

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky January 22, 2013

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on January 22, 2013 at 6:00 P.M. Present were Vice-Mayor Linda Gorton in the chair presiding, in the absence of Mayor Gray, and the following members of the Council: Council Members Clarke, Ellinger, Ford, Gorton, Henson, Kay, Lawless, Mossotti, Myers, Scutchfield, Akers, and Beard. Absent were Council Members Farmer, Lane, and Stinnett.

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An Ordinance creating a Historic District (H-1) Overlay Zone for approximately 37.85 net (approximately 51.14 gross) acres, for properties located at 106-346 Desha Rd.; 977-1024 Fincastle Rd.; 1003-1058 Fontaine Rd.; 100-314 South Hanover Ave.; 807, 853 & 859 East High St.; 908, 912, and 1000 Richmond Rd.; and 1003-1015 Slashes Rd. (Council District 5) was given second reading.

Upon motion of Mr. Kay, seconded by Ms. Mossotti, and approved by unanimous vote, the Ordinance was amended to include "Urban County Planning Commission" immediately before "Council District 5", and that this was not a material change and did not require a new first reading of the ordinance.

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Ms. Gorton explained the procedures for the public hearing and asked the attorneys planning to present testimony to identify themselves. Mr. Bo Fugazzi and Mr. Stephen Vicroy presented themselves. Ms. Gorton reviewed the remaining procedures for the public hearing. She stated that the attorneys had agreed to limit their presentations to thirty-five minutes.

Ms. Mossotti asked that Mr. Fugazzi and Mr. Vicroy clarify how much time was needed for their presentations. They responded.

Ms. Mossotti made a motion, seconded by Mr. Clarke, and approved by unanimous vote, to limit the attorneys' presentations to fifteen minutes.

Ms. Gorton asked Ms. Tracy Jones, Dept. of Law, questions about the procedure for the order of proof. Ms. Jones responded.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal notice; (2) Affidavit of Signs Posted; (3) Affidavit of Letters mailed; (4) MAR 2012-14: Recommendation and Planning Commission Minutes; (5) 2012 Comprehensive Plan Goals and Objectives; (6) 2001 Comprehensive Plan Update; (7) 1983 Zoning Ordinance with amendments; (8) Land Subdivision Regulations; (9) Ashland Park Historic District (H-1) Designation Report; (10) Local Historic District and Landmark (H-1) Design Review Guidelines, Lexington, Kentucky; (11) Letters and Emails from Objectors; (12) MAR 2012-14: Urban County Planning Commission Zone Change Proposed PowerPoint Presentation; (13) Subject Area Map; and (14) Comprehensive Plan Map.

Mr. Randy Shipp, Div. of Historic Preservation, gave his presentation and filed the following exhibit: (1) PowerPoint Slides and Historic Preservation Presentation, Ashland Park H-1 Overlay Public Hearing.

Mr. Fred 'Bo' Fugazzi, Attorney, representing Ashland Park Neighborhood Association, gave his presentation in favor of the requested zone change and filed the following exhibits: (1) Packet containing: (a) Ashland Park Neighborhood Association Mission Statement; (b) Affidavit of Postcards Response; (c) Postcards response map; (d) Affidavit of Property Valuation Administrator's Fair Cash Value Comparison of South Ashland/Central H-1 District and Proposed Ashland Park District; (e) Average Property Value Comparison 1989 versus 2012 chart; (f) APNA's H-1 Overlay Zone Preparation Summary (double sided); (g) Ashland Park Neighborhood Requested H-1 Overlay Boundary map; (h) "OK Ashland Historic District" *Lexington Herald-Leader*, January 18, 2013; (i) "Ashland Park Neighborhood's Decision on H-1 Zoning Was Thorough, Fair" *Lexington Herald-Leader*, 11-12-2012; (j) "OK Ashland Park as Historic District" *Lexington Herald-Leader*, 10-31-2012; (k) "Ashland Park Made for Historic Designation Neighborhood Boasts Qualifications Aplenty" *Lexington Herald-Leader*, 10-21-2012; (l) H-1 Permit Report; (m) Review of Elements in H-1 Districts; (n) Windows; (o) Board of

Architectural Review Agenda 2-22-2012; (p) Board of Architectural Review Agenda 8-8-2012; (q) "H-1 Zoning Under Consideration for South Hanover and Desha," by Tony Chamblin, APNA President; (r) "Why Ashland Park Property Owners Should Favor H-1 Zoning," by Tony Chamblin, APNA President; and (s) Letter to the Planning Commission from Iris Gestram, Executive Director, National Association for Olmsted Parks.

