

ORDINANCE NO. 079 -2022

AN ORDINANCE CREATING SECTION 8-20(b)(31) OF THE ZONING ORDINANCE TO PERMIT BANQUET FACILITIES IN THE HIGHWAY SERVICE BUSINESS (B-3) ZONE. (CERVANTES & ASSOCIATES, LLC).

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WHEREAS, the applicants, Cervantes & Associates, LLC, have initiated a text amendment to Article 8-20(b) of the Zoning Ordinance to permit Banquet Facilities in the Highway Service Business (B-3) zone; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 8-20(b)(31) of the Zoning Ordinance to permit Banquet Facilities in the Highway Service Business (B-3) zone. The Planning Commission did recommend APPROVAL of the text by a vote of 9-0; 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.

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

Section 1 – That Article 8-20(b)(31) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created to allow Banquet Facilities as a principal permitted use in the Highway Service Business (B-3) zone as follows:

Article 8-20(b)(31)

31. Banquet Facilities.

Section 2 – That this Ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: August 30, 2022

  
MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: September 6, 2022-1t

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FINAL REPORT

PAGE 2

DISQUALIFIED: (0)

Motion for Approval of PLN-ZOTA-22-00009 carried.

Enclosures:     Application  
                  Justification  
                  Staff Report  
                  Planning Commission Recommended Text  
                  Applicable excerpts of minutes of above meeting

PLN-ZOTA-22-00009

Filing Date: May 2, 2022

Filing Fee: \$500

## GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. **APPLICANT INFORMATION:**

**Name:** Cervantes & Associates, LLC

**Address:** 1304 Smyrna Lane

**City, State, Zip Code:** Lexington, KY 40513

2. **ATTORNEY (Or Other Representative) INFORMATION:**

**Name:** Mark McCain, Vision Engineering

**Address:** 128 Reynolds Road

**City, State, Zip Code:** Lexington, KY 40517

**Phone Number:** 859-559-0516

3. **REQUESTED TEXT CHANGE:** Date of Pre-application Conference: 2/24/2022

**Zoning Ordinance Article 8-20 Specific text change proposed:**

Amendment to Article 8-20 to permit Banquet Facilities in the Highway Service Business (B-3) zone

**8-20(b)(31). Banquet Facilities.**

4. **DESCRIBE THE JUSTIFICATION FOR MAKING THIS CHANGE: (Use attachment if necessary.)**

See attached letter of justification.



128 E Reynolds Rd, Suite 150  
Lexington, KY 40517  
Ph: 859-559-0516

May 2, 2022

Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, KY 40507

RE: PLN-MAR-22-00009  
Proposed Text Amendment

Members of the Planning Commission,

On behalf of our client, Cervantes & Associates, LLC, Vision Engineering has filed an application for a text amendment to allow a "Banquet Facility" as a principal use in the Highway Service Business (B-3) zone. The Lexington-Fayette Urban County Government (LFUCG), defines the Banquet Facility use as "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". Currently, this is only allowed as a principal use in the Neighborhood Business (B-1) zone.

After reviewing Article 8 of the LFUCG Zoning Ordinance, it appears that many similarities exist with regards to the principal uses in the B-1 and B-3 zones. One of these similarities relates to banquet facilities. While the B-3 zone does not allow banquet facilities as a principal use, it does allow "Motels and Hotels", which often contain large rooms for holding "meetings and social events". This is the same type of use that defines a "Banquet Facility".

#### **GOALS AND OBJECTIVES**

In consideration of "Imagine Lexington", the 2018 Comprehensive Plan, this text amendment may allow the opportunity for property in the B-3 zone to meet the following specific goals and objectives, as outlined below.

THEME A: GROWING SUCCESSFUL NEIGHBORHOODS.

**GOAL 2: SUPPORT INFILL AND REDEVELOPMENT THROUGHOUT THE URBAN SERVICE AREA AS A STRATEGIC COMPONENT OF GROWTH.**

**OBJECTIVE A: IDENTIFY AREAS OF OPPORTUNITY FOR INFILL, REDEVELOPMENT, ADAPTIVE REUSE AND MIXED-USE DEVELOPMENT.**

There are many areas in the B-3 zone that present opportunities for redevelopment and reuse of existing buildings and property. The enhancement of a remodeled building, along with redeveloped surroundings that include parking, pedestrian routes, accessibility and landscaping is the infrastructure for achieving Goal 2. Approving this text amendment to allow a banquet facility, as a principal use in the B-3 zone, will present opportunities to operate in a manner similar to the B-1 zone without any increase to the intensity of use. Goal 2 can be achieved, and the character of the B-3 zone can remain with no negative impact.

