

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky February 9, 2017

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on February 9, 2017 at 7:55 p.m. Present were Vice-Mayor Kay in the chair presiding, in the absence of Mayor Gray, and the following members of the Council: Gibbs, Henson, Lamb, Mossotti, Plomin, Scutchfield, Bledsoe, F. Brown, and J. Brown. Absent were Council Members Evans, Farmer, Higgins, Moloney, and Stinnett.

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At 7:55 p.m., Vice Mayor Kay opened the public hearing.

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An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 10.14 net and gross acres, for property located at 3455 Saybrook Rd. (Lex Properties, LLC; Council District 9) 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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Mr. William Sallee, Div. of Planning, gave a presentation and filed the following exhibits: (1) Legal Notice of hearing to be held; (2) Affidavit of William Sallee of Notices Mailed; (3) Recommendation of the Urban County Planning Commission - PLN-MAR-16-00015; (4) 2013 Comprehensive Plan with Goals and Objectives; (5) 1983 LFUCG Zoning Ordinance as Amended; (6) 1983 LFUCG Land Subdivision Regulations as Amended; (7) Copies of emails; and (8) Printed PowerPoint presentation.

Mr. Sallee described the subject property and surrounding property and the various uses that have been applied to it in the past. He displayed photographs and maps of the subject property and described its physical characteristics.

Mr. Walt Gaffield, Bamboo Drive, a neighborhood representative in opposition to the zone change, cross-examined Mr. Sallee.

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Mr. Jacob Walbourn appeared as counsel on behalf of Lex Properties, the applicant in this matter, and filed the following exhibits: (1) Affidavit of sign; (2) Report of Childress and Associates; and (3) Printed PowerPoint presentation. Mr. Walbourn submitted a fourth exhibit, another report, to the Council but did not return a copy to the Clerk to be entered into the record.

Mr. Walbourn discussed the history of development proposals for the subject property and how the proposed development plan has changed. Mr. Walbourn spoke about relative lot sizes, the character of the existing neighborhood, and the floodplain on the property.

Mr. Gaffield cross-examined Mr. Walbourn.

Ms. Molly Franklin, Merrimack Ave., appearing in opposition to the zone change, also cross-examined Mr. Walbourn.

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Ms. Renee Park Mooney, Wallingford Court, described the neighborhood's plan for presenting its opposition to the zone change.

Ms. Kathleen Donovan, Ipswich Court, Robinwood Neighborhood Association, spoke in opposition, and filed an exhibit (1) Speaking Notes.

Ms. Robin Young, Berwyn Court, spoke in opposition, and filed an exhibit (2) Speaking Notes.

Mr. Gaffield spoke in opposition and filed exhibits (3) Summary of past hearings; (4) Notes from August 27, 2015 hearing; and (5) Printed PowerPoint slides.

Mr. Evan Belt, Saybrook Road, spoke in opposition and filed exhibits (6) Speaking Notes; (7) Petition (copy); and (8) Petition (copy).

Mr. Scott Warner, Cromwell Way, spoke in opposition and played a video showing an eruption of raw sewage in cases of heavy stormwater flow.

Ms. Mooney spoke in opposition and filed an exhibit (9) Speaking Notes.

The following citizens spoke in opposition and did not file exhibits: (1) Mr. Jason McCurry, Crew Court, (2) Ms. Molly Franklin, Merrimack Ave., (3) Ms. Janet Cabaniss, Cumberland Road, (4) Ms. Amy Clark, Kastle Road, and (5) Ms. Robin Young, Berwyn Court, made additional comments in opposition.

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Mr. Sallee added clarification of comments by the various parties.

Mr. Walbourn made his summation for the applicant.

Mr. Gaffield made a summation for the opposition.

Ms. Mooney made an additional summation for the opposition.

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Mr. F. Brown asked about the conclusions of the Planning Staff and the Planning Commission. Mr. Sallee responded.

Mr. Gibbs asked about single-loading of the street and about trees. Mr. Sallee and Mr. Walbourn responded.

Mr. J. Brown discussed the value of community involvement and his concerns about sanitary sewers in the neighborhood.

Ms. Henson asked about the building regulations and zoning restrictions. Mr. Sallee responded.

Ms. Mossotti thanked the attendees for their civic engagement.

Vice Mayor Kay asked about the effect of approving an R-1D zone for the subject property and what kinds of restrictions would be required for the neighborhood to withdraw its objection. Mr. Sallee, Ms. Young, and Ms. Mooney responded.

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At 10:32 p.m., Vice Mayor Kay closed the hearing.

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Ms. Mossotti moved to disapprove the zone change and accept the following Findings of Fact. Ms. Plomin seconded the motion.

