



Planning and Public Works Committee
May 14th, 2013
Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:00pm. Committee members Jennifer Mossotti, VM Linda Gorton, Charles Ellinger, Steve Kay, Chris Ford, Diane Lawless, Julian Beard, Harry Clarke and Peggy Henson were in attendance. Kevin Stinnett attended as a non-voting member.

1. Approval of Summary

Motion by Ellinger to approve the summary. Seconded by Kay. Motion passed without dissent.

2. Exaction Fees

Chris King, the Director of Planning, came to the podium to present. He said that the program was started in 1996 to help development pay for public infrastructure. In 1996, the Urban Service Area was expanded significantly. King said it was a three year debate. The exaction program came out of these lengthy community discussions.

King said that the exaction program only applies to very specific and very limited areas of Fayette County. These areas are Expansion Area 1 (Overbrook Farm area), Expansion Area 2 (Winchester Road, east of the interstate to the Richmond Road, Athens-Boonesboro area), and Expansion Area 3 (Between Newtown Pike and Russell Cave Road, north of the interstate).

King said that the issue that came up during the discussions was who would pay for the infrastructure costs of the new growth? King said that development exactions are a lawful means of mitigating the impact of new growth and development on the public health, safety, and welfare so long as the exaction is "roughly proportional" to the need for capital facilities generated by the new growth and development.

King said that a shopping center generates much more traffic than a residential area per acre. King went on to say that collector roads are the facilities covered under the exaction program (Polo Club Blvd, Blackford Pkwy, Hayes Blvd). Sanitary sewers, sanitary sewer transmission facilities, multi-neighborhood parks, neighborhood parks / non-floodplain greenways, rural open spaces, and storm water management facilities are also covered.

For parks, it is the cost of the land, not the cost of the development that is eligible for calculating the exaction fees.

The non-floodplain portions, there is a dollar amount put aside, but the post-development floodplain is given without charge as part of the program.

For every rural open space acre that is developed, there is a \$1,000 assessment to make up for the loss of greenspace.

King said that the exaction program operates as a “Zero Sum Game.” He explained further by saying that the goal is to have the total exactions collected equal the total cost of the system improvement facility over the development period.

King said that this is over a \$100MM enterprise. The highlights of the program are as follows:

- Exactions are assessed on an acreage basis
- Exactions are due when a building permit is issued
- Amount of exaction varies depending upon specific expansion area and zoning
- Developers can construct exacted infrastructure for exaction credit and reimbursement
- Exaction rates can be updated
- Rates are set by the Urban County Council
- Exactions are tracked for each lot created

King said that the status of the exaction program is as follows:

- Total value of credited system improvements constructed or under construction: \$44,781,588
- Total LFUCG bonds: \$4,338,741
- Total exactions due/collected on recorded plats: \$34,131,242
- Total lots: 4,916

King said that 60% of the land is yet to be developed (2,383 acres).

Gorton asked King about rural open space. King said that the money can be set aside for programs like PDR. King said that all that money has been set aside for credits for other exactions (except for the sewers). King said they are dollar valued credits. They can use exactions to satisfy open space, park exaction, or anything besides sewers.

The developers made the point that if they are paying and building the road, they should get credit (dollar valued credits, instead of being paid back in cash).

There are \$45MM in system credits in the ground, and about \$35MM has been collected. The financial model is based on 90% development.

King said in expansion area 2C, the traffic models indicated that there was going to be a significant upgrade of Walnut Hill Chilesburg Pike, even without expansion. Hayes Blvd was half the exaction program and half the LFUCG’s responsibility.

Stinnett asked King about Polo Club Blvd. King said that the developer approached the LFUCG and entered into an agreement based upon the assumption that the road would cost X dollars. The invoices are tracked through Engineering. They received a \$12MM credit for building the road. They can sell them to other developers for exactions as well.

Developers who do not have credit pay the fees with real dollars. Stinnett asked for that total. King said that he can get the number. The Department of Finance keeps track of the money.

Each new home pays an exaction fee and Stinnett and King both said that it will take a long time to recoup the money.

Kay asked how decisions were made regarding improvements prior to and after the exaction program. King said that a previous Council discussed the LFUCG doing the improvements. That Council chose not to do that, except for the bonding done in 2C. King said that most of the infrastructure that has been put in has been done by developers.

King said that in Expansion Area 3, if the Council thought they should have all the roads and sewers in place, the LFUCG could do it, and the money would be recouped through the exaction program, but they would not have an exact timeframe to recoup the money.

