

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

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

STAFF REVIEW:

Prior to the initial drafting of the staff report for this text amendment, there was a need to address how live entertainment is to be regulated in Fayette County. That need has been met by a recent text amendment that modified the definition of "banquet facility" (ZOTA 2012-4). Because the Planning Commission incorporated changes to the B-1 zone to address outdoor live entertainment associated with banquet facilities, restaurants and nightclubs, the original staff alternative text is no longer necessary. However, the staff had suggested that brew-pubs be considered principal uses in B-1 zones. As such, live entertainment associated with brew-pubs should be added to the newly adopted changes to Article 8 for banquet facilities, and renumbering is necessary to accommodate the newly adopted text changes to the B-1 zone.

Revised Staff Alternative Text:

8-16(c) Accessory Uses

1. Parking areas or structures.
2. One (1) dwelling unit for owners, operators, or employees of a permitted use, provided that such dwelling unit shall be a part of the building and located above or to the rear of such permitted uses.
3. Warehousing, wholesaling, and storage, excluding outdoor storage; and provided that no building for such accessory use shall have openings other than stationary windows or solid pedestrian doors within one hundred (100) feet of any residential zone.
- ~~4. The rental of trucks (single rear axle - 28' maximum overall length); trailers, and related items in conjunction with the operation of an automobile service station, provided the service station abuts a state or federal highway and does not abut a residential zone. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Division of Building Inspection for the control of such activities and shall show the entire property, signs, parking and location of the proposed storage area.~~
- ~~4.—5. 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-five percent (25%) of its public floor area ~~exclusively~~ primarily to the preparation and service of such beverages, nor provide any separate outside entrances or separate identification signs for those areas.~~
- ~~6. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein.~~
- ~~5.—7. Satellite dish antennas, as further regulated by Article 15-8.~~
- ~~6.—8. One (1) or two (2) pool or billiard tables within an establishment.~~
7. Sidewalk cafés, when accessory to any permitted restaurant.
8. Retail sale of liquid propane (limited to 20 lb. containers), when accessory to the retail sale of merchandise or an automobile service station permitted under Article 8-16(b).
9. 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.
10. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, when approved by the Planning Commission on a development plan.

8-16(d) Conditional Uses

1. Self-service car washes, 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.
2. 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.
3. The rental of trucks (single rear axle - 28' maximum overall length); trailers and related items in conjunction with the operation of an automobile service station, provided that the service station abuts a

state or federal highway ~~when abutting a residential zone~~. No more than five (5) trucks shall be stored for longer than forty-eight (48) hours on any service station. A site plan shall be submitted for the approval of the Board of Adjustment for the continued control of such activity and shall show the entire property, buildings, signs, parking and location of the proposed storage area.

4. A restaurant or brew-pub, without live entertainment or dancing, which devotes more than twenty-five percent (25%) of the establishment's public floor area ~~exclusively primarily~~ to the preparation and service of malt beverages, wine or alcoholic beverages.
5. Outdoor live entertainment and/or dancing, cocktail lounges, ~~brew-pubs~~ or night clubs [unless prohibited under Sections 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. A combination business, office and residential project, provided the following conditions and requirements are met:
[including sub-sections a. – s. that follow]~~
- ~~6.~~ 7. Upholstery shop.
- ~~7.~~ 8. 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.
- ~~8.~~ 9. 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 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.
- ~~9.~~ 10. ~~Assisted living facilities and r~~Rehabilitation homes, but only when located closer ~~more~~ than five hundred (500) feet from a residential zone.
10. Extended-stay hotels.
11. Parking lots, provided such uses conform to the conditions of Article 16.
12. Drive-through facilities for the sale of goods or products or the provision of services otherwise permitted herein, except as accessory uses herein.

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 will provide for more compatible development with the existing character of an area.