1. The requested R-3 zone is not in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a) The Comprehensive Plan recommends infill and redevelopment that is compatible with and context-sensitive to its environment and, in this case, with two established single-family neighborhoods.
  - b) The plan also states that infill development can have a positive impact on neighborhoods, but only if it respects the scale, massing, and size of surrounding buildings.
  - c) Although the petitioner is proposing a residential land use generally compatible with the surrounding neighborhood, some of the smaller proposed lots allowable in R-3 are not compatible, nor are the townhomes lining one side of the lengthy cul-de-sac.
  - d) The 2013 Plan recommends single-loaded streets when development is adjacent to greenways and open space throughout the community. The applicant intends to locate townhomes along the floodplain and within the greenway around the creek, thus not meeting the policy recommendation related to improving desirable communities.

2. The existing A-U Agricultural Urban zone remains appropriate for the subject property because the intent of the A-U zone is to be a holding zone until appropriate urban development is proposed.
3. The proposed Planned Neighborhood Residential R-3 zone is not appropriate for the subject property for the following reasons:
  - a) An R-1D zone would be more appropriate in that it would provide lots that are more in character and similar in size in the adjoining neighborhood.
  - b) The site is located interior to two established low-density residential neighborhoods, and there is no R-3 zoning in either surrounding neighborhood, nor are any townhouses present in the immediate area.

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The Council discussed the requested zone change and the reasons for the neighborhoods' opposition.

Ms. Mossotti made a motion to amend her Findings of Fact and remove "the applicant intends to locate townhomes along the floodplain and within the greenway around the creek." The motion was seconded by Ms. Plomin, and approved by unanimous vote, the proposed Findings of Fact were amended to read as follows:

1. The requested R-3 zone is not in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a) The Comprehensive Plan recommends infill and redevelopment that is compatible with and context-sensitive to its environment and, in this case, with two established single-family neighborhoods.
  - b) The plan also states that infill development can have a positive impact on neighborhoods, but only if it respects the scale, massing, and size of surrounding buildings.
  - c) Although the petitioner is proposing a residential land use generally compatible with the surrounding neighborhood, some of the smaller proposed lots allowable in R-3 are not compatible, nor are the townhomes lining one side of the lengthy cul-de-sac.
  - d) The 2013 Plan recommends single-loaded streets when development is adjacent to greenways and open space throughout the community.
2. The existing A-U Agricultural Urban zone remains appropriate for the subject property because the intent of the A-U zone is to be a holding zone until appropriate urban development is proposed.
3. The proposed Planned Neighborhood Residential R-3 zone is not appropriate for the subject property for the following reasons:
  - a) An R-1D zone would be more appropriate in that it would provide lots that are more in character and similar in size in the adjoining neighborhood.
  - b) The site is located interior to two established low-density residential neighborhoods, and there is no R-3 zoning in either surrounding neighborhood, nor are any townhouses present in the immediate area.

The Council continued to discuss the requested zone change and the reasons for the neighborhoods' opposition.

The motion to adopt the Findings of Fact, as amended, was approved by the following vote.

Aye: Gibbs, Henson, Kay, Lamb, Mossotti, Plomin, Scutchfield, Bledsoe, F. Brown, J. Brown. -----10

Nay: -----0

The approved amended Findings of Fact are as follows:

1. The requested R-3 zone is not in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a) The Comprehensive Plan recommends infill and redevelopment that is compatible with and context-sensitive to its environment and, in this case, with two established single-family neighborhoods.
  - b) The plan also states that infill development can have a positive impact on neighborhoods, but only if it respects the scale, massing, and size of surrounding buildings.
  - c) Although the petitioner is proposing a residential land use generally compatible with the surrounding neighborhood, some of the smaller proposed lots allowable in R-3 are not compatible, nor are the townhomes lining one side of the lengthy cul-de-sac.
  - d) The 2013 Plan recommends single-loaded streets when development is adjacent to greenways and open space throughout the community.
2. The existing A-U Agricultural Urban zone remains appropriate for the subject property because the intent of the A-U zone is to be a holding zone until appropriate urban development is proposed.
3. The proposed Planned Neighborhood Residential R-3 zone is not appropriate for the subject property for the following reasons:
  - a) An R-1D zone would be more appropriate in that it would provide lots that are more in character and similar in size in the adjoining neighborhood.

\* \* \*

Council discussed a point of procedure with the Mr. Keith Horn, Dept. of Law.

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Ms. Bledsoe made a motion to approve an Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 10.14 net and gross acres, for property located at 3455 Saybrook Rd. (Lex Properties, LLC; Council District 9). The motion was seconded by Ms. Mossotti.

The motion to approve failed by the following vote:

Aye: -----0

Nay: Gibbs, Henson, Kay, Lamb, Mossotti, Plomin, Scutchfield, Bledsoe, F. Brown, J. Brown. -----10

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Vice Mayor Kay thanked all of the participants for their involvement in this matter.

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Upon motion by Ms. Bledsoe, seconded by Ms. Plomin, and approved by unanimous vote, the meeting adjourned at 10:46 p.m.

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Deputy Clerk of the Urban County Council