

AN ORDINANCE AMENDING ARTICLE 23A-9 OF THE ZONING ORDINANCE TO ALLOW BANQUET FACILITIES AS A PRINCIPAL USE IN THE CC ZONE. (JOEL BROWN).

WHEREAS, the Lexington-Fayette Urban County Planning Commission has considered a text amendment to Article 23A-9 of the Zoning Ordinance to allow banquet facilities as a principal use in the CC Zone. Planning Commission did recommend APPROVAL of the text by a vote of 7-0; 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 by reference herein.

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

Section 1 – That Article 23A-9 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(a) INTENT -The intent of this zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and non-residential uses which serve the needs of the surrounding residential neighborhoods.

23A-9(b) PRINCIPAL USES

1. As for EAR-3.
2. Banks, credit agencies, security and commodity brokers and exchanges, credit institutions, savings and loan companies, holding and investment companies.
3. Offices for business, professional, governmental, civic, social, fraternal, political, religious, and charitable organizations, including but not limited to, real estate sales offices.
4. Churches, Sunday schools and parish houses
5. Libraries, museums, art galleries, and reading rooms.
6. Medical and dental offices, clinics, and laboratories.
7. Studios for work or teaching of fine arts, such as photography; music; drama; dance and theater.
8. Community centers and private clubs.
9. Nursing and rest homes, and rehabilitation homes.
10. Computer and data processing centers.
11. Ticket and travel agencies.
12. Kindergartens, nursery schools and child care centers for four (4) or more children. A fenced and screened play area shall be provided, which shall contain not less than twenty-five (25) square feet per child.
13. Business colleges, technical or trade schools or institutions.
14. Establishments for the retail sale of food products, such as supermarkets; dairy, bakery, meat, beer, liquor, and wine and other food product stores; and provided that production of food products is permitted only for retail sale on the premises.

15. Restaurants, except as prohibited under Section 8-16(e)(14) and (15), which offer no live entertainment or dancing.
16. Establishments for the retail sale of merchandise, including clothing; shoes; fabrics; yard goods; fixtures, furnishings, and appliances, such as floor covering, radios, TV, phonograph products and other visual and sound reproduction or transmitting equipment; furniture; kitchen and laundry equipment; glassware and china; and other establishments for the retail sale of hardware and wallpaper, lawn care products; paint and other interior or exterior care products; hobby items; toys; gifts; antiques; newspapers and magazines, stationery and books; flowers; music; cameras; jewelry and luggage; business supplies and machines; prescription and non-prescription medicines and medical supplies.
17. Beauty shops, barber shops, shoe repair, self-service laundry, or laundry pick-up station, including clothes cleaning establishments of not more than 40 pounds capacity and using a closed system process.
18. Automobile service station, provided such use conforms to all requirements of Article 16.
19. Repair of household appliances.
20. Retail sale of plant nursery or greenhouse products, except as prohibited herein.
21. Outdoor miniature golf or putting courses.
22. Quick copy services utilizing xerographic or similar processes, but not utilizing offset printing methods.
23. Carnivals, special events, festivals, and concerts on a temporary basis, and upon issuance of a permit by the Divisions of Planning and Building Inspection, which may restrict the permit in terms of time; parking; access; or in other ways to protect public health, safety, or welfare, or deny such if public health, safety, or welfare are adversely affected. A carnival, special events, festivals, and concerts may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
24. Indoor theaters.
25. Rental of equipment whose retail sale would be permitted elsewhere in this zone.
26. Arcades, including pinball, and electronic games.
27. Athletic club facilities.
28. Swimming pools; tennis courts; putting greens; hiking, bicycling and equine trails; and other similar commercial and non-commercial recreational uses.
29. Brew-pub.
30. Day Shelters.
31. Commercial farm markets.
32. Market gardens.
33. Banquet facilities.

23A-9(c) ACCESSORY USES

1. As for EAR-3.
2. Storage, excluding outdoor storage, and provided that no building for such accessory use shall have openings other than stationary windows within one hundred feet (100') of any residential zone.
3. The sale of malt beverages, wine, or alcoholic beverages when accessory to a restaurant permitted under Section 8-16(b)(3). Such accessory use shall not devote more than twenty percent (20%) of its public floor area exclusively to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.
4. Parking lots and structures.
5. Satellite dish antennas as further regulated by Article 15-7.
6. One (1) or two (2) pool or billiard tables within an establishment.

