

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS

1. ZOTA 2012-3: AMENDMENT TO ARTICLE 9 TO ALLOW GROUP RESIDENTIAL PROJECTS IN THE R-5 ZONE – petition for a Zoning Ordinance Text Amendment to allow more than one principal building on a lot in the High Rise Apartment (R-5) zone, and to regulate them as Group Residential Projects.

REQUESTED BY: Hallmark Student Development Co., LLC

PROPOSED TEXT: *The proposed text is available upon request*

The Zoning Committee Recommended: Referral to the full Commission.

The Staff Recommends: Approval of the staff alternative text(s), for the following reasons:

1. The proposed text amendment to Article 9 of the Zoning Ordinance, which regulates Group Residential Projects, will allow for more appropriately scaled and designed Group Residential Projects by reducing the required Project perimeter yards and eliminating the existing "frontage yard" requirements, reducing open space requirements, and establishing new building height limits.
2. Allowing Group Residential Projects in the High Rise Apartment (R-5) zone will allow for townhouse and apartment complexes to be located within the highest intensity residential zone that the community has created. This will allow for more dense development of our urban land, because the R-5 zone permits a lot coverage of 35% and a floor area ratio of 1.3, well above what the R-1T, R-3 and R-4 zones allow.
3. The proposed amendments will create more flexibility for Group Residential Projects located inside the Infill and Redevelopment Area by allowing a choice of design standards, additional (bonus) floor area, open space reductions for proximity to existing parks, and the ability to average front building setbacks along public and private streets.
4. The proposed amendments to Article 9 will simplify Group Residential Project regulations for those designing townhouse and apartment developments, as well as for the Planning Commission and the LFUCG staff who administer the Zoning Ordinance.

Staff Presentation: Ms. Wade presented the staff report, noting that the staff had distributed copies of a graphic depicting examples of how a group residential project might be configured in a townhouse or apartment complex, which was presented at the Commission's last work session. She noted that the Commission members had also received exhibits including a copy of the existing Article 9 text; the petitioner's proposed text; the staff alternative text; and a "clean copy" of the staff alternative proposed Article 9 text.

Ms. Wade stated that the purpose of this text amendment is to add Group Residential Projects as an allowable development in the R-5 zone, and to allow more flexibility in the defined Infill & Redevelopment Area for Group Residential Projects. She said that Article 8 of the Zoning Ordinance currently permits multi-family dwelling units as a principal use, but only allows one building per parcel. Article 9 of the Ordinance permits multiple buildings on one lot, such as apartment or townhouse complexes, but only in the R-1T, R-3, and R-4 zones. The Group Residential Project designation indicates that those developments that share parking, access, and amenities. The petitioner is requesting to add the R-5 zone to that list of zones that permit such developments, without having to subdivide each building onto its own lot. Ms. Wade said that there have been several zone changes in recent years to the R-5 zone, some of which were intended to allow apartment complexes. The petitioners in those instances were required to subdivide the properties so that each building existed on a separate lot. In those situations, the petitioners were required to meet the parking, landscaping, floor area, and lot coverage requirements for each lot, which often results in awkward subdivisions.

Ms. Wade said that the Planning Commission initiated a text amendment to Article 9 in 2009 that would have addressed some of the concerns raised by the petitioner. At that time, the stated goals of the proposed text amendment were to simplify Article 9, because there had been some interpretation issues; to clarify some of the standards; and to densify within the Urban Service Area, because the existing Article 9 standards are suburban in nature. Some design professionals in the community expressed concerns about the proposed draft text, and they and the staff were never able to reach an agreement about those issues and bring the text amendment before the Commission to be heard. Ms. Wade stated that, although that text amendment has not been acted upon since its initiation, the staff believes that their research on the existing Group Residential Projects in Lexington-Fayette County and other locales is still valid. The staff, therefore, has attempted to address some of the problems that petitioners experience with Article 9, as well as the petitioner's intent, with this proposed text amendment. Ms. Wade stated that the staff is requesting that the Planning Commission consider the staff alternative text, because it is more comprehensive than the petitioner's proposed minimal modifications now proposed to Article 9. She noted that a principal use needs to be added to Article 8-14, whether the Commission chooses to approve the petitioner's proposed text or the staff alternative.

