

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2012-9: AMENDMENT TO ARTICLE 1, 8 & 12 FOR MODIFICATIONS TO THE
NEIGHBORHOOD BUSINESS (B-1) ZONE**

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: (See attached document)

STAFF REVIEW:

The staff of the Division of Planning requested that the Planning Commission initiate a text amendment for various modifications to update the Neighborhood Business (B-1) zone. The proposed text amendment includes changes to Article 1-11 to add and modify definitions; to several sections of Article 8 to modify the list of uses, propose a new “form-based neighborhood business project,” and alter the height and building setback requirements in the B-1 zone; and to Article 12 to modify the list of uses in the Planned Shopping Center (B-6P) zone. The Planning Commission initiated this extensive text amendment in December 2011.

The 2007 Comprehensive Plan’s Implementation Element includes an “implementation table” of plans, projects, programs, studies and other action tasks “designed to carry out the community vision espoused” by the Plan. This table has proven to be an excellent way to keep the community on track during the five-year period between major community plan review and update. The “neighborhood business zone rewrite” was identified as a task following the completion of the *Non-Residential Infill Study*. This Study was substantially completed in 2009, and the drafting of the proposed changes to the text of the B-1 zone began in 2010. The detailed recommendations of this Study were used as a starting point in drafting revisions to the B-1 zone; additional information was gathered from previous redevelopment decisions (opportunities and constraints), the Downtown Development Authority (primary public facilitator of new development downtown), and the Division of Building Inspection (previously responsible for all zoning enforcement duties). Opportunities were also given to the Divisions of Engineering and Traffic Engineering for input. This data gathering resulted in developing a draft text amendment for further review and discussion.

The Zoning Ordinance has been established with a tiered approach, where the least intensive commercial zone, the Professional Office (P-1) zone, is at the core of all of the business zones. In essence, they build upon each other – the B-1 zone carries forward the allowable uses of the P-1 zone with some additional uses; the B-2 zones carry forward the allowable uses of the B-1 zone with some additional uses, etc. For this reason, when altering the principal, accessory, conditional and prohibited uses within one business zone, there needs to be a thorough assessment of the impact on all of the other related zones.

Collectively, these proposed text changes are aimed to improve the type and character of development in the areas of our community that are in closest proximity to residential neighborhoods, the neighborhood business areas. Some of the land uses currently permitted in the B-1 zone are now considered to be out of scale with a neighborhood business area or even inappropriate. These include multi-screen movie theaters, hospitals, miniature golf courses, cable television system signal distribution studios and studios, and big-box retail establishments over 40,000 square feet in size.

The proposed B-1 zone rewrite also includes a new avenue for flexibility by creating the “form-based neighborhood business project” within the “Special Provisions” section of the B-1 zone. This special use would be reviewed by the Planning Commission as part of a development plan submission, and would follow an area character and context study, renderings (or other graphic materials), and elements that would propose to integrate the development project with the surrounding neighborhood.

The front yard setback and height limits established for the B-1 zone are also proposed for modification. The current front yard setback is suburban in scale, and the staff would suggest utilizing a minimum front yard and a maximum front yard to create a “build-to” range. Basically, a new structure would be required to be located between 10 and 20 feet from the right-of-way or front property line. The current building height limit for commercial uses is 25 feet; however, when residential uses are included on the property, the height limit

increases to 35 feet. The proposed text amendment would adjust the height limit to 35 feet for all B-1 structures and uses.

The changes proposed with this text amendment are most thoroughly described below, separated by Articles of the Zoning Ordinance as follows:

➤ **Article 1: Definitions**

- Define the following new terms:
 1. Animal Grooming Facility
 2. Cocktail Lounge
 3. Mail Service Facility
 4. Nightclub
 5. Primary Entrance
 6. Tattoo Parlor
- Amend the following terms to include the Expansion Area zoning categories:
 1. Zone, Business
 2. Zone, Industrial
 3. Zone, Residential