**THEME C: CREATING JOBS AND PROSPERITY**

**GOAL 1: SUPPORT AND SHOWCASE LOCAL ASSETS TO FURTHER THE CREATION OF A VARIETY OF JOBS.**

**OBJECTIVE A: STRENGTHEN EFFORTS TO DEVELOP A VARIETY OF JOB OPPORTUNITIES THAT LEAD TO PROSPERITY FOR ALL.**

Finding opportunities to utilize existing property for banquet facilities can be difficult and it is additionally challenging when the use is only offered in one specific zone. Problems may include a building that is too small, not enough parking for guest or surroundings that are not aesthetically pleasing. Including the banquet facility use in the B-3 zone may further expand job opportunities related to remodeled buildings or site restoration and landscaping. Additional banquet facilities may increase the business of catering companies or equipment rental. Banquet facilities can have an impact on florist, bridal and tuxedo shops and local musicians. This use has a large financial impact on many different industries, and more facilities can equate to increased business and job opportunities for many.

### **CONCLUSION**

As previously stated, the B-1 and B-3 zones have many similarities, and this text amendment can create financial opportunities for the city of Lexington. Based on the information provided in this document, we are asking the LFUCG Planning Commission for their support with this text amendment to allow a "Banquet Facility" as a principal use in the B-3 zone.

Thank you for your consideration.

Sincerely,



S. Mark McCain, RLA, LEED AP





128 E Reynolds Rd, Suite 150  
Lexington, KY 40517  
Ph: 859-559-0516

May 2, 2022

Lexington-Fayette Urban County Planning Commission  
200 East Main Street  
Lexington, KY 40507

RE: PLN-MAR-22-00009  
Proposed Text Amendment

Members of the Planning Commission,

On behalf of our client, Cervantes & Associates, LLC, Vision Engineering has filed an application for a text amendment to allow a “Banquet Facility” as a principal use in the Highway Service Business (B-3) zone. The Lexington-Fayette Urban County Government (LFUCG) , defines the Banquet Facility use as “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”. Currently, this is only allowed as a principal use in the Neighborhood Business (B-1) zone.

After reviewing Article 8 of the LFUCG Zoning Ordinance, it appears that many similarities exist with regards to the principal uses in the B-1 and B-3 zones. One of these similarities relates to banquet facilities. While the B-3 zone does not allow banquet facilities as a principal use, it does allow “Motels and Hotels”, which often contain large rooms for holding “meetings and social events”. This is the same type of use that defines a “Banquet Facility”.

#### **GOALS AND OBJECTIVES**

In consideration of “Imagine Lexington”, the 2018 Comprehensive Plan, this text amendment may allow the opportunity for property in the B-3 zone to meet the following specific goals and objectives, as outlined below.

**THEME A: GROWING SUCCESSFUL NEIGHBORHOODS.**



GOAL 2: SUPPORT INFILL AND REDEVELOPMENT THROUGHOUT THE URBAN SERVICE AREA AS A STRATEGIC COMPONENT OF GROWTH.

OBJECTIVE A: IDENTIFY AREAS OF OPPORTUNITY FOR INFILL, REDEVELOPMENT, ADAPTIVE REUSE AND MIXED-USE DEVELOPMENT.

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THEME C: CREATING JOBS AND PROSPERITY

GOAL 1: SUPPORT AND SHOWCASE LOCAL ASSETS TO FURTHER THE CREATION OF A VARIETY OF JOBS.

OBJECTIVE A: STRENGTHEN EFFORTS TO DEVELOP A VARIETY OF JOB OPPORTUNITIES THAT LEAD TO PROSPERITY FOR ALL.

