

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky February 26, 2013

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on February 26, 2013 at 6:00 P.M. Present were Council Member Chuck Ellinger in the chair presiding, in the absence of Mayor Gray and Vice-Mayor Linda Gorton, and the following members of the Council: Council Members Kay, Lawless, Mossotti, Myers, Scutchfield, Stinnett, Akers, Beard, and Farmer. Absent were Council Members Ford, Henson, Lane, and Clarke.

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Mr. Ellinger stated the start time of the meeting was delayed pending the arrival of enough Council Members to constitute quorum.

At 6:07 p.m., quorum was achieved, and Mr. Ellinger opened the meeting.

An Ordinance changing the zone from a Single Family Residential (R-1D) zone to a High Density Apartment (R-4) zone for 1.976 net (2.731 gross acres), for property located at 116 and 118 Simpson Ave.; 1100-1110 Prospect Ave.; and a portion of 101 and 103 Burley Ave. (Anderson Campus Rental Properties, LLC; Juanita G. Lear; Robert C. Hodges and Anthony McIntire; Council District 3) was given second reading.

Mr. Ellinger opened the public hearing, and swore in the witnesses.

Mr. Ellinger explained the procedures for the public hearing and reviewed the order of proof to be presented at the hearing.

Mr. Darby Turner, attorney for applicant Anderson Campus Rental Properties, was recognized by Mr. Ellinger to discuss an agreement between the applicants. He stated all matters had been settled, consent reinstated, and there was no objection from the parties involved in the application.

Mr. Bruce Simpson, attorney for applicants Robert C. Hodges and Anthony McIntire, confirmed that the issues had been resolved.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice of Special Council Meeting; (2) Affidavit of notices mailed; (3) MARV 2012-19: Recommendation of the Urban County Planning Commission and Minutes; (4) 1983 Zoning Ordinance with amendments; (5) Land Subdivision Regulations; (6) 2007 Comprehensive Plan; (7) Letter of objection from Dr. Robert L. Kelly, Architect, University Avenue; (8) Zoning Map of Subject Area; (9) South

Broadway Place & Lynn Grove Addition Amended Preliminary Development Plan; and
(10) Aerial Photographs of Subject Area.

Mr. Darby Turner, representing applicant Anderson Campus Rental Properties, gave his presentation, and filed the following exhibit: (1) Affidavit of signs posted. He stated his clients were in complete agreement with the Planning Staff.

The following citizens spoke in opposition to the requested zone change: (1) Mr. Ken Cooke, Cardinal Lane, Secretary of Friends of Wolf Run; (2) Ms. Priscilla Pemberton, Burley Avenue; (3) Mr. John Miniard, Burley Avenue; (4) Ms. Ginny Daley, Burley Avenue, who filed the following exhibit: (1) List of reasons against the requested zone change.

Mr. Ellinger swore in an additional witness.

Ms. Amy Clark, Kastle Road, spoke in opposition to the requested zone change, and filed the following exhibits: (1) Slides with diagrams of subject area, and (2) Letter from Ms. Amy Clark.

Mr. Sallee made additional comments on behalf of the staff. He also stated that two street closures were proposed along with the development plan.

Mr. Turner gave his rebuttal on behalf of the petitioners.

Mr. Ellinger asked Mr. Sallee and Mr. Turner if they would be giving closing statements. Mr. Turner said he did not have a summation.

Mr. Ellinger opened the floor for the Council to ask questions.

Mr. Stinnett asked questions of Mr. Ed Gardner, Dept. of Law, regarding the Capacity Assurance Program standards. Mr. Stinnett also asked questions of Mr. Turner. Mr. Turner referred the questions to Mr. Tony Barrett, of Barrett Partners. Mr. Stinnett asked questions of Mr. Sallee about whether there were plans to include sidewalks in the subject neighborhood. Mr. Sallee responded.

The Council asked additional questions of Mr. Sallee, Mr. Gardner, and Mr. Turner.

Due to a loss of quorum, Mr. Ellinger declared a recess at 7:08 p.m.

Quorum being restored, the meeting resumed at 7:11 p.m. with the same members present.

Ms. Lawless continued to ask questions of Mr. Turner. Mr. Barrett responded regarding the internal traffic in the development.

Mr. Ellinger closed the public hearing.

Upon request, Mr. Ellinger declared a recess at 7:15 p.m.

The meeting resumed at 7:20 p.m. with the same members present.

Ms. Lawless made a motion to adopt the following Findings of Fact for Disapproval:

1. The requested High Density Apartment (R-4) zone is not in agreement with the 2007 Comprehensive Plan's recommendation for Medium Density Residential Land Use, defined as 5-10 dwelling units per gross acre.
2. No evidence was presented before the Council that the current R-1D zoning on the property is inappropriate.
3. Insufficient evidence was presented before the Council that there have been major changes of an economic, physical or social nature within the area where the subject property is located which were not anticipated by the Comprehensive Plan.
4. The proposed High Density Apartment (R-4) zoning will adversely affect the existing single family residential land uses in close proximity to R-1D zones due to the increased density and inability to sufficiently buffer the high density use from the single family residential uses.

The motion **died** for lack of a second.

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

1. The requested High Density Apartment (R-4) zoning for the subject property is not in agreement with the 2007 Comprehensive Plan's recommendation for Medium Density Residential Land Use, defined as 5-10 dwelling units per net acre. However, a recent zone change request has been granted in the immediate area that has created a major change of a physical and economic nature and that has changed the basic character of the area that were not anticipated by the 2007 Comprehensive Plan. The rezoning of adjacent properties to the R-1T zone has increased the permitted density of land use in this area over that recommended by the Plan.
2. The proposed R-4 zone is appropriate for several reasons:
 - a. The proposed development, including the expansion of University Village apartment, will create a step-down in density from a very high density residential land use, to the planned redevelopment with frontage along Burley Avenue.
 - b. The highest density development in the neighborhood will be situated adjacent to the railroad, thus buffering the single-family residences from the noise and dust associated with the Norfolk-Southern rail corridor.
 - c. The University Village apartments, located to the north, are also zoned R-4 and the proposed zoning will allow for the two developments to be integrated.
3. This recommendation is made subject to approval and certification of ZDP 2012-110: South Broadway Place & Lynn Grove Addition prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.

The motion to approve the Findings of Fact for Approval from the Planning Commission was approved by the following vote:

Aye: Kay, Mossotti, Myers, Scutchfield, Stinnett,
Akers, Beard, Ellinger, Farmer-----9

Nay: Lawless-----1

* * *
Upon motion of Mr. Kay, seconded by Mr. Farmer, the ordinance was approved

by the following vote:

Aye: Kay, Mossotti, Myers, Scutchfield, Stinnett,
Akers, Beard, Ellinger, Farmer-----9

Nay: Lawless-----1

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Upon motion of Mr. Stinnett, seconded by Mr. Myers, and approved by unanimous vote, the meeting adjourned at 7:22 p.m.

Deputy Clerk of the Urban County Council