

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky January 12, 2016, 5:00 p.m.

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on January 12, 2016 at 5:07 p.m. Present were Vice-Mayor Kay in the chair presiding, in the absence of Mayor Gray, and the following members of the Council: Bledsoe, J. Brown, Farmer, Gibbs, Hensley, Henson, Lamb, Moloney, and Scutchfield. Absent were Council Members Akers, F. Brown, Evans, Mossotti, and Stinnett.

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At 5:07 p.m. Mr. Kay opened the public hearing, reviewed the procedures for the hearing, and swore in the witnesses.

Mr. Bill Sallee, Div. of Planning gave his presentation and filed the following exhibits: (1) Legal Notice of hearing to be held; (2) Affidavit of Notices Mailed; (3) Recommendation of the Planning Commission – MARV 2015-15; (4) Letters and emails from citizens; (5) 2013 Comprehensive Plan with Goals and Objectives; (6) 1983 LFUCG Land Subdivision Regulations as Amended; (7) 1983 LFUCG Zoning Ordinance as Amended; (8) the Development Plan Diagram; (9) Aerial photograph; (10) 7/6/15, Letter to Property Owner; (11) 10/2/15, Letter to Property Owner; and (12) 8/31/15, Letter to Property Owner.

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Mr. Jacob Walbourn appeared on behalf of the applicant, Flying Dutchman Properties, LLC. Mr. Walbourn gave his presentation and filed the following exhibits: (1) Affidavit of Mr. Tom Lambdin with attachments; (2) Printed Powerpoint presentation; (3) Photograph; and (4) Development Plan Diagram.

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Mr. Kay swore in Ms. Amy Clark, Kastle Road.

Ms. Clark cross-examined Mr. Sallee regarding the evidence provided to the Planning Commission about trees on the property, and the lot lines on the development plan. Mr. Sallee responded.

Ms. Clark cross-examined Mr. Walbourn about the applicant's proposed use for R-3 zoning, the number of bedrooms and bathrooms proposed for the five units, and the number of parking spaces. Mr. Walbourn responded.

\* \* \*

The following citizens spoke against the requested zone change: (1) Mr. Charles Shipley, Duncan Avenue, filed the following exhibits: (a) Letter and report from Mr. Nic Williamson; (b) Petition, with signatures; (2) Mr. Melvin Cosby, Woodland Avenue, filed the following exhibit (a) Photograph ; and (3) Ms. Vicki Batzka, Duncan Avenue.

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At 6:11 p.m. the Council went into recess.

At 6:15 p.m. the Council reconvened with the same members present.

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The following citizens spoke against the requested zone change: (1) Mr. Gary Duncan, Pyke Road; (2) Mr. Robert Phillips, Pyke Road; (3) Ms. Sandra Duncan, Pyke Road; (4) Mr. Rich Cowden, Duncan Avenue; (5) Ms. Casey Cowden, Duncan Avenue; (6) Ms. Ginny Daley, Burley Avenue; (7) Mr. Will Harvey, Pyke Road, and filed the following exhibits: (a) 8 photographs of the neighborhood; (8) Ms. Amy Clark, filed the following exhibits: (a) 8 photographs of the neighborhood, (b) Aerial photograph (c) Report regarding costs, (d) Map of the area in question, (e) Sketch of the proposed development, (f) Email to Council Members, and (g) Excerpt of Article 26 of the Code of Ordinances; (9) Mr. Scott Smousc, Addison Avenue; and (10) Mr. Robert Wells of Pyke Road.

\* \* \*

Mr. Walbourn cross-examined Mr. Shipley about his exhibit (a).

Mr. Walbourn moved to strike Mr. Shipley's exhibit (a). Mr. Kay noted the objection but denied the motion to strike.

An Ordinance changing the zone from a Single Family Residential (R-1C) zone to a Planned Neighborhood Residential (R-3) zone, for 0.654 net (0.754 gross) acre; for property located at 509, 513 and 517 Pyke Rd., including dimensional variances (Flying Dutchman Properties, LLC (AMD.); Council District 11) was given second reading.

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Mr. Sallee gave his rebuttal argument.

\* \* \*

Mr. Walbourn reserved his rebuttal.

\* \* \*

Mr. Sallee gave his closing summation.

\* \* \*

Ms. Clark gave a closing summation.

\* \* \*

Mr. Walbourn made a rebuttal argument and a closing summation.

\* \* \*

Mr. Moloney asked Mr. Sallee about historical zoning on American and Burley Avenues. Mr. Sallee responded.

