Cravens, and carried 9-0 (Brewer and Plumlee absent) to approve ZOTA 2015-5, for the reasons provided by staff.