

ORDINANCE NO. 112- -2022

AN ORDINANCE CREATING SECTION 8-1(d)(33) AND AMENDING SECTION 1-11 OF THE ZONING ORDINANCE TO CREATE A NEW CONDITIONAL USE FOR SMALL FARM MICRO-DISTILLERIES IN THE AGRICULTURAL-RURAL (A-R) ZONE, AS AMENDED. (SILVER SPRINGS FARM EQWINE AND VINEYARD, LLC).

WHEREAS, the applicant, Silver Springs Farm Eqwine and Vineyard, LLC has initiated a text amendment to Article 8-1(d)(33) and Section 1-11 of the Zoning Ordinance to create a new conditional use for small farm micro-distilleries in the Agricultural-Rural (A-R) zone; and

WHEREAS, the Planning Commission has reviewed and considered a text amendment to Article 8-1(d)(33) and Section 1-11 of the Zoning Ordinance to create a new conditional use for small farm micro-distilleries in the Agricultural-Rural (A-R) zone. The Planning Commission did recommend APPROVAL of the staff alternative text by a vote of 6-2; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission, as amended to include such small farm micro-distilleries associated with small farm wineries 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 8-1(d)(33) of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby created to allow small farm micro-distilleries associated with small farm wineries as a conditional use in the Agricultural Rural (A-R) zone as follows:

Article 8-1(d)

(33) Small farm Micro-Distilleries. Distilleries associated with an existing small farm winery licensed under KRS 243.155 as of _____, the effective date of the ordinance that produces less than 1,000 gallons of distilled spirit annually. The distillery shall be operated under a Class B License as defined in KRS 243.120. At least one agricultural resource grown on the property (e.g., grapes, corn, rye, wheat) shall be a component of the product produced by the distillery. A small farm micro-distillery shall conform to all applicable local, state and federal laws and regulations related to alcoholic beverages.

Section 2 – That Article 1-11 of the Zoning Ordinance of the Lexington-Fayette Urban County Government is hereby amended as follows:

Small farm Micro-Distillery means a distillery associated with an existing small farm winery and located on an active farm that produces less than 1,000 gallons of distilled spirit annually, and operated under a Class B License as defined in KRS 243.120. The small farm micro-distillery must include at least one agricultural resource grown on the property (e.g., grapes, corn rye, wheat) as a component of the product produced by the distillery. The small farm micro-distillery may include all accessory activities as permitted in KRS 243.0305 and 243.035, without limitation. Such uses include product sampling, souvenir package sales, retail drink sale, and bottling.

Section 3 - That this Ordinance shall become effective upon the date of its passage.

PASSED URBAN COUNTY COUNCIL: October 27, 2022



MAYOR

ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: November 3, 2022-1t

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Recd by _____

Date: _____

**RECOMMENDATION OF THE
URBAN COUNTY PLANNING COMMISSION
OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

IN RE: PLN-ZOTA-22-00002: AMENDMENT TO ARTICLE 23A-9 TO PERMIT HOTELS/MOTELS IN THE COMMUNITY CENTER (CC) ZONE – petition for a Zoning Ordinance text amendment to permit hotels and motels in the Community Center (CC) Zone.

Having considered the above matter on **September 22, 2022**, at a Public Hearing and having voted **11-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **APPROVAL** for this matter for the following reason:

1. The proposed text amendment to allow hotels and motels within the Community Center (CC) zone will complement the commercial aspects of the zone and will conform with the size requirements for the CC zone.
2. The proposed use will provide tourists, temporary business workers and other visitors a place to stay in areas with abundant community facilities, retail, and commerce opportunities (Theme C, Goal #1.d), which will support the established commercial uses.
3. Hotels and motels shall not constitute any portion of the required residential requirement of forty percent (40%) of the aggregated floor area of buildings within a development in a CC zone.

ATTEST: This 14th day of October, 2022.



Secretary, Jim Duncan

LARRY FORESTER
CHAIR

At the Public Hearing before the Urban County Planning Commission, this petition was represented by **Darby Turner, attorney.**

OBJECTORS

- None
- None

VOTES WERE AS FOLLOWS:

AYES: (11) Barksdale, Bell, Davis, de Movellan, Forester, Meyer, Michler, Nicol, Penn, Pohl, Worth.
NAYS: (0)

August 9, 2022

Urban County Planning Commission
Division of Planning – Planning Services Section
101 E Vine Street, Floor 7
Lexington, KY 40507

Re: Amended Application - PLN-ZOTA-2022-00002

Dear Members of the Planning Commission:

We represent the Applicant, and we hereby tender this amended justification to amend Applicant's application for its text amendment request to Zoning Ordinance 23A-9 to provide that Hotels and Motels are principal uses in the Community Center (CC) Zone. The CC Zone is intended to provide a mixture of residential uses and nonresidential uses. The CC Zone is recommended to be located within the Expansion Area, more specifically Subarea 2. The Expansion Area Master Plan contemplates that the CC Zone would have intense uses and would include a mix of residential uses.