23A-9(d) CONDITIONAL USES

1. As for EAR-3.
2. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.
3. Mining of non-metallic minerals, but only when the proposal complies with the requirements of the Mining/Quarrying Ordinance (Code of Ordinances #252-91)

and the conditions and requirements as set forth therein. The Board of Adjustment shall specifically consider and be able to find:

- a) That the proposed use will not constitute a public nuisance by creating excessive noise, odor, traffic, dust, or damage to the environment or surrounding properties;
 - b) That a reasonable degree of reclamation and proper drainage control is feasible; and
 - c) That the owner and/or applicant has not had a permit revoked or bond or other security forfeited for failure to comply with any Federal, State or local laws, regulations or conditions, including land reclamation, pertaining to the proposed use.
4. Self-service car washes when accessory to a service station, provided that surface water from such establishments shall not drain onto adjacent property, and that adequate on-site storage lanes and parking facilities shall be provided so that no public way shall be used for such purposes.
 5. Animal hospital or clinic, provided that all exterior walls are completely soundproofed; and further provided that animal pens shall be completely within the principal building and used for the medical treatment of small animals.
 6. A restaurant, without live entertainment or dancing, which devotes more than twenty percent (20%) of its public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
 7. Restaurants offering live entertainment and/or dancing, cocktail lounges, or nightclubs [unless prohibited under Section 8-14(e)(14) and (15)]. Such uses shall be located at least 100 feet from any residential zone and shall be soundproofed to the maximum extent feasible by using existing technology, with noise emissions not creating a nuisance to the surrounding neighborhood.
 8. Upholstery shop.
 9. Outdoor speakers and public address systems. Such systems shall only be permitted by the Board of Adjustment upon findings that the system would not constitute a public nuisance by creating excessive noise on the property and surrounding properties; and is a necessary adjunct to the proposed use and has been designed to serve only such need. The Board may limit such features as the location, power, and time of operation of such systems to ensure the protection of surrounding uses and properties.
 10. Gasoline pumps available to the public without an employee on site, provided a plan is approved by the Board of Adjustment for periodic inspection of the site by an employee for the following purposes:
 - a. To check on all operating equipment;
 - b. To check fire suppression system(s);
 - c. To check the condition of the fire alarm(s);
 - d. To check for indications of fuel leaks and spillage;
 - e. To remove trash from the site;
 - f. To monitor the general condition of the site.
 11. Temporary structures designed for use or occupancy for 61 to 180 days per 12-month period on a single property, calculating said period by cumulative consideration of the use of any and all such structures on a single property.
 12. Circuses, provided all structures are located not less than two hundred (200) feet from any residential zone; and further provided that all structures for housing animals shall be two hundred (200) feet from any residential zone, residential use, school, hospital, nursing home or rest home. A circus may not displace more than twenty-five percent (25%) of the minimum required parking for the site it occupies.
 13. Ecotourism activities to include zip line trails; tree canopy tours; fishing clubs; botanical gardens; natural preserves; and seasonal activities.
 14. Recreation vehicle and trailer campgrounds, but only when located within 500 feet of an interstate interchange.
 15. Hunting clubs, but only when located more than 500 feet from a residential zone.

23A-9(e) PROHIBITED USES

1. As for EAR-3.
2. As for A-R, except as expressly permitted herein.
3. Any use dependent upon septic tanks or pit privies.

4. Pawn shops.
5. Golf driving ranges.
6. Except when accessory to a permitted automobile service station, the above- or below-ground storage of any flammable material in gaseous form, including compressed natural gas; and the above- or below-ground storage of more than five (5) gallons of gasoline.
7. Greenhouses, plant nurseries, and garden centers.
8. Establishments primarily engaged in agricultural sales and services.
9. Warehouses, as well as storage uses, except as accessory uses herein.
10. Shops of special trade and general contractors, such as plumbing; heating; carpentry; masonry; plastering; painting; metal work; printing; electrical; sign painting; tile, mosaic and terrazzo work; electro-plating; drilling; excavating; wrecking; construction, and paving. This is not intended to prohibit the administrative offices of such.
11. Manufacturing, compounding, assembling, bottling, processing and packaging and other industrial uses for sale or distribution other than as retail on the premises.
12. Truck terminals and freight yards.
13. Amusement enterprises, such as outdoor theaters, automobile racing, horse racing.
14. Kennels, outdoor runways or pens for animals.
15. Establishments engaged in the display, rental, sales, service and major repair of automobiles, repair of motorcycles, boats, trucks, travel trailers, farm implements, contractor's equipment, mobile homes, and establishments primarily engaged in the sale of supplies and parts for any of the above-mentioned vehicles or equipment, except as permitted herein.
16. Establishments for cleaning, dyeing, laundering and the like, other than self-service and pick-up stations; except for clothes cleaning establishments of not more than forty (40) pounds capacity and using a closed system process.
17. Hotel or motel.
18. Wholesale establishments.
19. Greenhouses, nurseries, hatcheries.
20. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.
21. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.
22. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy, or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
23. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as (a) depiction of human genitals in a state of sexual stimulation or arousal; (b) acts of human masturbation, sexual intercourse or sodomy; or (c) holding or other erotic touching of human genitals, pubic region, buttocks or breasts.
24. Pool or billiard halls.
25. Primitive campgrounds; farm tours; hayrides; corn mazes; outdoor rodeos; riding stables; horse shows; fishing lakes; hunting and trapping; sportsmen's farms; and zoological gardens.