King said that every acre of land has been charged \$1000. It is not cash sitting in a bucket. Kay asked if the availability of funds for PDR would come at the end of the process. King answered yes.

Mossotti asked about Developers that go out of business. King said that they can satisfy their exactions by using those credits. The developer could also sell the credits. This must be formally submitted to the Department of Finance. King said that this has not happened very frequently.

Stinnett said there are 2,300 acres available for residential or Economic Development (ED) land. Stinnett said that he would like the Council to review the impact this program has on ED land.

King said that the last fee update was in 2010.

Stinnett said that we cannot afford the upkeep on the greenways we have now. King said that the Greenway Coordinating group has been reviewing this issue.

Kay asked King about the fee structure. King said that any proposal of fee structure changes will come to the Council for approval. King said they are currently looking at that model. It is very transparent, and King said that he has shared it with the development community. King said that there are critical costs coming in regarding sanitary sewers and there are also a couple of projects that are closing out so King hopes to get the proposed changes to the Council within the next few months.

3. B1 ZOTA

King introduced the item. He said that Neighborhood Business Zones can be found throughout Fayette County. In 2007, the Comprehensive Plan implementation chapter called for a completion of the Non-Residential Infill Study, and Neighborhood Business Zone Re-write.

The types of proposed changes are as follows:

- Yard and Height Requirements
- Off-Street Parking
- Special Provisions – Form-Based Neighborhood Business Project
- Principal, Accessory, and Conditional Uses
- Definitions

These changes would impact all the B-1 zones.

Bill Sallee approached the podium and told the Committee members that there is a 25' height limit or 35' limit with top floor residential use, a 20' minimum front yard, and no limitations for side and rear yards (unless adjacent to a P-1 zone or residential zones). The proposed amendment allows for a minimum 10' front yard and a maximum 20' yard. The maximum height of a building would be 35', except as permitted in Section 8-16(o)(3).

Traci Wade said that the Infill study also suggested a reevaluation of the current parking requirements.

The proposed changes are as follows:

- Arcades, with or without accessory billiard or pool tables - 1 space for every 250 square feet of floor area
- Shoe Repair Shops, Clothing Alterations, Tailoring Services and Tattoo Parlors - 1 space for every 200 square feet, with a minimum of 3 spaces
- Animal Grooming Facilities - 1 space for every 200 square feet, with a minimum of 3 spaces.

- Mail Service Facilities - 1 space for each 200 square feet of floor area

Wade said that the Infill study also suggested the option of a Form-Based Neighborhood Business Project. Additionally, they are proposing a maximum for structure size.

Wade said that a special provision could be a Form-Based Neighborhood Business Project that must be approved by the Planning Commission and be a minimum of 1 acre in size. The final development plan must be approved by the Planning Commission prior to any building permit. They would also be required to submit an Area Character and Context Study.

Bill Sallee presented on use changes. He said that they received input from the Non-Residential Infill Study, the Downtown Development Authority (DDA), the Infill and Redevelopment Steering Committee, and the Divisions of Planning and Building Inspection.

Sallee told Committee members that the use changes are as follows:

Principal Use Additions:

- Animal Grooming Facilities
- Assisted Living Facilities
- Brew-pubs
- Mail Service Facilities
- Tattoo parlors
- Form-Based Neighborhood Business Projects

Accessory Use Additions:

- Sidewalk Cafes
- Retail sale of Liquid Propane (20lbs or less)

Conditional Use Additions:

- Extended-Stay Hotels
- Independent Parking Lots
- Drive-through facilities

Deletions:

- Hospitals
- Cable TV Distribution centers and studios
- Combination Business, Office and Residential Project

Modifications and Restrictions:

- Parking Structures and Lots
- Drive-through Facilities

Modifications:

- Indoor Theatres
- Truck Rental

Kay asked Sallee what the status of the text amendment is. Sallee said that the Planning Commission held their hearing and voted to recommend the text amendment to the Council 5-3. Kay asked Sallee if they amend the text amendment, will it stand. Sallee answered yes.

Kay asked about drive-through facilities. Sallee said that they are currently an accessory use.

Clarke asked Sallee how they came to the conclusion that 35' should be the height limit. Sallee said that there is a 35' standard placed in the zoning ordinance in the 1960's for the lower density zones. In the 1980's, the B-1 zone was made lower by 25'. This has since been relaxed and the third floor residential option was allowed.

