



## Planning & Public Safety Committee

October 17, 2017

### Summary and Motions

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Chair Scutchfield called the meeting to order at 1:02 p.m. Council Members Kay, Bledsoe, Gibbs, Henson, Mossotti, Plomin, J. Brown, Lamb and Smith were in attendance. Council Members Stinnett and Evans were also in attendance as non-voting members.

#### I. Approval of September 19, 2017 Committee Summary

A motion was made by CM Mossotti to approve the September 19, 2017 Planning & Public Safety Committee Summary as amended, seconded by CM Plomin. The motion passed without dissent.

VM Kay commented that the question by CM Bledsoe on page 3 be clarified as she was asking about the Conflict of Interest provision that states the terms for serving on the Affordable Housing Board. As it is written in the summary, it is unclear what her question was.

A motion was made by VM Kay to amend the September 19, 2017 Planning & Public Safety Committee Summary to clarify CM Bledsoe's question, seconded by CM Bledsoe. The motion passed without dissent.

CM Lamb commented that she would like to clarify her question on page 1 of the summary where she asked about the application process. She said she asked if the Rural Land Management Board falls under the Ethics Act and the answer was "yes", but she said that is not the case. She said the Rural Land Management Board is not covered under the Ethics Act as far as one of the members or boards that has to file. She said she prefers that the information be recorded correctly. She said even though Paulsen said "yes", we should record it as "no" or make a parenthetical citation stating that the Rural Land Management Board is not required to file an annual statement of financial interest under the Ethics Act

A motion was made by CM Lamb to amend the September 19, 2017 Planning & Public Safety Committee Summary, reflecting Paulsen's response, but placing in parentheses that this response was later found to be incorrect as the Rural Land Management Board is not required to file an annual statement of financial interest under the Ethics Act, seconded by CM Plomin. The motion passed without dissent.

VM Kay commented that the appropriate thing to do is to leave the record to reflect what was said, but put in parenthesis that this response was later found to be incorrect.

#### II. Zoning Map Amendment Process Change – KRS 100.2111

CM Stinnett introduced the item and provided the committee with a brief background as to how this item came in to committee. CM Stinnett said that given the number of zone changes we have every year that gets zero action from us, this procedure would keep everything the

same up until Planning Commission's approval or disapproval. He said after that, the only time Council would make a decision is when it is on the docket and we can decide then if we want a hearing to discuss it further. He said this would allow the Planning Commission's decision to stand unless we want to have a hearing or the public asks us to have a hearing. He said this is meant to streamline the process, but not to circumvent the process. Jim Duncan, Director of Planning, presented the alternative regulation for the Zoning Map Amendment. He reviewed the process under the new regulation and the benefits this will bring. He also discussed cautions we need to be aware of under this new process.

CM Stinnett asked if we will receive the same packets after the Planning Commission acts if this process changes. Duncan said they will likely not get the full final report that includes minutes and additional information. He said it is more likely they will receive a summary detailing what the Planning Commission did and any action they took. CM Stinnett asked how long it would be before they receive that. Duncan said it would not be until the development plans are certified. He said anytime up to 14 days in the 21 day period they can ask Council to make a decision. CM Stinnett asked if Council does not take up the decision would the applicant or citizen then be able to take this to circuit court within 30 days. Duncan said yes and that 30 day process would start after the 21<sup>st</sup> day. CM Stinnett asked if information could be provided to Council or on a Work Session docket that showed which of these have passed so the public is aware. Duncan said they can prepare something like that as a summary. He said they can possibly do this sooner than the 14 days, but if the development plan was not certified then the zone change would not be completed. CM Stinnett asked what happens if the development plan is not certified in the 21 day period. Duncan said they get concerned because it does not happen often, but has almost happened once before. He said they do not have to wait, but they do have to re-file. CM Stinnett asked if that was the process now and Duncan said yes.