Ms. Bledsoe asked Mr. Sallee about the footprint and square footage of the proposed buildings, the stormwater concerns, the allowed square footage of single family dwellings, and whether residential permit parking has been considered in the neighborhood. Mr. Sallee responded.

Ms. Henson noted that permit parking was attempted in some parts of that neighborhood, but it was rejected by the neighborhood.

Ms. Lamb asked Mr. Sallee about stormwater management. Mr. Walbourn and Mr. Sallee responded.

Ms. Lamb asked Mr. Walbourn about the development plan. Mr. Walbourn and Mr. Sallee responded.

Ms. Lamb asked Mr. Sallee about parking lot access and the Bur Oak tree on the property in question. Mr. Sallee responded.

Mr. Gibbs asked Mr. Sallee about the Oak tree, and described a letter from Mr. Dave Leonard, an arborist, who characterized the tree. Mr. Gibbs asked Mr. Sallee about a tree inventory and zoning on American Avenue. Mr. Sallee responded.

Mr. Farmer asked Mr. Walbourn about the trees on the property, and efforts to preserve the trees in the development. Mr. Walbourn responded.

Mr. Kay asked Mr. Sallee about the Oak tree. Mr. Sallee responded.

Ms. Tracy Jones, Dept. of Law, provided clarification on a point of law.

Ms. Bledsoe asked Mr. Sallee for clarification between uses under various zoning designations. Mr. Sallee responded.

Ms. Lamb asked Mr. Walbourn about an alternative parking lot configuration. Mr. Walbourn responded.

Ms. Lamb asked Ms. Jones about a prior zone change, and asks how it can be extended to preserve the trees on the property in this case. Ms. Jones responded. Mr. Sallee commented on the same question.

Ms. Henson asked Ms. Clark about protecting trees. Ms. Clark responded.

Ms. Henson asked Mr. Sallee about making a condition to the zone change. Mr. Sallee responded.

Ms. Lamb asked Mr. Sallee about whether development plans may be changed after a zone change is granted. Mr. Sallee responded.

\* \* \*  
At 7:40 p.m., Mr. Kay declared the public hearing closed.

At 7:41 p.m., Council went into recess.

At 7:49 p.m., the Council reconvened with the same members present.

\* \* \*  
Council discussed the zone change.

\* \* \*  
Ms. Henson made a motion, seconded by Mr. Moloney to reject the following

Findings of Fact for Approval from the Planning Commission:

- 1) The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2013 Comprehensive Plan, as follows:
  - a. The Goals and Objectives recommend growing successful neighborhoods through expanded housing choices that address the market needs for all residents (Theme A, Goal #1b.). The petitioner proposes a townhouse style development of 8 dwelling units, which creates a variety of housing types in the immediate area that complement the existing neighborhood.
  - b. The Goals and Objectives encourage infill development throughout the Urban Service Area as a strategic component of growth for our community (Theme A, Goal #2). The petitioner proposes to increase the density of the subject properties, as compared to the surrounding area, to 12.23 dwelling units per net acre.
  - c. The Goals and Objectives recommend identifying areas of opportunity for infill development that respects the area's context and design features (Theme A, Goal #2a). The applicant plans to maintain a similar front yard setback, and provide off-street parking in the rear of the development, which will better match the existing character of the neighborhood.
  - d. The Goals and Objectives also encourage the use of underutilized land (Theme E, Goal #1a.) and building in a compact, contiguous, and/or sustainable manner (Theme E, Goal #1b.) The proposed development is well aligned with the vision articulated in the Comprehensive Plan for "single/small lot infill" projects, and is using two vacant lots that are considered underutilized in this urban context.
- 2) This recommendation is made subject to approval and certification of ZDP 2015-63: Gibson Park Subdivision, Block B, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- 3) Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited for the subject property:

- a. Multi-family dwellings.
- b. Dormitories.
- c. Boarding or lodging houses.
- d. Assisted living facilities.
- e. Community residences.

These limitations are appropriate and necessary to better protect the existing neighborhood and to prevent the most intensive uses that might be out of character with the existing residents of the area.

\* \* \*

Ms. Bledsoe made a motion to approve the ordinance, seconded by Mr. Farmer.

The motion failed by the following vote.

Aye: Hensley, Farmer -----2

Nay: J. Brown, Gibbs, Bledsoe, Henson, Kay, Lamb,  
 Moloney, Scutchfield -----8

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Upon motion by Ms. Bledsoe, seconded by Ms. Lamb, and approved by unanimous vote, the meeting adjourned at 8:02 p.m.

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Clerk of the Urban County Council