The proposed text for the definition is as follows:

Sec 23A-9. – Community Center (CC) Zone

(b) Principal Uses – **Add**

35. Hotels and Motels

(e) Prohibited Uses – **Delete**

17. Hotels or Motels

This request would allow an additional, but comparable, type of high-density dwellings in a CC Zone. Currently, multiple family, nursing and personal care facilities, and rehabilitation homes are principal permitted uses, and boardinghouses and assisted living facilities are allowed as conditional uses, in a CC Zone Project. Many of the foregoing establishments have similar designs and densities as a hotel and motel. The only significant difference is that hotels and motels are more transient in nature. Hotels and motels will provide another type of high-density housing in the CC Zone (Theme A, Goal 1, Objective b., and Goal 3, Objective a., of the Comprehensive Plan).

Allowing hotels and motels would also expand housing choices in the CC Zone (Theme A, Goal 1, Objective b. and Design Policy #8, and Goal 3, Objective a., of the Comprehensive Plan). Hotels

and motels would provide tourists, temporary business workers and other visitors dwellings in areas with abundant community facilities, retail, and commerce opportunities (Theme C, Goal 1, Objective d., of the Comprehensive Plan). Expanding density and housing choices within the CC Zone would further goal of maintaining the rural and urban balance (Theme E, Goal 1, of the Comprehensive Plan). The addition of these transient populations will increase the viability of the commercial uses in the CC Zone and surrounding areas.

The Applicant is not requesting any amendment to the dimensional requirements of the CC Zone. Those requirements were adopted to encourage developments to contribute to development-wide scale intended within the CC Zone. The permitted hotels and motels will not dominate those mixed-use developments. In fact, the incorporation of the hotels and motels into the development will lead to a complete community, while integrating into the intended scale.

As discussed more fully above, this request complies with the Comprehensive Plan.

Sincerely,



J. Darby Turner, III

cc: Justin L. Justice

GENERAL INFORMATION - Zoning Ordinance Text Amendment Application

1. **APPLICANT INFORMATION:**

Name: Jason L. Justice

Address: 300 West Vine Street

City, State, Zip Code: Lexington, KY 40507

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

Name: Darby Turner, Denton Bingham Greenebaum, LLP

Address: 300 West Vine Street, Ste. 1200

City, State, Zip Code: Lexington, KY 40507

Phone Number: 859-225-5240

3. **REQUESTED TEXT CHANGE:** Date of Pre-application Conference: 11/22/2022

Zoning Ordinance Article 23A-9 Specific text change proposed:

Article 23A-9

(b) Principal Uses:

~~(35) Hotels or Motels~~

(e) Prohibited Uses:

~~(17) Hotels or Motels~~

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

See attached letter of justification.



STAFF REPORT ON PETITION FOR ZONING ORDINANCE TEXT AMENDMENT

**PLN-ZOTA-22-00002: AMENDMENT TO ARTICLE 23A-9 TO PERMIT HOTELS/MOTELS
IN THE COMMUNITY CENTER (CC) ZONE**

APPLICANT: JASON L. JUSTICE

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

ARTICLE 23A-9 COMMUNITY CENTER (CC) ZONE

(b) Principal Uses.

~~35.~~ Hotels and Motels

(d) Prohibited Uses.

~~17.~~ ~~Hotels and Motels~~

~~18.~~ 17. Wholesale establishments.

~~19.~~ 18. Greenhouses, nurseries, hatcheries.

~~20.~~ 19. Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.

~~21.~~ 20. Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.

~~22.~~ 21. Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as: (a) Depiction of human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.

~~23.~~ 22. Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as: (a) Depiction of human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.

~~24.~~ 23. Pool or billiard halls.

~~25.~~ 24. Primitive campgrounds; farm tours; hayrides; corn mazes; outdoor rodeos; riding stables; horse shows; fishing lakes; hunting and trapping; sportsmen's farms; and zoological gardens.