CM Lamb commented that every zone change that comes through Planning Commission and comes to Council becomes an ordinance. She said that ordinance is a public record. She asked what format these zone changes will become that are not voted on by this Council and signed by the Mayor. Duncan said the approval would be by operation of law if the Planning Commission is the last body to make the decision. He said we have our own minutes that would be adopted by the Planning Commission as the official record of the meeting and the official reference to that zone change. CM Lamb said that is what gives her angst. She said at that point, you are creating 2 different areas that the public would have to go to search for and find history of zone changes on any piece of property in Fayette County. She said there has to be a better way to do this. She said in the past when a zone change went into effect through operation of law, there was still an ordinance even though it was not signed. She said that process needs to be further vetted. She said she cannot support this if there is not a continuation of the permanent history as it moves forward. She said people aren't going to know to go to the Council Clerk's office and the Planning Commission to get the history. She said this is doable, but there are things that need to be worked out. Duncan said this presentation was just the basic operation from statute. CM Lamb mentioned looking at the Council Rules and Procedures and discussing the zone change process in that subcommittee.

CM Lamb said she would like to make sure Council Clerk is aware to keep the permanent record of the zone change.

CM Mossotti said she has concerns about the process. She commented on the cautions and she said this puts a huge burden on the constituency that does not know a lot about the process. She said we did not discuss requiring early outreach to property owners at neighborhood associations. She said she hears from constituents that they are unsure when the process begins, how the process works, or how to access the information to get involved in the process. She said they assume the process is going on and then something else comes out of any committee or meeting and they are not aware of it or unsure if they should participate or not. She said this requires more thought on both sides on how we can make sure this process is not an undue burden on constituents. She said she has concerns moving forward. Duncan said they can update the letter they send to citizens to notify them of zone changes that would include clear language about the process and where they can go or who they can call to get more information. He said if this were to be adopted they would update their notification letter to explain the Planning Commission's role and the citizen's role if they want Council action on this. CM Mossotti asked how difficult it would be to incorporate *Building I* into our system. Duncan said it requires us to purchase an addition to our *Accela* program before we could launch the *Building I*. CM Mossotti asked what the cost of that would be and Duncan said \$20,000. CM Mossotti expressed concern at how difficult *Accela* has been for constituents to use and Duncan said *Building I* would be easy to navigate.

CM Henson expressed appreciation for the work, but she said she is reluctant to support the changes. She said the neighborhoods are at a disadvantage in a zone change because it is not something they do on a daily basis. She said they do not have attorneys and many neighborhoods cannot afford attorneys. She said she is concerned that the process would not speed up and it would put the neighborhoods at a bigger disadvantage unless we required outreach from the developer to the citizens surrounding the property.

CM Bledsoe asked if the 30 days to take this to circuit court would start after the 21 day period has passed. Duncan said the process for citizens or Council to request action would have to run first before the 30 days would start for taking it to circuit court. Tracy Jones, Law Department, said this will become effective by operation of law. As it is right now, if Council acts on it, there is a 30 day period and on the date it becomes effective if Council does not act on it, it refers back to the provision in the statute that says the final decision of the Planning Commission can be appealed to the Circuit Court. CM Bledsoe said timing is important and if neighborhoods or others have the opportunity to fight this in court, they have long enough to do so. She said we want them to move fast and if they are not contested issues, we should find a way to streamline this process. She said *Building I* and *Accela* are communication tools and can be used to see what is going on with development in Fayette County. She said having a web site that is easy to navigate that tells what is going on will be helpful to constituents. She wants to see this move forward.

CM Plomin asked what the definition is for an aggrieved person and if they have to be directly

affected or if anyone could file to be considered aggrieved. Duncan said the statute is not specific, but we should be as liberal with that definition as possible. He said if someone wants this heard by the Council, then that is what it is whether they are directly affected or not. Duncan said we can do this through the first and second reading process; we do not have to have a second public hearing. CM Plomin asked if someone files a request does Council automatically decide or can Council vote not to take it any further. Duncan said if someone asks Council to decide, they must decide, but you can do so through the first and second reading; you do not have to have a public hearing. CM Plomin commented on the marketing and communication of this process and she said we should simplify communication.

CM Gibbs said he likes the idea of streamlining, but he has hesitation about how quickly this can happen. He said we have 21 days for an aggrieved person to say something, but we might not get notification until 14 days after the development plan has been approved. Duncan said zoning cannot proceed until development plan has been certified and the developer has 14 days to do so and they generally take most of the 14 days. He said that does not preclude Planning from preparing a summary before the 14 days is up so you can have an idea what zone changes have been acted upon in the past week and get an idea of what zone changes are coming. CM Gibbs said he would feel better about this if that was a certainty or to have 21 days after the plan has been certified. He suggested that a follow-up notification be sent to let public know what zone changes have passed. He said he feels like the ordinance needs to be tightened up. Duncan said this is something they can work on.

