

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky October 15, 2019

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on October 15, 2019 at 4:32 p.m. Present were Vice Mayor Kay in the chair presiding, in the absence of Mayor Gorton, and the following members of the Council: Bledsoe, F. Brown, J. Brown, Ellinger, Evans, Farmer, Gibbs, Lamb, McCurn, Moloney, Mossotti, Plomin, and Reynolds. Absent was Council Member Worley.

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At 4:32 p.m., Vice Mayor Kay opened the hearing.

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An Ordinance denying a zone change request to modify the conditional zoning restrictions in the Highway Service Business (B-3) Zone, for .85 net (1.14 gross) acres, for property located at 1709 North Broadway (6K and Under Auto Sales, LLC. Council District 1) received second reading.

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Vice Mayor Kay swore in the witnesses, and reviewed the procedures and order of proceeding for the meeting.

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Ms. Mossotti asked Ms. Tracey Jones, Dept. of Law, a question about the nature of the Hearing. Ms. Jones responded.

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Mr. McCurn announced he would be departing the meeting at 6:30 p.m.

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Ms. Traci Wade, Div. of Planning, gave a presentation on the recommendation of the Planning Commission and filed the following exhibits: (1) Legal Notice of hearing to be held; (2) Affidavit of Notices Mailed; (3) Copy of Planning Commission Final Report; (4) 2018 Comprehensive Plan; (5) Copy of Zoning Ordinances; (6) Copy of the Land Subdivision Regulations; (7) Copy of Staff Presentation Materials; (8) Article 6 of the Zoning Ordinance; and (9) Copy of the adopted Ordinance from 1988.

Ms. Wade described the subject property and surrounding property, and the various uses that have been applied to it in the past. She displayed photographs and maps of the subject property and described its physical characteristics. Ms. Wade also discussed the proposed conditional zoning restriction modifications and the reasons for the Planning Staff's and the Planning Commission's recommendations.

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Mr. Jacob Walbourn appeared as counsel for the Petitioner and filed the following exhibits: (1) Affidavit of Posting Signs; (2) Printed PowerPoint Presentation; (3) Meeting Minutes from September 28, 1988 Planning Commission; (4) Copy of Staff's original report pertaining to the request; (5) Copy of Staff's revised report; and (6) Letters collected in support of the applicant's request.

Mr. Walbourn introduced various representatives for the Petitioners; he talked about the conditional zoning restrictions requested to be removed, displayed photographs of the subject property, discussed the location and proposed uses, as well as historical uses that have applied.

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Mr. Richard Murphy appeared as counsel for the Opposition (the owners of 1719 North Broadway) and filed the following exhibits: (1) Packet of exhibits for the Opposition; and (2) Copy of email correspondence from concerned parties.

Mr. Murphy provided a brief history of the properties, displayed photographs, and discussed the proposed request and the impact of the property upon the surrounding areas.

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The following persons spoke in opposition: (1) Ms. M.A. Rogers, Dover Rd; (2) Mr. Peter Sun, property owner of 1719 North Broadway; (3) Mr. Charles Hite, Aurora Ave.; (4) Mr. Dan Forry, Muir Station Rd.; (5) Ms. Diane Cahill, Grantchester St.; (6) David Danforth, Dover Rd.; (7) Brenda Cochran, Elkhorn Park; and (8) Carter Crump, Woodlark Ave.

The following persons spoke in favor: (1) Mr. Larry Parks, Hawthorne Ln.; (2) Mr. Edmond Royce, Hawthorne Ln.; and (3) Krishone Powell, current employee of the Petitioner.

The following persons approached the podium but refused to comment: (1) Hammam Shalash; and (2) Brandan Montgomery.

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Ms. Evans spoke about the nature of the comments allowed and asked that all comments be given equal consideration and treatment.

Vice Mayor Kay explained the nature of the request being considered and his decision to allow or prohibit comments.

Mr. Moloney spoke about the nature of the public comments.

Vice Mayor Kay asked Ms. Jones to advise the Council regarding public comments and given testimony. Ms. Jones responded.

Ms. Evans asked about the information provided by Ms. Wade. Ms. Wade responded.

Vice Mayor Kay spoke again about the nature of the request. Ms. Jones interjected.

Mr. J. Brown spoke about the impact the business has had on the surrounding areas and the restrictions on the B-3 zone.

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At 6:21 p.m. Ms. Reynolds departed the meeting.

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At 6:27 p.m. The meeting stood at recess.

At 6:35 p.m. The meeting reconvened; Mr. McCurn had departed the meeting.

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Ms. Wade offered rebuttal comments on behalf of the Staff.

Mr. Walbourn made rebuttal and summation comments on behalf of the Petitioner.

Mr. Murphy made rebuttal and summation comments on behalf of the Opposition.

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Mr. Gibbs asked Mr. Walbourn a question regarding the solicitation of the letters that had been submitted into the official record. Mr. Walbourn responded. Mr. Hammam Shalash, Petitioner, responded.

Mr. Farmer asked Ms. Wade a question about the Planning Commission's previous decision. Ms. Wade responded.

Mr. J. Brown asked Ms. Wade about the compliance permit that was erroneously issued. Ms. Wade responded.

Ms. Evans asked about the historical timeline of the property's zoning, and addressed Mr. Walbourn regarding the letters of support he submitted. Mr. Walbourn responded.

Mr. Moloney asked how long the property had the compliance permit before the error was noticed. Ms. Wade responded.

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At 7:03 p.m., Vice Mayor Kay closed the hearing.

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Mr. J. Brown thanked those present for attending the Hearing and expressed, on behalf of the Council, the desire to choose the best decision. He continued to speak about the erroneously issued compliance permit and the effort to address the procedure to prevent another such error. He went on to speak about nature of the area in question and the surrounding businesses and residents.

Council Member Moloney assumed the Chair in order for Vice Mayor Kay to be recognized. Vice Mayor Kay spoke about the nature of the zoning restrictions and stated he would vote with the Planning Commission's decision.

Vice Mayor assumed the Chair.

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Upon motion by Mr. J. Brown, seconded by Mr. Gibbs, the Council approved the Findings of Fact, as follows, by the following vote.

Aye: Bledsoe, F. Brown, J. Brown, Ellinger, ---12
Evans, Farmer, Gibbs, Kay, Lamb, Moloney,
Mossotti, and Plomin

Nay: -----0

Absent: McCurn, Reynolds -----2

1. In accordance with Article 6-7(c)(l)(a) of the Zoning Ordinance, there has been no unanticipated changes of any economic, physical or social nature in the immediate area since the time the conditional zoning restrictions were imposed in 1988 that has substantially changed the character of the area or the subject property. In particular, the Elkhorn Park neighborhood adjoining the back of the site remains residential and the N. Broadway corridor remains a prominent entry to the community that needs protection from further impacts to its visual quality.

2. The petitioner has not provided evidence to support the requested removal of the conditional zoning restrictions, and further, the nature of the immediate area still presents many of the same issues that required the original inclusion of the conditional zoning restrictions.

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Upon motion by Ms. Lamb, and seconded by Ms. Mossotti, the ordinance passed by the following vote:

Aye: Bledsoe, F. Brown, J. Brown, Ellinger, ---12
Evans, Farmer, Gibbs, Kay, Lamb, Moloney,
Mossotti, and Plomin

Nay: -----0

Absent: McCurn, Reynolds -----2

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Vice Mayor Kay thanked the participants for their involvement.

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Upon motion by Ms. Bledsoe, seconded by Mr. Farmer, and approved by majority vote (McCurn and Reynolds were absent), the meeting adjourned at 7:11 p.m.

Clerk of the Urban County Council