



Planning and Public Safety Committee Virtual Meeting

April 6, 2021

Summary and Motions

Chair J. Brown called the meeting to order at 1:17 p.m. (due to technical difficulties). Committee Members Ellinger, McCurn, Lamb, Kloiber, Worley, Baxter, Bledsoe, Reynolds, and Plomin were in attendance. Vice-Mayor Kay and Council Members LeGris, F. Brown, and Moloney were in attendance as non-voting members.

J. Brown began the meeting with the following statement: "Due to the COVID-19 pandemic and State of Emergency, this meeting is being held via live video teleconference pursuant to 2020 Senate Bill 150, and in accordance with KRS 61.826, because it is not feasible to offer a primary physical location for the meeting."

I. Approval of March 2, 2021 Committee Summary

Motion by Plomin to approve the March 2, 2021 Planning and Public Safety Committee Summary. Seconded by Baxter. The motion passed without dissent.

II. Commercial Solar Farms

Council Member Kathy Plomin provided a background on the item and introduced Janice Westlund with Bluegrass Area Development District (BGADD), who provided the presentation. She explained that Commercial Solar Farms are large-scale solar utility facilities which consist of ground-mounted solar panels that provide at least 10MW of power and require 5-10 acres of land for each MW of power. Once installed, Westlund said, these last approximately 25 years and they provide employment especially during the construction and installation phases. She spoke about the land requirements for solar farms which might include farmland, landfills, or industrial land. She provided details for the 4 types of solar projects and highlighted the requirements for each. She explained the benefits to large-scale solar facilities which include savings on electricity costs and property tax revenue.

No comment or action was taken on this item.

III. Potential Release of Deed Restriction on Richmond Road

Council Member Preston Worley introduced the item and explained the background of the deed restriction for Mist Lake Shopping Center on Richmond Road which is held by the LFUCG. He introduced Nick Nicholson, attorney representing Lexington Motor Sports, a company interested in purchasing property at this location. Nicholson explained the request for the partial release of deed restrictions and he emphasized that the purpose is to determine if LFUCG will lift a portion of the deed restriction to allow the motor sport company in this space. He reviewed the deed restrictions that were put in place at the time Man O' War was being constructed. He explained these restrictions included specific building requirements and emphasized that the intent is not to change building specifications or landscaping, but we are looking for support before moving forward. He spoke about a public meeting during which constituents expressed concern that this space would become a car lot with outdoor storage. Nicholson

stressed that there would not be an outdoor storage facility and all sales would take place indoors. Another concern expressed was the poor condition of an existing privacy fence adjacent to the shopping center and Nicholson confirmed the fence would be repaired. He stressed that this would not be a building remodel, but more of a face lift. Worley asked for additional details on the notification process and Nicholson explained this was treated like a normal zone change hearing and interested parties were notified of the meeting.

Lamb questioned whether there would be establishment would have outdoor storage and Nicholson conformed there would not be outdoor storage and said the space is large enough to have everything indoors. Lamb expressed concern about the addition of a section in the *Partial Release of Restrictions* that allows night clubs and cocktail lounges. She asked if the available space in the shopping center could be utilized for that purpose. Nicholson explained that this was added for a particular type of successful commercial establishment such as *Malibu Jacks* which is an indoor entertainment center. He added that the Zoning Ordinance requires each category of potential use to be permitted and this section was added to ensure that this particular type of tenant would be allowed to have alcohol service. Lamb requested additional clarification on the current zoning definitions to be included in this.

Bledsoe asked if *Malibu Jacks* qualifies as a night club because of the late night serving of alcohol and Nicholson confirmed that this came out of concern because it is so easy to make a mistake when dealing with the zoning ordinance and applying something from decades prior. He said he could work with the language to make sure everyone understands the intent behind this.

Moloney spoke about previous issues with live music and entertainment near a residential area and he asked if the surrounding neighbors of this location were supportive of having live entertainment or music. Worley mentioned there are live music and noise restrictions within the Zoning Ordinance. Nicholson confirmed this and said there are also restrictions in the Noise Ordinance, but he could add language in the *Partial Release of Restrictions* which would prohibit live music after a certain time.