➤ **Article 8: Schedule of Zones**

- Professional Office (P-1) Zone
 - Change assisted living facilities from conditional uses or a principal use with a distance restriction to principal uses (without restriction).
 - Acknowledge barbers and barber shops; regulate as per beauty shops.
 - Allow drive-through facilities as accessory uses if approved by the Planning Commission on a development plan, and conditional uses if not on a development plan.
 - Allow mail service facilities as a conditional use.
 - Prohibit tattoo parlors.
 - Add parking regulations for beauty and barber shops, and mail service facilities.
 - Adjust uses in Professional Office Projects – mail service facilities (principal); shoe repair, clothing alterations, and tailoring services (accessory); and beauty and barber shops without restrictions (conditional).
- Neighborhood Business (B-1) Zone
 - Change hospitals; outdoor miniature golf or putting courses; and surface parking lots from principal uses to prohibited uses.
 - Allow brew-pubs, clothing repair and tailoring services, animal grooming facilities, mail service facilities, and form-based neighborhood business projects as principal uses.
 - Require a parking garage to have at least 25% of the first floor occupied by another B-1 use.
 - Limit indoor theaters to three screens or stages.
 - Allow drive-through facilities as accessory uses if approved by the Planning Commission on a development plan, and conditional uses if not on a development plan.
 - Adjust the percentage of public floor area in a restaurant dedicated to sale of malt beverages, wine and liquor from 20% to 25%.
 - Adjust truck rental regulations – all proposed to be conditional uses.
 - Allow sidewalk cafes and retail sale of propane tanks (20 lbs.) as accessory uses.
 - Delete combination business, office and residential projects as a conditional use (replaced by form-based neighborhood business projects).
 - Allow extended-stay hotels as conditional uses.
 - Adjust the minimum front yard from 20' to 10' and create a maximum front yard of 20' (creates a build-to zone).
 - Adjust building height maximum to 35'.
 - Add parking regulations for brew-pubs, animal grooming facilities and adjust parking for arcades.
 - Amend the special provision that limits the size of grocery stores to limit the size of all single-use establishments.
 - Create a new special provision for a form-based neighborhood business project, to be approved by the Planning Commission.

- Downtown Business (B-2) Zone
 - Adjust uses to ensure that all current uses remain permitted without restriction.
 - Prohibit hospitals and outdoor miniature golf or putting courses.
 - Lexington Center Business (B-2B) Zone
 - Prohibit tattoo parlors and animal grooming facilities.
 - Highway Service Business (B-3) Zone
 - Adjust uses to ensure that all current uses remain permitted without restriction.
 - Allow retail sale of propane tanks (20 lbs.) as accessory uses, and outdoor miniature golf and putting courses as conditional uses.
 - Add parking regulations for car washing establishments and outdoor miniature golf.
 - Wholesale & Warehouse Business (B-4) Zone
 - Allow animal grooming facilities as principal uses, and retail sale of propane tanks (20 lbs.) as accessory uses.
 - Add parking regulations for animal grooming facilities and adjust parking for bowling alleys.
 - Light Industrial (I-1) Zone
 - Allow retail sale of propane tanks (20 lbs.) as accessory uses.
 - Remove offices as a conditional use (#12) (a more restrictive duplication of #21 under principal uses in the B-4 zone.
- **Article 12: Planned Shopping Center (B-6P) Zone**
- Change assisted living facilities from conditional uses or a principal use with a distance restriction to principal uses (without restriction).
 - Adjust uses to ensure that theaters and surface parking lots remain permitted without restriction.
 - Allow drive-through facilities as accessory uses if approved by the Planning Commission on a development plan, and conditional uses if not on a development plan.
 - Change outdoor miniature golf and putting courses from principal uses to conditional uses.

In addition to the text amendment initiated by the Planning Commission last December, the staff would suggest one additional change to how live entertainment is regulated. A recent text amendment to modify the definition of “banquet facility” (ZOTA 2012-4) highlighted a need to adjust the current regulations within the B-1 zone to address outdoor live entertainment. The term “live entertainment” does not distinguish between indoor and outdoor entertainment, although the definition of “banquet facility” permits indoor live entertainment as an accessory use. This change to the B-1 zone would clarify that indoor entertainment would be permitted as accessory if the use is located more than 100 feet from a residential zone. If indoor live entertainment closer than 100 feet from a residential zone or any outdoor live entertainment were sought, a conditional use would still be required from the Board of Adjustment.

Staff Alternative Text:

8-16(c) Accessory Uses

10. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub, or banquet facility, but only when located more than one hundred (100) feet from a residential zone.

8-16(d) Conditional Uses

5. ~~Restaurants and brew-pubs offering live entertainment and/or dancing, Outdoor live entertainment cocktail lounges, brew-pubs or nightclubs [unless prohibited under Section 8-16(e)(14) and (15)]. Such uses shall be located at least one hundred (100) feet from any residential zone and shall be sound-proofed to the maximum extent feasible by using existing technology, with noise or other emissions not creating a nuisance to the surrounding neighborhood.~~
6. Indoor live entertainment and/or dancing, when accessory to a restaurant, brew-pub, or banquet facility, but only when located closer than one hundred (100) feet from a residential zone.

Re-number remaining sections

The Staff Recommends: **Approval including the Staff Alternative Text**, for the following reasons:

1. The text amendment will be in agreement with the Implementation Element and Table of the 2007 Comprehensive Plan, which identified the “neighborhood business zone rewrite” as a necessary task following the completion of the *Non-Residential Infill Study*. The Study suggested adjusting land uses permitted within the Neighborhood Business (B-1) zone and relaxing setbacks and height limitations.
2. The proposed amendment meets many of the recommendations of the *Non-Residential Infill Study*, and accomplishes other minor improvements to the B-1 zone to make it more compatible with residential neighborhoods.
3. The creation of a “form-based neighborhood business project” will provide added flexibility for redevelopment in the Infill and Redevelopment Area, and provide for more compatible development with the existing character of an area.

TLW/BJR/WLS

6/4/12

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