Ms. Wade referred the Commission members to their copies of the proposed staff alternative text and the staff exhibit that compares and summarizes the differences between the existing Ordinance, the staff alternative text, and the petitioner's proposed text. She said that both the petitioner and the staff are proposing to add the R-5 zone to the list of zones where Group Residential Projects are permitted. Both the applicant and the staff are in agreement that a developer of a Group Residential Project should be permitted to follow either the Article 9 standards for parking, yards, and open

space, or the standards for the underlying zone. However, whichever standards are chosen, they should be followed as a "package," rather than intermingled. The other differences between the petitioner's proposed text and the staff alternative can be characterized as furthering the goals of densification and clarification, or deleting things that are confusing. Ms. Wade stated that the staff alternative text proposes to add some permitted accessory uses; maintain staff approvals for Group Residential Projects that are less than five acres in size; and remove the 20% floor area penalty for Group Residential Projects that are less than five acres in size and seeking staff approval. With regard to yard requirements and other lot dimensions, the staff is proposing that front yard requirements reflect the underlying zone, rather than being variable; that project exterior yards be at most 20 feet, rather than at a minimum 20 feet; that less distance be required between buildings, up to ½ of the distance currently required; that the minimum distance between driveways be five feet; and that building heights be outlined in Article 9, rather than referring to the underlying zone.

Ms. Wade stated that the staff is proposing that parking requirements match what is currently allowed for the provision of one building on one lot in all of the other zones. Therefore, parking requirements for townhouses would not change, and multi-family buildings would be required to have 1.5 parking spaces per unit or .9 per bedroom. With regard to the required open space, Ms. Wade said that the Ordinance currently requires 20% usable open space. She explained that there has been some difficulty, when developing Group Residential Projects, in attaining the required 20%, as well as with the definition of "usable open space." The staff is proposing to allow for some variation in the open space requirements. Most developments of less than five dwelling units per acre have inherent open space; five to 15 dwelling units per acre would maintain the 20% as currently required; and higher density developments (16 dwelling units per acre and above) would have reduced open space requirements, in order to meet the goal of densification. The staff believes that, in very high density developments, the residents do not choose to locate there based on the availability of open space; rather, they seek more urban developments, many of which are located in the inner core and are therefore close to parks. Ms. Wade said, with regard to the changes to the defined Infill & Redevelopment area, that the staff is proposing to allow "bonus" floor area; reduced open space requirements if located within 1,000 feet of a public park; and that front yard averaging would be allowed.

Mr. Sallee stated that the Zoning Committee recommended referral of this text amendment at their meeting three weeks ago, due in part to the scope of the staff's recommended changes to the text, and the complexity of Article 9. He said that, at the Commission's work session one week prior to this hearing, the staff presented their alternative text to the Commission in more detail. There were several ideas brought forth by the Commission members at that meeting, and the staff attempted to address those by drafting four possible alternatives, which were emailed to the members prior to this hearing. Mr. Sallee said that the first alternative was drafted in error, as it would prohibit any Group Residential Project greater than five acres in size, which was not the staff's intent. The staff would suggest, therefore, taking that alternative off the table. With regard to possible alternative #2, at the work session, Mr. Brewer had referred, to some of the past work the staff had done with regard to the definition of "usable open space." The text proposed in alternative #2 was traced back to a staff draft from late 2008 or early 2009; at that time, it generated a considerable amount of controversy, which derailed the staff's efforts to increase density and simplify Article 9 with regard to new open space regulations. Mr. Sallee stated that each of the four proposed alternates is designed to be substituted for a portion of the text of the staff alternative, either individually or collectively. He said that alternative #3 would address the usable open space "graduated scale" that the staff is proposing in their alternative text. There was a proposal at the Commission's work session last week to make that provision applicable only in the Infill & Redevelopment area, since most of the open space variance requests have been for properties in that area. Alternative #4 would provide the Commission a means by which to delete the open space "bonus" for a Group Residential Project inside the I/R area near an LFUCG park, which was also one of the issues discussed at the work session.

Mr. Sallee stated that the staff is recommending approval of the staff alternative text, for the reasons as listed in the staff report and on the agenda.

Petitioner Representation: Chris Westover, attorney, was present representing the petitioner. She thanked the staff for the hours they have devoted to this very complex issue, as well as for their satisfactory and appropriate staff alternative text, which will meet the petitioner's needs and address a number of issues that have long been in need of re-examination. Ms. Westover stated that the petitioner is in agreement with the proposed staff alternative text, including alternatives #2, #3, and #4. She added, with regard to alternative #3, that there might be some inherent flexibility to consider other types of open space, in addition to those outlined in alternative #2.

