

STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**ZOTA 2013-9: FLEX SPACE PROJECTS IN THE WHOLESALE AND WAREHOUSE BUSINESS (B-4)
AND LIGHT INDUSTRIAL (I-1) ZONES**

REQUESTED BY: The Howser Group, LLC

PROPOSED TEXT: (Note: Underlined text indicates an addition to the current Zoning Ordinance.)

ARTICLE 8-21 WHOLESALE AND WAREHOUSE BUSINESS (B-4) ZONE

8-21(b) Principal Uses

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21. Office uses, limited to a maximum square footage of 60% of the floor area in the building in which the use is located.
22. Office/warehouse mixed-use project, as further regulated by Article 8-21(o)(3).
23. Adaptive Reuse Projects, as further regulated in 8-21(o)4.

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26. Flex Space Project. Flex space projects may be permitted by the Planning Commission upon the approval of a final development plan, subject to the following requirements:
 - a. The property must be the site of an existing building with substantial lot coverage which does not allow substantial expansion of the building or parking facilities.
 - b. The existing building must remain on the property.
 - c. Principal uses in flex space projects shall include:
 1. Any of the principal uses permitted in the underlying zone.
 2. Schools; libraries; museums; art galleries; studios for work or teaching of fine arts, metal work, photography, dance, drama or theater.
 3. Community centers, churches and private clubs.
 4. Establishments for the retail sale of merchandise, food and food products.
 5. Restaurants.
 6. Offices.
 7. Health clubs, athletic clubs and spas.
 - d. Accessory uses that are clearly incidental and subordinate to the principal uses.
 - e. Conditional uses:
 1. Drive-through facilities.
 - f. Prohibited uses:
 1. All adult uses, as listed in Section 8-16 (e)(14 through 17).
 - g. Parking.
 1. Restaurants. As set forth in the B-1 zone.
 2. All other uses, one space per 600 square feet.
 - h. Signage, lot, yard and height requirements shall be as set forth in the underlying zone.
 - i. The applicant shall submit a statement with the development plan that shall address the compatibility of the flex space project with the surrounding area. This statement may address the following:
 1. Whether restaurant uses, which require a higher number of parking spaces, will be allowed in the project.
 2. Whether the project is located on a major arterial; and if it is, whether additional parking needs to be provided to accommodate "impulse" customers.
 3. Whether the project is located in an area of mixed uses and zones.
 4. Whether the area has historically had a mixture of retail and wholesaling types of uses.
 5. Whether the project is located in a block front which contains residential zoning.

STAFF REVIEW:

The Howser Group, LLC has requested a text amendment to Article 8-21 of the Zoning Ordinance in order to create a new principal use in the Wholesale and Warehouse Business (B-4) zone, which carries forward to the Light Industrial (I-1) and Heavy Industrial (I-2) zones. The petitioner wishes to create a new use called a “flex space project,” in order to provide additional flexibility in these zoning categories, which they hope will assist in the growth of small business, without adversely affecting surrounding areas. The petitioner recognizes that there are areas within Lexington that have “underperformed” in job creation and economic development, where additional flexibility might help to encourage or create business incubation areas. They currently own property in the Regency Road and Moore Drive area, near the Nicholasville Road and New Circle Road interchange, which has a mixture of zoning categories and land uses.

Within this area, many of the businesses utilize a combination of warehousing, processing, storage, distribution and retail uses. The petitioner opines that the percentage of space used in each of these functions often shifts over time as the business changes and matures; however, the regulations in the B-4 zone are not as flexible as the businesses themselves. Therefore, at some point, a business may have to make a choice to limit their business to conform to the zoning regulations, move to another location, or simply close its doors.

Besides the Regency Road/Moore Drive area, there are at least two other locations within the community that are similarly situated in that they are primarily zoned B-4 and I-1; but they offer a mixture of uses, sometimes retail in nature. Those areas are Fortune Drive, between Winchester Road and Liberty Road; and Creative Drive, near Liberty Road and New Circle Road.

The 2012 Goals and Objectives of the Comprehensive Plan, specifically Theme C: Creating Jobs and Prosperity, emphasizes the need to support and encourage the growth of local business (Goal C.2.b.). One way to do that is to remove regulatory barriers, such as zoning restrictions. In fact, the staff and the Planning Commission have made numerous amendments to the Zoning Ordinance over the past decade in order to create some flexibility in the existing regulations of the B-4 and I-1 zones – namely, allowing offices uses to occupy up to 60% of a building’s floor area; and creating the office/warehouse mixed-use project and Adaptive Reuse Project provisions. In addition, more time-honored provisions such as permitting retail sales of some cross-over products like lumber, building materials, paint, flooring, furniture, etc.; and permitting accessory retail sales have been allowable in the B-4 and I-1 zones. The Zoning Ordinance does permit such flexibility under certain circumstances, but does not wholly open up the B-4 and I-1 zones to the uses suggested by the petitioner.

The staff acknowledges that the zoning boundaries have been diffused in these three areas of the community, including the Regency Road/Moore Drive area, over the past two decades. The petitioner’s proposal offers a good concept for the Planning Commission to consider; however, the text amendment, as drafted, is not in a form that can be supported by the staff. There are several concerns that the proposed text does not address. First, the petitioner’s proposed text amendment presumably places the specific regulations for the new “flex space project” within the principal use section of the B-4 zone, rather than in the special provisions section, which is inconsistent with the recent text changes. Second, the criteria or thoughts for consideration are very broad and give little to no direction for the staff, Commission or applicant; the proposed text only indicates that certain things should be addressed in a statement regarding compatibility. Third, the staff believes that further related research is necessary; and that staff has already contacted the American Planning Association, and conducted some internet searches.

The staff feels that a definition of “flex space” is necessary, as well as consideration of other viable options, such as developing more succinct criteria; creating a flex space overlay zone; or making flex space projects a conditional use. The blurring of zoning lines is not necessarily objectionable to the staff for these three parts of the community, the staff is concerned about unintentionally creating parking problems, and introducing smaller vehicles in B-4, I-1 and I-2 zoned areas that could create traffic conflicts, and may introduce many public gathering places into arrears with established industrial and other more intense business uses.

The Staff Recommends: **Postponement**, for the following reason:

1. The proposed text amendment to create a “flex space project” in the B-4 and I-1 zones may be addressing a community need; however, more edits are needed to take this proposal into a final form that the staff can support.
2. The staff would like to research other alternatives to the approach suggested by the petitioner to meet the same outcome – more flexibility in the B-4 zone.