

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky September 2, 2021

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on September 2, 2021 at 5:04 p.m. Present were Vice Mayor Kay in the chair presiding, in the absence of Mayor Gorton, and the following members of the Council: Baxter, F. Brown, J. Brown, Ellinger, Kay, Kloiber, Lamb, LeGris, Moloney, Plomin, and Sheehan. Absent were Council Members Bledsoe, McCurn, Reynolds, and Worley.

\* \* \*

At 5:05 p.m., Vice Mayor Kay opened the hearing.

\* \* \*

At 5:06 p.m., Ms. Bledsoe joined the meeting.

\* \* \*

An Ordinance changing the zone from a Single Family Residential (R-1C) zone to a Professional Office (P-1) zone, for 0.876 net (1.191 gross) acres, for property located at 1918 and 1922 Nicholasville Rd. (Julie Butcher; Council District 4) received second reading.

\* \* \*

Vice Mayor Kay swore in the witnesses, and reviewed the procedures and order of proceeding for the meeting.

\* \* \*

Hal Baillie, Div. of Planning, gave a presentation on the recommendation of the Planning Commission and filed the following exhibits: (1) Legal Notice of Public Hearing; (2) Affidavit of Notices Mailed; (3) Copy of Planning Commission Final Report and Recommendation; (4) Public Engagement Binder; (5) Items submitted to the Planning Commission in Opposition of the Zone Change Request; (6) Copy of the 2018 Comprehensive Plan; (7) Copies of the Zoning Ordinance and Land Subdivision Regulations; and (8) Copy of Staff Presentation.

Mr. Baillie 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. Baillie also discussed the proposed development and the reasons for the Planning Staff's and the Planning Commission's recommendations.

Nathan Billings, counsel for the Petitioner, cross-examined Mr. Ballie.

\* \* \*

Mr. Billings appeared as counsel for the Petitioner and filed the following exhibits: (1) Affidavit of Posting Signs; (2) Copy of 2018 Comprehensive Plan; (3) Copy of the Placebuilder; (4) Copy of the Imagine Nicholasville Rd. Study; (5) Sale Listing for the property; (6) February 2020 Herald Leader Article; (7) P-1 Zone Description Packet; (8) Proposed Motion and Findings of Fact; and (9) Public Engagement Binder.

Mr. Billings introduced various representatives for the Petitioners; he talked about the requested zone change, displayed photographs of the subject property, and discussed the location and proposed uses, as well as historical uses that have applied.

\* \* \*

At 6:21 p.m., the meeting stood at recess.

At 6:31 p.m., the meeting reconvened with the same persons present.

\* \* \*

Jessica Winters appeared as counsel for the Opposition (the Southern Heights Neighborhood Association) and filed the following exhibits: (1) PowerPoint Presentation; (2) Position Statement; (3) Proposed Motion; and (4) Letters in Opposition.

Vice Mayor Kay ruled the video clips of the Planning Commission Hearing included in Ms. Winters' PowerPoint presentation were out of order as the content was already included in Staff Exhibit (3) Copy of Planning Commission Final Report and Recommendation.

Mr. Billings, counsel for the Petitioner, cross-examined Ms. Winters.

\* \* \*

The following persons spoke in opposition: (1) Joe Chappell, Council District 4; (2) Andy Mead, Council District 4, (who filed Opposition Exhibit (5) - Photograph; (3) Kim Gersony, Council District 4, (who filed Opposition Exhibit (6) – PowerPoint Presentation); (4) Mike Brower, Council District 4, (5) Molly Davis, Council District 4; and (6) Amy Clark, Council District 3, (who filed Opposition Exhibit (7) – Letter).

Vice Mayor Kay deferred to Law to determine if the traffic on Nicholasville Rd. was allowable as relevant evidence. Ms. Tracy Jones, Dept. of Law, responded.

Mr. Billings objected to Mr. Brower's testimony regarding comments made by a third party. Vice Mayor Kay sustained the objection.

\* \* \*

Mr. Baillie offered rebuttal comments.

Mr. Billings made rebuttal comments on behalf of the Petitioner.

Ms. Winters made rebuttal and summation comments on behalf of the Opposition.

Mr. Billings offered summation for the Petitioner.

\* \* \*

At 8:01 p.m., the meeting stood at recess.

At 8:14 p.m., the meeting reconvened with the same persons present.

\* \* \*

Vice Mayor Kay opened the floor for questions from the Council Members.

Mr. Ellinger read a statement regarding his abstention on the matter, noting he owned property approximately four blocks from the location being discussed.