Finding opportunities to utilize existing property for banquet facilities can be difficult and it is additionally challenging when the use is only offered in one specific zone. Problems may include a building that is too small, not enough parking for guests or surroundings that are not aesthetically pleasing. Including the banquet facility use in the B-3 zone may further expand job opportunities related to remodeled buildings or site restoration and landscaping. Additional banquet facilities may increase the business of catering companies or equipment rental. Banquet facilities can have an impact on florists, bridal and tuxedo shops and local musicians. This use has a large financial impact on many different industries, and more facilities can equate to increased business and job opportunities for many.

### **CONCLUSION**

As previously stated, the B-1 and B-3 zones have many similarities, and this text amendment can create financial opportunities for the city of Lexington. Based on the information provided in this document, we are asking the LFUCG Planning Commission for their support with this text amendment to allow a "Banquet Facility" as a principal use in the B-3 zone.

Thank you for your consideration.

Sincerely,



S. Mark McCain, RLA, LEED AP



MAYOR LINDA GORTON



**LEXINGTON**

JIM DUNCAN  
DIRECTOR  
PLANNING

**STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT**

**PLN-ZOTA-22-00009: AMENDMENT TO ARTICLE 8-20 TO PERMIT BANQUET FACILITIES IN THE HIGHWAY SERVICE BUSINESS (B-3) ZONE**

APPLICANT: CERVANTES AND ASSOCIATES, LLC

PROPOSED TEXT: (Note: Text underlined indicates an addition to the existing Zoning Ordinance; text ~~stricken through~~ indicates a deletion.)

**ARTICLE 8-20 HIGHWAY SERVICE BUSINESS ZONE**

(b) Principal Uses.

**31. Banquet Facilities**

**STAFF REVIEW:**

The petitioner, Cervantes & Associates, LLC is requesting a text amendment to the Zoning Ordinance in order to facilitate the operation of a banquet facility for property they own within the Highway Service Business (B-3) Zone.

Within Article One of the Zoning Ordinance, Banquet Facilities are defined as:

*"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"*

Prior to 2007, Banquet Facilities were only permitted as an accessory use to other principally permitted uses. In 2007, the use was formally defined by the Urban County Council, parking requirements were established, and a requirement that restricted the use to adaptively reused residential structures. In 2012, the Urban County Council lifted the residential adaptive reuse requirement, allowing the use to operate within any commercial structure. Currently, Banquet Facilities are 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 allowed in an Adaptive Reuse Project (B-4, I-1 and I-2 zones), when approved on the associated Development Plan.

The Highway Service Business (B-3) zone is intended to provide for retail and other uses, which are necessary to the economic vitality of the community but may be inappropriate in other zones. The B-3 zone does not currently allow for the operation of Banquet Facilities as a principal permitted use; however, they are permitted to operate as an accessory use to hotels, private clubs, country clubs, restaurants, museums, and even places of worship.



The petitioner, within their letter of justification, opines that it is difficult to find locations within the B-1 zone with sufficiently large structures to establish Banquet Facilities and also have enough space to accommodate all required parking. While smaller banquet facility uses can operate within a neighborhood scale and context, larger venues and gatherings of people would necessitate facilities that would be out of character for the B-1 Zone. The increased structure size, larger parking areas, and need to access to larger capacity roadways characteristic of larger event spaces or Banquet Facilities is in line with the character of Highway Service Business (B-3) zone development.

The 2018 Comprehensive Plan's Goals and Objectives call for the provision of entertainment and other quality of life opportunities that attract young and culturally diverse professionals and a work force of all ages and talents to Lexington (Theme C, Goal 2, Objective D). Included under the Banquet Facilities use classification are numerous entertainment uses that would serve as attractive amenities for young professionals. Allowing these uses as principal permitted uses within the B-3 zone would allow for greater opportunities to establish these kinds of social activities throughout the community.

Due to the use's longstanding operation as an accessory use within the same zone, the allowance and the operation of the use within a lower intensity zone, and the Comprehensive Plan support for increased entertainment and quality of life opportunities, the staff supports the proposed text amendment as submitted.

**The Staff Recommends: Approval** of the proposed text amendment to the Zoning Ordinance, for the following reasons:

1. The proposed text amendment to allow Banquet Facilities within the Highway Services Business (B-3) zone meets the 2018 Comprehensive Plan objective of providing entertainment and other quality of life opportunities to attract young and culturally diverse professionals and a work force of all ages and talents to Lexington.
2. The proposed use is already permitted to operate as an accessory use to numerous principally permitted Highway Services Business (B-3) uses.
3. At a larger scale, Banquet Facility are in line with the character of the Highway Services Business zone and are of a similar intensity of use.