Ms. Gorton called the following citizens to speak as witnesses on Mr. Fugazzi's list: (1) Mr. Tony Chamblin, Ashland Park Neighborhood Association President, who filed the following exhibits: (a) photos (large boards x 2), photo of corner of South Ashland and Main today; (2) Ms. Wanda Jaquith, South Hanover; (3) Rev. Bob Sessum, Hanover Tower Resident, South Hanover; (4) Mr. David Adkisson, Richmond Road; (5) Mr. Graham Pohl, Fincastle Road, who filed the following exhibit: (a) Statement; (6) Mr. David Burg, South Ashland Avenue; (7) Ms. Anne Cammack, Desha Road, who filed the following exhibit: (a) Statement; (8) Mr. Wilson Eastland, South Hanover; (9) Ms. Jane Graham, Desha Road; and (10) Ms. Abbie Jones, Fontaine Road.

Mr. Steven Vicroy, Attorney, representing Ms. Shirley McVey Wiseman, Fontaine Road, and Mr. Calvin Cranfill and Ms. Meg Cranfill, South Ashland Avenue, gave his presentation in favor of a change to the requested zone change area, and filed the following exhibit: (A) Map - Review of MAR 2012-14, All Postcards Received by the Division of Planning.

Ms. Gorton reiterated the order of proceedings, and invited the Council to ask questions.

Ms. Mossotti asked for a point of order, regarding whether the opponents had a witness list. Ms. Gorton responded that they had not submitted a witness list.

Ms. Lawless requested a five-minute recess.

At 7:38 p.m., Ms. Gorton recessed the meeting.

At 7:45 p.m., the Council returned with same members present.

Mr. Ford asked a question of Mr. Sallee regarding process. Mr. Sallee explained what the Council would be asked to consider for approval.

Mr. Myers asked questions regarding the procedure for the hearing. Ms. Gorton directed the questions to Ms. Tracy Jones, Dept. of Law. Ms. Jones responded.

Mr. Beard asked questions of Mr. Shipp and Mr. Sallee, regarding the boundary of the area being considered for a zone change. Mr. Shipp and Mr. Sallee responded.

The Council continued to ask questions of Mr. Shipp and Mr. Sallee.

Mr. Myers asked questions of Mr. Fugazzi and Ms. Amelia Armstrong, Div. of Historic Preservation. Mr. Fugazzi and Ms. Armstrong responded.

Ms. Mossotti and Ms. Gorton asked questions of Mr. Vicroy. Mr. Vicroy responded.

Ms. Gorton asked if the staff had further testimony; there being none, she recognized Mr. Fugazzi to give his rebuttal.

Ms. Gorton recognized Mr. Vicroy to make his closing statement.

Ms. Gorton recognized Mr. Fugazzi to make his closing statement.

The following citizens spoke in favor of the requested zone change: (1) Mr. John Rhorer, Chinoe Road, chair of the LFUCG Historic Preservation Commission; (2) Mr. Foster Pettit, West Second Street, (3) Mr. Walt Gaffield, Bamboo Drive, representing the Fayette County Neighborhood Council; (4) Ms. Nancy Rawlings, South Hanover Avenue; (5) Ms. Kate Savage, Columbia Avenue; (6) Ms. Amy Clark, Kastle Road; (7) Ms. Linda Carroll, President, The Bluegrass Trust for Historic Preservation, Market Street; (8) Mr. John Morgan, East Third Street, (9) Ms. Win Meeker, Fayette Park; (10) Ms. Vicky Birenburg, Ky. Heritage Council, Frankfort, Ky.; (11) Mr. Bill Johnston, West Short Street, President of Historic Western Suburb Neighborhood Association; and (12) Ms. Kathy Reynolds, South Hanover.

The following citizens spoke against the requested zone change: (1) Mr. Frank Harris, Old Kingston Road; (2) Mr. John Kemper, Ravens Crest Lane; (3) Ms. Ginny Saville, North Mount Tabor; (4) Mr. David Minko, South Hanover Avenue, who filed the following exhibit: (a) Map of Proposed Carve-Out Area in Ashland Park; (5) Mr. Jim Van Meter, South Hanover; (6) Mr. Keith White, Slashes Road; (7) Mr. Jim Tucker, Desha Road; and (8) Mr. Aaron Isenhour, Desha Road.

At 9:31 p.m., Ms. Gorton recessed the meeting.

At 9:40 p.m., the Council returned with same members present.

Ms. Gorton opened the floor to the Council to ask questions.

Mr. Ford asked questions of Mr. Shipp and Mr. Sallee. Mr. Shipp and Mr. Sallee responded.

Ms. Mossotti asked a question of Mr. Chamblin and Mr. Minko. Mr. Chamblin and Mr. Minko responded.

Mr. Myers asked questions of Rev. Sessum, Mr. Sallee, Mr. Chamblin and Mr. White. They responded. Mr. Myers and Mr. White referred to a map exhibit entitled 'Ashland Park Neighborhood Requested H-1 Overlay Boundary.'