Ms. Lamb asked about the business and residential history of the property while it had been owned by the applicant. Mr. Billings responded. Julie Butcher, Applicant, responded. Ms. Lamb asked about buffers along the adjacent residential properties. Mr. Billings responded. She asked Ms. Winters to expand on comments made in regard to the Southern Heights neighborhood's opposition to the development of townhomes or other multi-unit residential buildings on the property. Ms. Winters responded.

Ms. Bledsoe asked Mr. Baillie about the definition of corridor as applicable to the property. Mr. Baillie responded. Ms. Bledsoe asked for clarification. Mr. Baillie responded. Ms. Bledsoe asked why the Staff determined the designation of the property as a P-1 zone was not an appropriate step-down. Mr. Baillie responded.

Mr. Moloney inquired as to the maximum number of residential buildings that could be built on the property. Mr. Baillie responded.

Mr. J. Brown asked at what point in the zone change application process the access to the property is determined. Mr. Baillie responded.

Ms. Sheehan asked if it was appropriate to discuss the development's parking plans and requirements. Mr. Baillie responded. She asked how the number of parking spaces was determined for the property. Mr. Baillie responded. Ms. Sheehan asked if some mixed-use types would allow for housing. Mr. Baillie responded.

Ms. Lamb inquired if the entrance placement was established by the zone type. Mr. Ballie responded. Mr. Billings responded.

Ms. Plomin talked about the appropriateness of a P-1 zone, the increase in vacant office buildings, and spoke against the zone change.

Vice Mayor Kay inquired about typology and place-types, their history and application. Mr. Baillie responded. He asked about the flexibility of a place-type designation. Mr. Baillie responded. Vice Mayor Kay asked about adjacent land uses, spot zoning and if the proposed zone change would set a precedent. Mr. Baillie responded. He asked about the specific criteria required for a zone change application to be approved. Mr. Baillie responded. Vice Mayor Kay reiterated for clarification. Mr. Baillie responded.

Ms. Bledsoe asked if the Council had adopted the Goals and Objectives of Placebuilder in its entirety. Mr. Baillie responded.

\* \* \*

At 8:45 p.m., Vice Mayor Kay closed the hearing.

\* \* \*

Ms. Lamb thanked everyone for their participation. She articulated the challenges of compromise, and spoke about corridor development and precedents.

Ms. Bledsoe spoke about the balance of maintaining the integrity of neighborhoods while encouraging infill and development.

Vice Mayor Kay echoed remarks made by Ms. Lamb and Ms. Bledsoe. He emphasized the importance of preservation.

Vice Mayor Kay explained the motions and procedures necessary for the Council to approval the recommendation of disapproval by the Planning Commission, and to disapprove the Ordinance supporting the zone change.

Upon motion by Ms. Lamb, seconded by Ms. Plomin, the Council approved the Findings of Fact, as follows, by the following vote.

Aye: F. Brown, Kay, Lamb, LeGris, Plomin, -----6  
Sheehan

Nay: Baxter, Bledsoe, J. Brown, Kloiber, -----5  
Moloney,

Abstain: Ellinger -----1

1. The subject property is appropriately zoned and creates a well-established land-use boundary between residential business/office uses along the east side of Nicholasville Road, and to the south of the Edgemoor Drive.
2. The request is in conflict with the Design Policy #4 under Theme A, Growing Successful Neighborhoods. "Respect the context and design features of areas surrounding development projects and develop design standards and guidelines to ensure compatibility with existing urban form."
3. The proposed zoning is in conflict with Theme A, Growing Successful Neighborhoods as rezoning and demolition will remove, without replacing, a housing choice from the marketplace.
4. The proposed development does not "grow a successful community through well-designed neighborhoods by encouraging existing neighborhoods to flourish through the use of a neighborhood character preservation" (Theme A. Goal #3.a.) by demolishing a well-preserved and architecturally significant example of the Dutch Colonial Revival architectural style. It is a viable residential property that contributes to the history and architecture of the established Southern Heights Neighborhood.
5. The proposed development is destructive of several mature trees that contribute to the urban forest without significant replacement (A-DS4-3 and B-PR7-3).
6. The development does not create a sensitive transition between intense corridor development and an existing neighborhood.

\* \* \*

Upon motion by Mr. F. Brown, and seconded by Ms. Plomin, the ordinance was disapproved by the following vote:

Aye: Baxter, Bledsoe, J. Brown, Kloiber, -----5  
Moloney

Nay: F. Brown, Kay, Lamb, LeGris, Plomin, -----6  
Sheehan

Abstain: Ellinger -----1

Vice Mayor Kay thanked the participants for their involvement.

\* \* \*

Upon motion by Ms. Lamb, seconded by Ms. LeGris, and approved by unanimous vote, the meeting adjourned at 9:04 p.m.

---

Deputy Clerk of the Urban County Council

-