STAFF REVIEW:

The petitioner, Jason L. Justice, is requesting a text amendment to the Zoning Ordinance in order to allow hotels and motels as a principal use in the Community Center (CC) zone. The intent of the CC zone is to implement the Community Center land use designation in the Expansion Area Master Plan by providing a mixture of residential uses and nonresidential uses, which serve the needs of the surrounding residential neighborhoods. Over the course of the last 26 years, the CC zone has been modified three times, including the addition of banquet facilities and two separate applications to increase in square footage of structures. The applicant indicates that the proposed amendment would continue to make the zone more desirable for development and will add a complementary use to existing and proposed commercial developments.

The applicant opines that the request would allow an additional, but comparable, type of high-density dwellings in a CC zone. Currently, multiple family, nursing and personal care facilities, and rehabilitation homes are principal permitted uses. Additionally, boarding houses and assisted living facilities are allowed as conditional uses in a CC zone. The applicant suggests that the principal and conditional uses are substantially similar in their design and density as a hotel and motel. Additionally, the applicant indicates that they are not interested in modifying the design and sizing standards of the CC zone. They indicate that this will allow for a more seamless transition between a proposed hotel or motel, and the other uses that are allowable in the zone. They state that hotels and motels will not dominate those mixed-use developments, but will lead to a complete project area that integrates into the intended scale.

The applicant indicates that the inclusion of hotels and motels in the CC zone would provide tourists, temporary business workers and other visitors a place to stay in areas with abundant community facilities, retail, and commerce opportunities (Theme C, Goal #1.d). Furthermore, the addition of transient populations will increase the viability of the commercial uses in the CC zone and surrounding areas.

The staff agrees that the inclusion of hotels and motels within the zone can be beneficial to commercial uses and can be an added benefit to Lexington. However, the inclusion of hotels and motels must not be in conflict with the residential requirements of the zone. Hotels and motels shall not constitute any portion of the required residential requirement of forty percent (40%) of the aggregated floor area of buildings within a development in a CC zone.

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

1. The proposed text amendment to allow hotels and motels within the Community Center (CC) zone will complement the commercial aspects of the zone and will conform with the size requirements for the CC zone.
2. The proposed use will provide tourists, temporary business workers and other visitors a place to stay in areas with abundant community facilities, retail, and commerce opportunities (Theme C, Goal #1.d), which will support the established commercial uses.
3. Hotels and motels shall not constitute any portion of the required residential requirement of forty percent (40%) of the aggregated floor area of buildings within a development in a CC zone.

HB/TLW
PLN-ZOTA-22-00002: Staff Report (Hotels and Motels in CC zone)



ARTICLE 23A-9 COMMUNITY CENTER (CC) ZONE

(b) Principal Uses.

35. Hotels and Motels

(d) Prohibited Uses.

~~17. Hotels and Motels~~

~~18. 17.~~ Wholesale establishments.

~~19. 18.~~ Greenhouses, nurseries, hatcheries.

~~20. 19.~~ Establishments offering live entertainment in which a person simulates any sexual act or in which a person is unclothed, or in such attire, costume, or clothing as to expose to view any portion of the female breast below the top of the areola, the male or female genitalia, or the buttocks.

~~21. 20.~~ Establishments at which any employee is unclothed or in the attire, costume or clothing described above, or is clothed in such a manner as to simulate the breast, genitalia, buttocks, or any portion thereof.

~~22. 21.~~ Establishments having as a substantial or significant portion of their stock in trade for sale, rent or display, pictures, books, periodicals, magazines, appliances and similar material which are distinguished or characterized by their emphasis on matter depicting, describing or relating to such sexual activities as: (a) Depiction of human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.

~~23. 22.~~ Indoor motion picture theaters having as a substantial or significant portion of their use the presentation of material having as a dominant theme or characterized or distinguished by an emphasis on matter depicting, describing or relating to such sexual activities as: (a) Depiction of human genitals in a state of sexual stimulation or arousal; (b) Acts of human masturbation, sexual intercourse or sodomy; or (c) Holding or other erotic touching of human genitals, pubic region, buttocks or breasts.

~~24. 23.~~ Pool or billiard halls.

~~25. 24.~~ Primitive campgrounds; farm tours; hayrides; corn mazes; outdoor rodeos; riding stables; horse shows; fishing lakes; hunting and trapping; sportsmen's farms; and zoological gardens.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

V. **ZONING ITEMS** - The Zoning Committee met on Thursday, September 1, 2022, at 1:30 p.m. to review zoning map amendments and Zoning Ordinance text amendments. The meeting was attended by Commission members: Zach Davis, Larry Forrester, Bruce Nicol, and Robin Michler. Staff members in attendance were: Traci Wade, Autumn Goderwis, Hal Baillie, Daniel Crum, Samantha Castro, Bill Sheehy, and Tracy Jones, Department of Law. The Committee members reviewed applications and made recommendations as noted.