LOT, YARD, HEIGHT AND DENSITY REQUIREMENTS

23A-9(f) DWELLING UNIT DENSITY - No limitation (See Special Provisions below).

23A-9(g) MAXIMUM HEIGHT OF BUILDING - 48 feet.

23A-9(h) FLOOR AREA RATIO - A maximum of 1.0; however, the FAR may be increased to 1.5, provided that the FAR in excess of 1.0 is used for affordable housing.

23A-9(i) MINIMUM FRONT YARD - 5 feet.

23A-9(j) OFF-STREET PARKING REQUIREMENTS

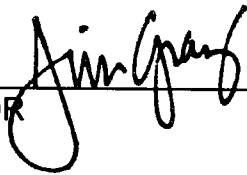
1. Residential Uses - As per EAR-3.
2. All other uses - Parking shall be as provided else- where in the Zoning Ordinance within the zone where the use is first permitted.

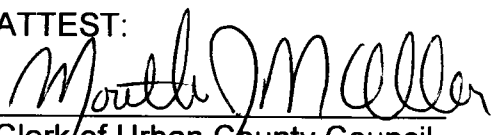
23A-9(k) SPECIAL PROVISIONS

1. At least 25% of the net developable acreage of any development within a CC zone shall be open space.
2. At least 40% of the aggregated floor area of buildings within a development in a CC zone shall be devoted to residential uses as permitted in EAR-3; schools, churches and their accessory structures; and public buildings.
3. No building shall exceed 20,000 square feet in floor area, except:
 - a. a building that contains a mix of residential and non-residential uses; or
 - b. a building designed and intended to be used for a school, church or public building;
 - c. a building is designed and intended to be used principally as a store selling food, produce and other grocery items (not primarily general merchandise) and not exceeding 80,000 square feet; and
 - d. up to two additional buildings, which are designed and intended to be used primarily as stores selling general merchandise, which may include food, produce and other grocery items; but only under the following conditions:
 1. the proposed building shall be located within a CC zone containing at least 30 net contiguous acres, and that has frontage on an interstate interchange;
 2. the building shall be part of an integrated development governed for all contiguously zoned CC land (excluding right-of-way) by a single development plan; and
 3. any building exceeding 80,000 square feet in size shall also adhere to the "Design Guidelines for 'Big-Box' Establishments," excluding guideline numbers 6 and 14, which are contrary to other provisions of the CC zone. Such design guidelines shall be met unless waived by the Planning Commission through its approval of a final development plan.
 - e. the maximum number of buildings permitted over 20,000 square feet by subsections c & d (above) shall be two.
4. Parking areas shall be designed so as to minimize the placement of parking between the buildings and the adjoining streets.
5. Each development within a CC zone shall have access to a pedestrian accessway.
6. Each development shall provide suitable facilities for the parking of bicycles.
7. The development shall be screened from adjoining zones as for a business zone under Article 18-3(a)(1).
8. Structures shall be sited to avoid the rear of the building facing a street (other than an alley) to the greatest extent practicable.

Section 2 - That this Ordinance shall become effective on the date of its passage.

PASSED URBAN COUNTY COUNCIL: May 25, 2017


MAYOR

ATTEST:

Clerk of Urban County Council
Published: June 1, 2017-1t
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Recd by Bm

Date: 4-21-17


RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY

IN RE: ZOTA 2017-2: BANQUET FACILITIES IN THE COMMUNITY CENTER (CC) ZONE –
petition for a Zoning Ordinance text amendment to Article 23A-9 to allow banquet facilities as a principal use in the CC zone.

Having considered the above matter on **March 23, 2017**, at a Public Hearing and having voted **7-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** of this matter for the following reason:

1. The text amendment will add banquet facilities as a principal permitted use in the Community Center (CC) zone. As long as outdoor live entertainment is not included, the use will complement the other principal permitted uses that are allowable in the zone.

ATTEST: This 21st day of April, 2017.