DAC/HB/TLW  
PLN-ZOTA-22-00009 CERVANTES AND ASSOCIATES, LLC



Opera House's frequency of ads was not effective because you are getting so many ads in a short amount of time that the driver cannot fully comprehend what they are seeing in such a short amount of time.

Mr. Baillie briefly mentioned the justification for the decrease from 45 seconds to 20 second intervals because there was more scientific research, although he did mention that the 45 seconds was a good transition point. The 20-second duration would allow the applicant more opportunities to advertise what is going on at the facility.

Mr. Baillie ended his rebuttal saying that the Zoning Ordinance right now is regulated at 15 seconds for the B-3 zone and that a 20 second duration is backed up by research and deals with Lexington's current context in the best way.

Applicant Rebuttal – Mr. Murphy stated that they have about 10 movies a week that can change weekly and they have to get that information out there. Mr. Murphy reiterated his assertion that there is no statistical data that suggests that there is a correlation between digital signage and an increased risk of accidents.

Mr. Murphy ended saying that the 8 second interval was safe, works and complies with all governmental and private sign agencies.

Commission Questions – Mr. Bell asked the applicant if signage is changing and in what ways that is happening and if what is happening in Lexington is different from anywhere elsewhere the applicant has a theater. Mr. Krikorian responded that in his theaters, all the digital signage was approved over the last ten years. Mr. Krikorian said that there are a number of different movies playing currently, some that will be coming soon, as well as other events that you might not be aware of. He stated that these signs are important to show people what is going on.

Mr. Bell also asked if this project was unique, and Mr. Krikorian said that it was. He stated that the theater being downtown is unique, as well as Lexington in general being unique.

Ms. Barksdale stated that her biggest concern with the longer intervals, would they try to put more advertisements on the screen, and asked the applicant if there are limitations on what can be on the screen.

Mr. Baillie answered the question saying that the city staff could not limit the content because that goes into free speech. Mr. Baillie gave more information on the research that staff did on how long it takes to see and comprehend a sign or advertisement at around 5 seconds when you first see the message and start to absorb it.

Mr. Nicol asked staff if there was a reason why they did not recommend 15 seconds, which is in the current Ordinance and instead recommended the 20 seconds in the staff alternative. Mr. Baillie answered that while staff did look to see if they could find justification for the 15 seconds which was based on older studies. The 20 seconds had much better backing and research. The calculation at 20 seconds has surer footing than the 15 seconds.

Ms. Wade gave more support to Mr. Baillie stating that the 15 second interval was put in place 20 years ago and that the 20 seconds is a more precise measurement than the 15 seconds. Ms. Wade also noted that there is more research now than there was then.

Mr. Pohl referred to Mr. Murphy's presentation where he said there was no link between signage duration and accidents, on the other hand staff is stating 20 seconds is necessary to diminish accidents. Mr. Pohl asked how the Planning Commission can balance those two lines of thinking. Mr. Baillie responded saying that Mr. Murphy said that there was no statistical change, not that there was no evidence. Mr. Baillie continued saying that there were many studies that show digital signage increased inattention and that inattention leads to an increased chance of accidents. Mr. Baillie indicated that through staff's research, 20 seconds was appropriate for drivers to take in their environment, see the signs and do so in the safest possible way.

Applicant Rebuttal – Mr. Murphy briefly stated that in their discussions with Ruggles Signs, they indicated based on their experience, the longer the interval, the longer people sit and look, the longer cars stop and wait for the next slide. He also indicated that the formula that staff presented does not lead to effective signage.

Motion – A motion was made by Mr. Nicol, seconded by Ms. Worth, and failed 4-5 (de Movellan, Bell, Pohl, Davis, and Barksdale opposed) (Forester and Meyer absent) to approve the Staff alternative for **PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY).**

Motion – A motion was made by Mr. Pohl, seconded by Mr. Bell, and approved 6-3 (Michler, Penn, Worth opposed) (Forester and Meyer absent) to approve the Staff alternative, but changing the duration from 20 seconds to 8 seconds for **PLN-ZOTA-22-00001: AMENDMENT TO ARTICLE 17: SIGNAGE REGULATIONS TO ALLOW A DIGITAL MARQUEE (ELECTRONIC MESSAGE DISPLAY).**

2. **PLN-ZOTA-22-00009: AMENDMENT TO ARTICLE 8-20 TO PERMIT BANQUET FACILITIES IN THE HIGHWAY SERVICE BUSINESS (B-3) ZONE** – a petition for a Zoning Ordinance text amendment to allow banquet facilities as a principal permitted use in the Highway Service Business (B-3) zone.