A. **ABBREVIATED PUBLIC HEARINGS ON ZONING MAP AMENDMENTS**

The staff will call for objectors to determine which petitions are eligible for abbreviated hearings.

Abbreviated public hearings will be held on petitions meeting the following criteria:

- The staff has recommended approval of the zone change petition and related plan(s)
- The petitioner concurs with the staff recommendations
- Petitioner waives oral presentation, but may submit written evidence for the record
- There are no objections to the petition

B. **FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS** - Following abbreviated hearings, the remaining petitions will be considered.

The procedure for these hearings is as follows:

- Staff Reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) Proponents (10 minute maximum OR 3 minutes each)
 - (b) Objectors (30 minute maximum) (3 minutes each)
- Rebuttal & Closing Statements
 - (a) Petitioner's comments (5 minute maximum)
 - (b) Citizen objectors (5 minute maximum)
 - (c) Staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s).

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

C. **PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMEMENDMENTS**

1. **PLN-ZOTA-22-00002: AMENDMENT TO ARTICLE 23A-9 TO PERMIT HOTELS/MOTELS IN THE COMMUNITY CENTER (CC) ZONE**– petition for a Zoning Ordinance text amendment to permit hotels and motels in the Community Center (CC) Zone.

INITIATED BY: Jason L. Justice

PROPOSED TEXT: Copies are available from the staff.

The Zoning Committee Recommended: Approval.

The Staff Recommends: Approval, for the following reasons:

1. The proposed text amendment to allow hotels and motels within the Community Center (CC) zone will complement the commercial aspects of the zone and will conform with the size requirements for the CC zone.
2. The proposed use will provide tourists, temporary business workers and other visitors a place to stay in areas with abundant community facilities, retail, and commerce opportunities (Theme C, Goal #1.d), which will support the established commercial uses.
3. Hotels and motels shall not constitute any portion of the required residential requirement of forty percent (40%) of the aggregated floor area of buildings within a development in a CC zone.

Staff Presentation – Mr. Baillie presented and summarized the staff report and recommendations for the text amendment. This text amendment would change hotels and motels in the CC zone from a prohibited use, to a principal primary use.

Mr. Baillie displayed maps that showed the location of where the CC zones in Lexington are, as well as the history of the zone, and the types of businesses that are currently in the CC zone. Additionally, Mr. Baillie showed off a list of the allowable uses and special provisions of the CC zone.

Mr. Baillie discussed the applicant's reasons for wanting the change, and indicated that they were not seeking to modify the special provisions of the CC zone. Instead, the applicant is seeking to integrate a use that will complement the commercial aspects of the zone, as well as be complimentary to the other large zone categories and land uses in the Expansion areas.

Mr. Baillie concluded his presentation stating that Staff is recommending approval of the text amendment, and he was willing to answer any questions that Planning Commission had.

Commission Questions – Mr. Pohl asked why hotels and motels were initially prohibited and what changed to be included now. Mr. Baillie responded saying that the CC zone was intended to be similar to the B-1 zone and that many of the uses from the B-1 zone were also in the CC zone. Mr. Baillie indicated that what has changed here is that the CC zone has developed in a way that is more focused on areas that do not have true connections into neighborhoods. Mr. Baillie stated that staff was comfortable with hotels and motels in the CC zone because of this development.

Mr. Penn asked what could be done to make sure the CC zone does not become just another business zone and make the CC zone more residentially friendly. Mr. Baillie stated that while the residential aspect of the CC zone has been slower than the other aspects, the planning staff has observed more residential construction in the zone.

Mr. Penn also asked about if Mr. Baillie thought that flipping the CC zone on Polo Club Boulevard helped or hurt the residential growth there. Mr. Baillie indicated that he thought that with the establishment of the big box stores like Costco, it took from the neighborhood growth at first, but now there is a transition to more residential.

Applicant Presentation – Darby Turner, attorney for the applicant, stated that he is in total agreement with the Staff and thought that working with Staff on this led to a very nice result.

Action – motion was made by Mr. de Movellan and seconded by Mr. Nicol and carried 11-0 to approve PLN-ZOTA-22-00002: AMENDMENT TO ARTICLE 23A-9 TO PERMIT HOTELS/MOTELS IN THE COMMUNITY CENTER (CC) 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.
- VII. **STAFF ITEMS** – The staff will report at the meeting.
- VIII. **AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.
- IX. **MEETING DATES FOR OCTOBER 2022**

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