Secretary, Jim Duncan

WILLIAM WILSON
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Dick Murphy, attorney for applicant.**

OBJECTIONS

OBJECTORS

- None

- None

VOTES WERE AS FOLLOWS:

AYES: (7) Cravens, Owens, Penn, Plumlee, Richardson, Smith and Wilson

NAYS: (0)

ABSENT: (4) Berkley, Brewer, Drake and Mundy

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for Approval of ZOTA 2017-2 carried.

Enclosures: Minutes for the initiation of this text amendment.
Staff Report
Staff Alternative Text
Applicable excerpts of minutes of above meeting.

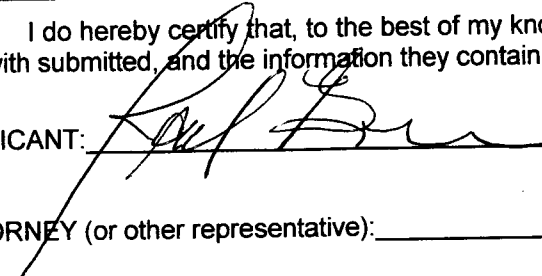
GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. APPLICANT INFORMATION:
 Name: Joel Brown
 Address: 2150 Newtown Pike
 City, State, Zip Code: 40511
 Phone Number: (859) 509-1207

2. ATTORNEY (Or Other Representative) INFORMATION:
 Name: _____
 Address: _____
 City, State, Zip Code: _____
 Phone Number: _____

3. DESCRIBE YOUR REQUESTED TEXT CHANGE: Date of Pre-application Conference: 1/10/17
 Zoning Ordinance Article #: 23A-9(b) Principal Uses. Specific text change proposed:
 Add: Banquet facility

4. DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)
 The purpose of this text amendment is to allow the usage of the historical structures on the Providence Place property, 2150 Newtown Pike, as a wedding and event facility. The text amended for banquet facility would be the kindest usage for the preservation and maintenance of these structures. We are not asking for outdoor live entertainment and/or dancing, and that is why our requested amendment is for banquet facility use only.

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 (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.
 (Page 2 of Zoning Ordinance Text Amendment Application)

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

ZOTA 2017-2: BANQUET FACILITIES IN THE COMMUNITY CENTER (CC) ZONE

REQUESTED BY: Joel Brown

PROPOSED TEXT: (Note: Underlined text indicates an addition to the current Zoning Ordinance; and ~~strikethrough text~~ indicates a deletion from the current Zoning Ordinance.)

23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(b) PRINCIPAL USES

31. Banquet facilities.

STAFF REVIEW:

A property owner of land located on Newtown Pike within a Community Center (CC) zone, has requested a Zoning Ordinance text amendment to add banquet facilities as a principal permitted use in the zone.

The land uses permitted in the CC zone generally date back to the time shortly after the 1996 Expansion Area Master Plan was adopted by the Planning Commission. The EAMP "master planned" all of the 5,400 acres added to the Urban Service Area as part of the 1996 Comprehensive Plan update. As part of that effort, Community Center zones were intended to establish a more mixed-use approach to commercial development than had previously been seen in the Urban County. The Community Center (CC) land use category was initially defined to include a mixture of retail, office, residential and civic uses, as well as cultural and religious institutions integrated around public spaces. Transition areas for institutional, religious, and public land uses were also planned adjacent to these CC land uses.

Following adoption of the EAMP, the Zoning Ordinance was amended late in 1996 to create the only zoning categories that would be utilized in the Expansion Areas, including the Community Center (CC) zone. The intent of the CC zone, as stated in Article 23A-9 of the Zoning Ordinance, is to provide a "mixture of residential uses and non-residential uses which serve the needs of the surrounding neighborhoods." A small number of uses have been added to the CC zone since its inception, often in conjunction with changes made to the Neighborhood Business (B-1) zone, which serves a similar purpose for land inside the remainder of the Urban Service Area, but not within the Expansion Area.

Article 1-11 of the Zoning Ordinance defines a banquet facility as follows:

BANQUET FACILITY - a building made available to the public for holding meetings and social events. This use may include the sale of alcoholic beverages; indoor live entertainment; and may also include, as an accessory use, events conducted outside the main building in tents or other temporary facilities, subject to the issuance of a permit by the Division of Building Inspection.

The term "banquet facility" was first introduced in the LFUCG Zoning Ordinance in response to a land owner's request in 2007. Prior to that, banquet facilities and/or meeting rooms were normally considered accessory uses to hotels, private clubs, country clubs, restaurants, museums, and even churches. Until 2007, the use was permitted as an accessory use where appropriate, and had been granted approval by the Board of Adjustment at least once (ACV-2002-21: Eventions, Inc.) having been interpreted as a principal use in a Neighborhood Business (B-1) zone.