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

Commission Questions: Ms. Copeland stated that she is concerned about the provisions for Group Residential Projects of less than five acres in size. She said that she would like to provide incentives for higher density, particularly for "going up," with regard to high-rise apartment buildings, but she is concerned about placing additional burdens on the parks system. Rather, it might be preferable to provide incentives other than open space, such as parking reductions, by placing higher-density housing complexes closer to transit service. That option could also address housing concerns for populations that need to be close to services, in order to live without cars.

With regard to the proposed changes to open space requirements, Ms. Copeland stated that she likes the manner in which the City of Louisville has addressed those standards, by requiring that 10% of the gross area of each site be identified as common open space. Those regulations also include a list of appropriate amenities, and require that all of the common open space be provided outdoors, rather than in an indoor pool and recreation facility.

Ms. Copeland said that she is also concerned that the Council might not be willing to approve the proposed text amendment with the provision for reducing open space on a site that is located near an LFUCG park, since that could have an impact on the single-family neighborhoods that typically border parks. She added that the families who live near parks can also serve as a type of "neighborhood watch" for the activities that occur there, and that the parks could become more dangerous if they are located closer to much higher-density housing.

Petitioner Comments: Ms. Westover said that there have been a number of efforts since the adoption of the Infill & Redevelopment regulations at reducing parking, including the adaptive reuse and mixed-use zoning categories. She stated that she has no problem with those concepts in theory, but the petitioner intends to file a final development plan/preliminary subdivision plan for their property within the next month, and this proposed text amendment needs to move forward to the Council as soon as possible. Ms. Westover suggested that the best means to address those concerns might be via a follow-up study, rather than trying to draft appropriate language "on the fly" at this public hearing, since many of the parking regulations appear to be antiquated and in need of updating.

Commission Comments: Ms. Copeland stated that high-rise apartments located near services would not need the amount of parking that is required, although it could still be provided. She said that she believes that parks are a luxury, and that dense developments need to be located near services and transportation, rather than parks. Ms. Westover said that she believes that those concerns bear closer examination, and that the staff has attempted to address them through the various iterations of the mixed-use zoning categories and adaptive reuse provisions.

Mr. Cravens stated that, based on his experience, a developer most likely would not designate a 20-acre development as a Group Residential Project. With regard to Ms. Copeland's concerns about overburdening the parks system, he said that park fees are included in the cost of a building permit for each single-family dwelling. Mr. Cravens believes that the provision for an open space reduction based on proximity to a park would not act as a guarantee that those residents would use the park; rather, it would be a means for the developer to meet the open space requirements. Ms. Copeland stated that some commercial areas have an energy that is similar to that of a common open space.

Ms. Westover stated that the draft was written so that the park issue would be entirely discretionary by the Planning Commission. She said that the Commission would have that tool to use in appropriate locations, but they would also be able to deny it in inappropriate locations.

Staff Comments: Ms. Wade said that the Planning Commission could add language to allow the consideration of an open space reduction if located near a park, but it would not be required. Ms. Wade distributed a staff exhibit with slightly modified language to Section 9-7(c) of the staff alternative. Ms. Copeland stated that it might be appropriate to tie possible open space reductions to transit routes or areas that provide services. Ms. Wade responded that the transportation connection is already in place, in Article 16. That Article allows that, if a project is located within 300 feet of a transit stop, the required parking can be reduced by 5%. If that transit stop has a shelter, parking can be reduced by 10%. Ms. Copeland asked if there is a provision in place to tie parking reductions to proximity to essential services. Ms. Wade answered that she believes that that is a good idea, but she is unsure how to add such a provision to this text amendment as it currently appears before the Planning Commission.

Mr. Cravens asked if any of the four alternatives provided by the staff are required. Ms. Wade answered that those alternatives are options, and the Commission could choose to approve this text amendment without them.

Action: A motion was made by Mr. Cravens, seconded by Mr. Penn, and carried 7-0 (Berkley, Blanton, and Brewer absent) to approve the staff alternative text for Articles 8 and 9 for ZOTA 2012-3, including the revision to Section 9-7(c) proposed by staff.