Lawless commented on extended stay hotels. She confirmed with Sallee that these hotels could be conditional uses up to 4 stories. Sallee confirmed her statement. Lawless also commented on surface parking lots.

Lawless said that she does not understand why a theatre would be limited to 3 stages because there are so many large vacant buildings that could house more than 3 stages. Sallee said that the 3 screens will only impact the B-1 zones. Lawless said that she didn't have heartburn over the theatres as much as she had heartburn over rehabilitation homes and extended stay hotels.

Sallee said that extended stay hotels are currently conditional uses in P-1 zones.

Gorton noted that this text amendment was controversial with the Planning Commission. She said that their vote was 5-3 with 3 absentees. Gorton asked Sallee if he has any comment about what occurred during the Planning Commission meeting. Sallee said the 3 Commission members that dissented had different issues with the proposal.

King said that in the end they were not concerned about the entire package, but one Commission member was concerned about the rural B-1's, one was concerned about tattoo parlors, and one was concerned about the form-based aspect.

Henson said that she is still not comfortable with the text amendment. Henson asked for more documentation as to why the Division of Planning proposed this text amendment. Sallee said that they referenced the Non-Residential Infill Study and thus relaxed some criteria and tightened other criteria. Sallee said that some of the uses and new definitions allow for clarification.

Kay asked Sallee what this text amendment is trying to accomplish. Sallee said that it is to implement a portion of the Comprehensive Plan. King said that infill and redevelopment got such a boost in the early 2000's and that the Residential Infill and Redevelopment study led to one of the largest rewrites of the zoning ordinances in our history. King said that they wanted to replicate that with a non-residential. He said that they support one another.

Motion by Kay to forward the proposed ZOTA to the full Council. Seconded by Clarke.

Lawless asked Sallee to consider making rehabilitation homes, community centers and private clubs conditional uses. She went on to ask for better definitions of these types of uses.

Gorton asked about height restrictions. Sallee said that only provision that would allow for additional height would be within the Form-Based neighborhood business zone.

Beard said that he was concerned about a broadcast station. He asked if it would include a 1200 foot tower. Sallee said that towers are usually exempt from zoning, but radio and television are regulated and are conditional uses in the agricultural area. The building code regulates how high they can be on top of a building.

Henson said that she was not comfortable supporting the motion at this time. Henson said that she would prefer that the issue stay in committee.

Gorton agreed with Henson. She asked Sallee if they could schedule a public hearing once the item is forwarded to the full council.

Farmer said that the next meeting needs to include the actual verbiage of the text amendment. Farmer said that he had questions about some of the definitions. Farmer asked Committee members to provide input so they could come to some fruition.

Kay asked for specific proposals for the amending of the text amendment.

Kay withdrew his motion. Clarke withdrew his second.

4. Adult Day Cares

Ford introduced the item. Ford said that his proposal defines Adult Day Cares and sets the zoning parameters to require notification to neighborhoods. Ford said that the Planning Commission passed it 8-1.

Ford said the ZOTA was initiated by Council, it has been adequately researched, passed by the Planning Commission, not objected to by the Mayor's Commission on Homelessness and has been heard by the Planning and Public Works Committee three times. Ford said that he would like to refer the ZOTA to the full Council for their consideration.

Sallee presented new information to the Committee members. Sallee presented the state definitions of the two uses from the state.

Farmer asked Sallee about the proximity of these entities to schools. Sallee said that the original intent was to provide notice to neighbors, and they only way to do it was to make it a conditional use.

Gorton told Sallee that the Local Emergency Planning Committee (LEPC) does have a comprehensive list of schools and daycares. She suggested that the Division of Planning obtain that list.

Gorton also reiterated that the ZOTA was well received by the Planning Commission. She asked Sallee about the state definition of Adult Day Care. Sallee said that this has separated out the name to avoid confusion.

Motion by Ford to refer the Adult Day Care ZOTA to the full Council. Seconded by Gorton. Motion passed without dissent.

Henson said that having two definitions provides clarity, but she does not want to segregate a certain population.

5. Items Referred to Committee

Motion by Gorton to remove Exaction Fees from the Items Referred list. Seconded by Lawless. Motion passed without dissent.

Motion by Ford to remove Adult Day Cares from the Items Referred list. Seconded by Gorton. Motion passed without dissent.

Motion by Ellinger to adjourn. Seconded by Gorton. Motion passed without dissent.

Submitted by Jenifer Benningfield, Council Administrative Specialist