In 2007, the requested Zoning Ordinance text amendment was approved by the Urban County Council that formally defined "banquet facilities," established off-street parking requirements, and designated zoning

districts in which the new use would be allowed. At that time banquet facilities were established as a principal permitted use in the Neighborhood Business (B-1) zone, which carries forward to the B-2, B-2A, B-6P and Mixed Use (MU) zones. Additionally, banquet facilities are listed as an allowed in an Adaptive Reuse Project (B-4, I-1 and I-2 zones) and have been permitted in warehouse structures. However, banquet facilities were not allowed in any of the Expansion Area zones.

The applicant contends that by adding the banquet facilities to the CC zone, it will allow the adaptive reuse of the historical structures located on Providence Place property along Newtown Pike (north of Interstates 64 & 75). The applicant believes this will allow for a commercial use of the land, and also promote the continued preservation of the existing structures. Ironically, the original text amendment in 2007 defined banquet facilities in a way that required reuse of a historic residence, which significantly limited the number of appropriate locations for such uses. In 2014, a subsequent text amendment modified the definition to remove this limitation because there appeared to be a need and/or demand to expand the definition, and no other neighborhood business use had a similar restriction.

The staff believes that the request to add banquet facilities to the CC zone is appropriate, as long as outdoor live entertainment is not pursued. Although outdoor live entertainment is possible as a conditional use in the B-1 zone, the applicant and staff agree that it is not appropriate in the CC zone, which requires a mixture of uses, including residential land use. This change may encourage development of other land zoned CC in the community.

The Staff Recommends: Approval, for the following reason:

1. The proposed text amendment will add banquet facilities as a principal permitted use in the Community Center (CC) zone. As long as outdoor live entertainment is not included, the use will complement the other principal permitted uses that are allowable in the zone.

TLW/WLS

3/1/17

Planning Services/Staff Reports/ZOTA/2017/ZOTA 2017-2 Banquet Facilities in the CC Zone.doc

3. **ZOTA 2017-2: BANQUET FACILITIES IN THE COMMUNITY CENTER (CC) ZONE** – petition for a Zoning Ordinance text amendment to Article 23A-9 to allow banquet facilities as a principal use in the CC zone.

REQUESTED BY: Joel Brown

PROPOSED TEXT: (Note: Underlined text indicates an addition to the current Zoning Ordinance; and ~~strikethrough text~~ indicates a deletion from the current Zoning Ordinance.)

23A-9 COMMUNITY CENTER (CC) ZONE

23A-9(b) PRINCIPAL USES

31. Banquet facilities.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reason:

1. The proposed text amendment will add banquet facilities as a principal permitted use in the Community Center (CC) zone. As long as outdoor live entertainment is not included, the use will complement the other principal permitted uses that are allowable in the zone.

Staff Zoning Presentation – Ms. Wade presented and summarized the staff report and recommendations for this text amendment. She said this is a request by Joel Brown, to add banquet facilities as a use in the Community Center (CC) zone. She said that the applicant is asking for indoor live entertainment and they are not interested in expanding the use to include outdoor live entertainment within the CC zone. The staff is recommending approval of this zoning ordinance and the Zoning Committee also recommended approval.

Commission Comments – Mr. Penn said that Newtown Pike has a 200 foot setback, where will the people park at this location. Ms. Wade replied the staff hasn't considered the details yet. Mr. Penn also asked if they would be allowed to park in the view shed. Mr. Sallee replied that was an issue when the Expansion Area Plan was completed that there were a few renderings that parking be permitted on the Newtown Pike view shed, the way the ordinance is drafted that a paved parking lot will not be permitted.

Mr. Owens asked if the applicant would need to bring forward to the Planning Commission a Development Plan for their parking. Ms. Wade replied that they were to make any physical changes on the property; yes the applicant would need a Development Plan, which would go through the normal review process. She also said that if there are no physical changes then the applicant could obtain a permit through Building Inspection.

Petitioner Presentation – Dick Murphy, attorney, was present representing the petitioner. He said that the applicant is in agreement with the staff's recommendations. He said that the parking area for the use in question is located in the ED zone.

Citizen Comment – There were no citizens present to speak to this application.

Action – A motion was made by Ms. Richardson, seconded by Ms. Plumlee, and carried 7-0 (Berkley, Brewer, Drake, and Mundy absent) to approve ZOTA 2017-2: BANQUET FACILITIES IN THE COMMUNITY CENTER (CC) ZONE, for the reasons provided by the staff.