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reason:

1. The proposed text amendment to allow Banquet Facilities within the Highway Services Business (B-3) zone meets the 2018 Comprehensive Plan objective of providing entertainment and other quality of life opportunities to attract young and culturally diverse professionals and a work force of all ages and talents to Lexington.
2. The proposed use is already permitted to operate as an accessory use to numerous principally permitted Highway Services Business (B-3) uses.
3. At a larger scale, Banquet Facility are in line with the character of the Highway Services Business zone and are of a similar intensity of use.

Staff Text Amendment Presentation – Mr. Daniel Crum presented and summarized the staff report and recommendations for this text amendment. Mr. Crum stated that this text amendment is to allow banquet facilities in the B-3 zone and gave a brief description on how banquet facilities are currently defined, as well as where banquet facilities are currently permitted. Mr. Crum indicated that the larger banquet facilities can be appropriate in the B-3 zone.

Mr. Crum concluded the presentation stating that staff is recommending approval for this text amendment for the reasons provided in the staff Report.

Public Comment – Mark McCain of Vision Engineering said that they were for the text amendment and would appreciate the Planning Commission’s consideration.

Motion – A motion was made by Mr. Pohl, seconded by Ms. Worth, and approved 9-0 (Forrester and de Meyer absent) to approve **PLN-ZOTAZ-22-00009: AMENDMENT TO ARTICLE 8-20 TO PERMIT BANQUET FACILITIES IN THE HIGHWAY SERVICE BUSINESS (B-3) ZONE** for reasons provided by Staff.

**VI. COMMISSION ITEMS** - The Chair will announce that any item a Commission member would like to present will be heard at this time.

- a. **PFR 2022-5: FAYETTE COUNTY PUBLIC SCHOOLS, LAFAYETTE HIGH SCHOOL SOFTBALL FIELD HOUSE & DUGOUTS**  
– a Public Facility Review to construct a new field house and dugouts; and to expand a parking area.

Staff Presentation – Ms. Wade presented the PFR to the Planning Commission, noting the location and the exact proposal. This proposal is for Lafayette High School and they are building a softball fieldhouse, dugout and a small parking lot associated with the structure. Ms. Wade highlighted that today is the 50<sup>th</sup> anniversary of Title IX, which guaranteed equal opportunity between men and woman in education, and inclusion sports. For a long time the baseball team has had a fieldhouse, and now the softball team will as well.

Ms. Wade oriented the Commission to the location and presented the proposed plan. Ms. Wade noted that this plan will give the high school 12 additional park spaces in addition to the fieldhouse and dugout.

Staff evaluated the proposal and found the plan is in compliance with the Comprehensive Plan.

Commission Questions – Mr. Bell asked if it was Fayette County Schools that would pay for this facility and Ms. Wade indicated that it was. Additionally, Mr. Bell inquired whether or not Staff takes into consideration different types of impervious parking. Ms. Wade answered that she thought some of our partners that do PFR’s do contemplate that, but she was not sure to what extent Fayette County Schools had done that with this proposal.

Ms. Worth asked if the school has talked to the neighborhood about this project, and Ms. Wade was unsure about that. Based on Ms. Wade’s experience they do not usually do that, but they might have.

PFR Action – A motion was made by Ms. Worth seconded by Ms. Barksdale, and carried 9-0 (Forrester and Meyer absent) to find **PFR 2022-4: Bluegrass Community and Technical College North Campus Expansion** in compliance with the Comprehensive Plan.

**VII. STAFF ITEMS** – The staff will report at the meeting.

**LONG RANGE PLANNING ACTIVITY REPORT**

**Imagine Lexington**

During the month of May, Long-Range Planning staff continued to move forward with a number of implementation items related to the 2018 Comprehensive Plan.

\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.