Motion by Worley to suspend the rules to allow public comment for those wishing to provide insight on this issue. Seconded by Lamb. The motion passed without dissent.

Jack Wilshire, a constituent in the surrounding area of the shopping center, contacted Council Staff to express his concerns and he requested the opportunity to speak. Due to technical difficulties he was experiencing, he was unable to speak publicly on this issue.

Nicholson displayed the *Partial Release of Restrictions* and the consent form which states that LFUCG is aware that the deed of restrictions is in its favor and the restricted property has been established as the Mist Lake Shopping Center and that LFUCG is releasing itemized uses, but there are several uses that will remain restricted on the property. He emphasized that this does not release any building restrictions or landscaping obligations which will remain in effect. He highlighted the provision that prohibits outdoor storage of the vehicles.

Motion by Worley to approve and report-out to the full Council the *Partial Release of Restrictions* for Mist Lake Shopping Center (Richmond Road). Seconded by Bledsoe. The motion passed without dissent.

Motion by Worley to report-out this motion at Work Session today, April 6, 2021. Seconded by Bledsoe. The motion passed without dissent.

Lamb asked if the *Partial Release of Restrictions* was shared with constituents at the neighborhood meeting and Nicholson confirmed it was reviewed with constituents. (At this time, there was a vote to approve the motion to report-out April 6). Lamb asked Jones if she reviewed the release and Jones said she has not yet, but she will review it and draft the appropriate legislation.

IV. Mayor's Report / 2018 Comprehensive Plan

Jim Duncan, Director of Planning, explained the connection between the Comprehensive Plan and the Mayor's Report on Racial Justice and Equality. He reviewed a few policies to indicate where the Mayor's Report and the Comprehensive Plan are almost precisely aligned and he showed a split screen to illustrate comparisons of the two. Duncan explained the recommendation for the Zoning Ordinance to be updated to allow for greater density, supply, and affordability. He pointed out the need for improved accessibility to social services and community facilities using mass transit, bicycles, and pedestrian modes. He closed by saying the Division of Planning will continue to work with the Administration and Council as the Mayor's Report is transformed into action items with the support of the Comprehensive Plan. Council Member Kloiber expressed appreciation to the groups who are working to address some of issues in the Comprehensive Plan. He said now is the time to examine all the factors that contribute to displacement and gentrification and to see if there is action we can take to curb this. He stressed the importance of reviewing the factors that contribute to displacement and gentrification and he displayed a map to illustrate the areas in Lexington that are susceptible to gentrification. In conclusion, Kloiber explained that housing scarcity will drive economic factors which creates gentrification; and in order to manage this, we have to address the housing scarcity. In light of the social and economic challenges experienced in the last year, Kloiber suggested passing a resolution that would instruct Division of Planning to use any and all tools to address housing scarcity in Lexington.

Lamb said the Comprehensive Plan is a continuous tool and the Division of Planning is continuously working on it as well as other groups and agencies who are working to address these issues. She emphasized that the Division of Planning is working toward increasing density so we can address the demand for future housing. She expressed concern that the resolution comes across as though we are saying Division of Planning isn't doing enough so at this time she can't support the resolution.

Plomin spoke about the language in the resolution that says "any and all tools" and asked which tools this is referring to. Kloiber emphasized that the intent behind the resolution is intended to help the groups who are working on this and provide them with "any and all tools" necessary to address the issue, but he can't say for certain which tools will be needed. Plomin said she is uncertain about the need for this resolution when the Comprehensive Plan is already addressing things we know are problems.

Kay asked if the intention today was to move the resolution forward and Kloiber confirmed that he intends to make a motion to move the resolution forward. Kay spoke about his involvement with housing in different ways through a variety of groups and he appreciates the effort to spotlight the need for addressing these issues. He expressed concern that the language in the resolution is too broad and the language "any and all tools" to address housing scarcity could have unintended consequences. He said passing this resolution could appear as though we are essentially saying housing issues are more important than the development of housing, office space, retail, industrial, etc. As an example, Kay mentioned zoning issues that come before Council during which an attorney could call into question our resolution of support that says we are to use "any and all tools" to address housing scarcity which means we should be supportive of the zone change. Kloiber explained the purpose for using the language "any and all tools" is to direct those who are starting the process of developing a complex set of goals and

objectives to look at every potential possibility. Kloiber said he feels that removing this language would equate to tying a hand behind their back.

