

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2016-4: AMENDMENT TO ARTICLE 23A-10: NEW USES
IN THE ECONOMIC DEVELOPMENT (ED) ZONE**

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Available from the staff
(Text underlined indicates an addition to the existing Zoning Ordinance;
text ~~dashed through~~ indicates a deletion.)

STAFF REVIEW:

The Planning Commission, following several months of review, has initiated a text amendment to modify the allowable uses in the Economic Development (ED) zone. The current proposal would provide a number of new uses, some of which are to be principal permitted uses of property, within the major “job creation” zone. The ED zone was established as an outcome of the “Expansion Area” approved 20 years ago by the Commission, which constitutes the last major expansion of our Urban Services Area.

The current Commissioner of the Department of Planning, Preservation and Development led a review of this issue in 2014 and 2015. The Commissioner led an ad-hoc committee of about 20 local citizens with the intent to provide a thorough review the limitations of Article 23A-10 of the Zoning Ordinance. It was purposed to review and consider reasons why the designated ED land planned for over the past 20 years has not yet developed, and focus on regulatory changes to enhance its development potential in the short term.

The Committee was comprised of a Councilmember, a Planning Commission member, and property owners of land zoned ED or recommended by the 1996 Expansion Area Master Plan (EAMP) for Economic Development land uses. In addition, real estate professionals, the University of Kentucky, and members of Commerce Lexington were also invited to attend the meetings. The group met nine times over nearly a one year period, and made several recommendations to the Planning Commission for a text amendment to this Article. The Planning Staff also attended these meetings and provided support, as requested, for the Commissioner’s Committee members.

The Commissioner’s Report from the Committee was delivered to the Planning Commission last year, and reviewed by the Commission at three work sessions since. The report supported the idea that additional uses should be permitted in the ED zone, especially after comparing the principal permitted uses in that zone with those allowable in B-4, I-1, I-2 and P-2 zones. Another set of uses, termed “supportive uses,” were also recommended for inclusion in ED zones, so long as they were limited to a small portion of the land area recommended for ED future land uses. The maximum percentage of land recommended for these supportive uses varied from 15% to 20% in most of the latter meetings of the group. Another major recommendation of the Committee was to request a relaxation of the floor area and building height limitations in the ED zone.

Upon receiving and reviewing the Report from the Commissioner’s Committee, the Planning Commission asked the staff to begin drafting specific text amendment language to implement the Committee’s recommendations. The Commission asked for a few changes to the Committee’s recommendations, but for the most part, left the bulk of their recommendations intact. With the assistance of the Planning Staff, the Commission agreed to the Commissioner’s Committee recommendation for the ED zone to allow greater building heights and greater floor-to-area ratios. The staff completed the task of drafting this text amendment, and the Commission gave a final approval of the staff’s draft in late June of this year.

The amendment will allow a number of new principal permitted uses in the ED zone. Specifically, breweries, wineries and distilleries will be permitted in the zone, along with nursing homes, and assisted living facilities. Flex Space Projects and Office/Warehouse Mixed-Use Projects will also be permitted ED uses, as they are in some of our existing industrial zones. Research development and testing laboratories will also be available in ED zones, under the current proposal.

Another, and perhaps the most significant, part of this text amendment proposal is to create a new class of uses in the ED zone, called "Supportive Uses." These would be principal permitted uses, but only for a maximum of 15% of the allowable floor area in the ED zone. The changes proposed to the maximum Floor Area Ratio is set to increase by 25%, to a ratio of 1.0. Up to 15% of the floor area proposed on a Final Development Plan for an ED property, if this amendment is ultimately adopted by the Council, would be allowed to consist of these new supportive uses.

The listing of supportive uses includes about 20 new ones, some of which are currently allowed as either accessory or conditional uses in the ED zone. Those existing ED accessory and conditional uses include food service and restaurants, libraries, museums, pharmacies, child care centers (all proposed to be subject to the 15% limitation above). The remainder of the supportive uses are new to the ED zone altogether. These include adult day care centers, service stations, fast food restaurants, cable TV and TV studios, animal hospitals and kennels, fine art studios, travel agencies, community centers, private clubs, banks and convenience stores.

Multi-family residential uses are also proposed to be permitted as a (limited) supportive use in this amendment. Another new supportive use is listed as "dwelling units, provided the units are not located on the first floor of a structure" (meaning they are to be in a mixed-use building). These new uses have a second restriction proposed, as part of a new "Special Provision" in the ED zone. Residential uses that are to be allowed as a new supportive use may only comprise of a maximum of 15% of the floor area for all supportive uses. This restriction will ensure that no ED zone becomes a residential development, in and of itself, but rather, can be a component of a service area designed for the "job creation" land planned for ED zones by the EAMP.

All supportive uses will also be required to be developed "concurrently with or post-construction and occupancy" of a (non-supportive) principal use in the ED zone. This ensures that there should be little pressure for truly "job creation" land to slowly transform into some other type of land use in the future.

The staff agrees that this text amendment is needed. Hopefully, it will have the effect of allowing additional uses and design options for "job creating" developments in the two ED areas planned for near our Interstate highways. This would meet the objectives of the work already done by a Committee and the Commission in this effort.

The Staff Recommends: **Approval**, for the following reasons:

1. The proposed text amendment to Article 23A-10 has been discussed and considered by a committee of government and real estate professionals, land owners, and others, who agreed that additional uses and greater design flexibility were needed in the ED zone.
2. The relaxation of building height and floor area limitations in the ED zone will provide more flexibility for future ED developments, while maintaining the intent of this zone to foster future job creation.
3. New principal and "supportive" uses will mean that future ED projects can meet the intent of this zone, while allowing the necessary mixture of uses that can contribute to successful developments in the future for these EAMP lands.