Ms. Henson and Mr. Kay asked questions of Mr. Sallee regarding the H-1 designation process.

Mr. Sallee responded and entered the following additional exhibit: (15) Letter of Application for H-1 Zoning from the Ashland Park Neighborhood Association.

Mr. Shipp also responded to Mr. Kay.

Mr. Beard made a statement.

Ms. Akers asked a question of Mr. Rhorer. Mr. Rhorer responded.

Mr. Myers asked additional questions of Mr. Sallee, Mr. White, Mr. Chamblin, and Mr. Shipp.

Ms. Gorton closed the public hearing.

The Council discussed points in favor of and against the zone change.

Ms. Gorton ceded the Chair to Mr. Ellinger so that she could speak on the issue.

Mr. Ellinger recognized Ms. Gorton.

Mr. Ellinger ceded the Chair back to Ms. Gorton.

The Council continued to discuss the issue.

Mr. Kay made a motion, seconded by Ms. Akers, to adopt the following Findings of Fact for Approval from the Planning Commission:

1. The proposed Historic District Overlay (H-1) zoning for this area is consistent with the following Themes, Goals and Objectives of the 2012 Comprehensive Plan, as well as the text of the 2007 Comprehensive Plan as it relates to Historic Preservation:
 - a. Growing a successful community through well-designed neighborhoods, by encouraging existing neighborhoods to flourish through the use of neighborhood character preservation (Theme A.3.a).
 - b. Improving a desirable community through protection and enhancement of the cultural landscapes that give our community its unique identity and image. This can be accomplished through protection of historic resources (obj. a); encouraging renovation, restoration and maintenance of historic structures (obj. b); and developing incentives to retain, restore, preserve, and continue use of historic sites and structures (Theme D.3.a-c).
2. Historic District Overlay (H-1) zoning for this area would be consistent with the recommendation of the Board of Architectural Review for an H-1 overlay district, with

the recommendations found in the *Ashland Park Historic District (H-1) Designation Report*, and with the provisions of Article 13-3(g) of the Zoning Ordinance. Specifically, the following findings are applicable to the Ashland Park neighborhood:

- a. The study area is a cohesive concentration of significant domestic architecture, mainly dating from 1919 until 1934 during the area’s greatest period of development. It includes numerous examples of small, medium, and some large-scale dwellings, primarily of one, one-and-one-half and two stories.
- b. The structures within the study area are representative of several popular architectural styles from its development period, including Colonial Revival, Craftsman, Bungalow, and American Foursquare, among others.
- c. The level of architectural integrity is high throughout the study area. There are very few incidents of adverse character-altering alterations to structures or sites within the boundary.
- d. The study area includes a significant series of streetscapes, medians and landscapes that provide a true sense of place, illustrative still today of the signature Olmsted development plan of the early twentieth century.
- e. The study area was listed in 1986 in the National Register of Historic Places as part of the Ashland Park Historic District under National Register Criterion C, which notes that the properties embody “the distinctive characteristics of a type, period or method of construction ...” and through that designation establishes that the study area meets the federal criteria for such designation.
- f. The study area meets five of the nine criteria necessary to Local Historic (H-1) Overlay zoning established by Article 13-3(g) of the Zoning Ordinance. The study area’s connection to both Henry Clay and the Olmsted Brothers, all of whom had national influence and contributed to the development of the nation, as well as the common plan developed for the Ashland Park Addition and the character and quality of the housing in the area all contribute to the neighborhood meeting the requirements of the Zoning Ordinance. According to the *Designation Report*, the criteria met are:
 - i. Criteria 13-3(g)(3): It is identified with a person or persons or famous entity who significantly contributed to the development of the county, state or nation.
 - ii. Criteria 13-3(g)(4): It is identified as the work of a master builder, designer or architect whose individual work has influenced the development of the county, state or nation.
 - iii. Criteria 13-3(g)(6): It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction or use of indigenous materials.
 - iv. Criteria 13-3(g)(7): It has character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development.
 - v. Criteria 13-3(g)(8): It has character as an established and geographically definable residential neighborhood, agricultural area or business district united by culture, architectural style or physical plan and development.

The motion to approve the Findings of Fact for Approval from the Planning

Commission was approved by the following vote:

Aye: Clarke, Ellinger, Ford, Gorton, Henson,
 Kay, Lawless, Mossotti, Myers, Akers,
 Beard-----11

Nay: Scutchfield-----1

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Upon motion of Mr. Kay, seconded by Mr. Ford, the ordinance was approved by the following vote:

Aye: Clarke, Ellinger, Ford, Gorton, Henson,
Kay, Lawless, Mossotti, Myers, Akers,
Beard-----11

Nay: Scutchfield-----1

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Upon motion of Mr. Ellinger, seconded by Mr. Myers, and approved by unanimous vote, the meeting adjourned at 10:50 p.m.

Clerk of the Urban County Council