LeGris asked Director Duncan if he feels more tools are needed or that all tools are not available. Duncan explained that in all cases when updating the Comprehensive Plan, issues and recommendations are brought forward to the Planning Commission and to Council that are not always included in the final plan. He said we are more likely to bring things forward that the community does not support, but they have worked in other places and it is up to the Council or Planning Commission to decide how to move forward. He said the Planning staff is in touch with what is current for addressing these types of issues and he is confident that we can continue to bring as much as possible to decision makers.

Moloney spoke about the previous Comprehensive Plan when we looked at the Rural Land Management Plan and he expressed concern with affordable housing because land is not available. He said he supports this resolution and emphasized the Division of Planning needs to look at all options including the Rural Land Management Plan.

Reynolds asked if there is a measurement that shows what we have been trying to do has worked and how it has addressed the issue of gentrification. If we have no way to measure improvements, she said, then we need to do more. She said if we need to do more, this resolution is appropriate and acknowledges that we need to take more steps and we will make this a priority and do everything possible moving forward. Kloiber explained that the easiest way to see this is by looking at the increase in housing prices because as land becomes more valuable, it becomes more desirable to gentrify.

Bledsoe spoke about affordable housing and what we are seeing across Fayette County is not just about finding homes. She explained the market is difficult for a 2 person family looking for a home and single family homes are very expensive which is very difficult for those who want to find housing affordability. She said this is different from affordable housing, but it is an important part of the conversation. She highlighted that every tool has repercussions and every effort we make on the supply or demand side, has repercussions. She understands the intent behind the resolution and said the housing concern is increasing substantially far outside of the supply.

J. Brown said he understands said the intent behind this resolution is to empower the experts to use “any and all tools” at their disposal to work to address this issue. He said housing scarcity is one component of a larger issue that needs to be addressed. He said he is supportive of the resolution and said terminology can be changed as this moves forward if necessary. He stressed that moving this forward is important because it is an issue that impacts the community, especially considering the events of the last year when we know the most vulnerable in our community will be even more impacted as we move forward.

Kay emphasized that his concern is whether the resolution could be used to justify actions we would not be willing to take. He questions if this could be used to justify support for ADUs or expanding the Urban Service Boundary. If we are clear that the resolution does not do that, he said, he has no concerns. If there is any doubt that this could be misused or used in a way it was not intended to be used, he does not believe the resolution is enough to take that risk.

Worley said this is a statement that recognizes a housing shortage and housing affordability in our community. He understands that this could be used to justify actions we are not willing to take, but the intent is to bring us all the information for the justifications of actions we will take moving forward in the next Comprehensive Plan.

Lamb asked if the Sustainable Growth Task Force plays into the upcoming Comprehensive Plan. Duncan said this Task Force is responding to a specific goal of the last Comprehensive Plan (not an idea or policy recommendation). He said the Task Force and the consultants were directed to identify what our options are now for growth and identify what our needs will be in the future. Lamb asked Kloiber if there could be consideration to wait until information comes out of the Sustainable Growth Task Force which could be incorporated into this resolution to provide clarification.

Motion by Kloiber to approve and report-out to the full Council a Resolution instructing and directing the Division of Planning to use any and all tools to address housing scarcity in Lexington- Fayette County when developing recommendations for goals and objectives for the 2023 comprehensive plan update and to begin development and implementation of said plan as soon as practicable. Seconded by Worley. The motion passed by a vote of 7-3 (Yes: Worley, McCurn, Reynolds, Kloiber, Bledsoe, Ellinger, and J. Brown; No: Baxter, Plomin, and Lamb).

V. Recruitment, Retirement, and Retention for Public Safety

Due to time constraints, this item was postponed until the next Planning and Public Safety Committee meeting.

No comment or action was taken on this item.

VI. Items Referred to Committee

No comment or action was taken on this item.

Motion by Plomin to adjourn. Seconded by Ellinger. Motion passed without dissent.
The meeting adjourned at 3:19 p.m.