VM Kay said he thinks on a practical level, this does not disadvantage neighborhoods. He said typically when zone changes are coming forward if there is going to be opposition we will know it at the time it is going through the Planning Commission or on occasion immediately afterwards. He said if he felt this disadvantaged neighborhoods he would not be able to support this. He said he thinks it provides a faster process for those zone changes that are not contested. He said he is not in favor of moving this forward until we can enhance our electronic capability so people could have access to see what is going on in Planning. He said people will still have the same opportunity to object if they would like, but this streamlines the process.

CM J. Brown asked about the summary packet as opposed to the full report and if this is because of the timeline of the development plan. Duncan said this is a way to get information on zoning changes in your district or zone change you are interested in without Planning having to develop a full final report after the 14 day certification process. He said the summary would be the action the Planning Commission took; it does not include any discussion of the meeting. CM J. Brown said when we get the full report, it includes a better review of what has been proposed and decisions that were made which provides better information to us as council members. He commented on uncontested zone changes and asked if we are talking about public contesting the zone change or are we talking about a unanimous vote. Duncan said the Planning Commission sends recommendations to Council that they would be willing to live with themselves. He said when they are considering these zone changes; they are doing so as if they have the final decision. He said from time to time on uncontested zone changes, you will still get a member of the Planning Commission voting against it because of the concern of the

impact it may have on neighborhoods or the impact on a business. Duncan said he does not see a lack of a unanimous vote as an indication of division in the Planning Commission; it just means that a person is looking at a particular interest and trying to speak to that. CM J. Brown said he has concerns when it is not unanimous, but he respects and has faith in the Planning Commission members and when they do not support zone changes, he becomes concerned. He also commented on the other avenue that the public would have to contest this which is to take it to circuit court. He said this will include a potential cost which could be barrier in education as far as where to go and how to maneuver that body as well as here at city hall. Duncan said there is a cost and it is the same cost that has always been associated. CM J. Brown said he is hesitant to support this moving forward because he does not want to give the impression that we are sacrificing transparency for convenience.

CM Lamb said she wants to make sure neighborhoods are involved. She said she looked at subsection 6-3 pertaining to the Pre-application Conference for Text Amendments and Zone Map Amendments, and she asked if there is a way to add into our planning process that we reach out to neighborhoods or HOA as a first point of contact to give them a heads up. She said obviously this will need to be further vetted, but she wanted to present this idea for consideration. She said in 6-4(b), in the notice of public hearing, the petitioner should post a sign on the property 14 days prior to hearing before the Planning Commission. She asked if there could be a longer period of time for that posting and if we could add verbiage that will educate and empower the neighborhoods to get information and know what is going on in their neighborhoods. Duncan said the pre-meeting is an official meeting with Planning required by statute, but we do not have anything in our hands, they do not leave anything with us, and we give suggestions. If we are going to provide notification it has to be after we have received the official filing or something prior to their pre-application. Traci Wade, Division of Planning, said that the signs are required by statute and we use 14 days which gives the applicant the opportunity to postpone if they want before it gets on an agenda. She said they do not post the sign until they elect to come back to the Planning Commission. She said the zone change signs are 2x3 and they explain what the zone is being changed from and to; and it also has Division of Planning contact information. She said they could add additional information if the signs were bigger. CM Lamb said we need to look into the *Building I* software as it appears as though it will be beneficial and it could be empowering for the neighborhoods.

CM Stinnett commented that we are not asking for this to be approved today; we are asking for initiation of a zone text amendment that will go to the Planning Commission for review, for study and for changes. He said we haven't seen the final ordinance yet. He said the purpose for today is to get the discussion out there and initiate the process. He said there are two more steps before they get to the point where it needs to be approved. He said nothing changes in our process until the Planning Commission makes a decision. He said the neighborhoods are notified now and they will continue to be notified; this amendment does not change that. He said we are just here for the committee to initiate this and let the Planning Commission do their work. He commented on the official record when these zone changes go on the docket and he asked if we get the full summary and if it is stored on the Council side or if it is the full packet in the Planning Commission. He asked where the official record is stored that gives all of the

detailed information and where a citizen would go to get it. Duncan said they provide the full final report that includes the minutes of the meeting and the summary of the action taken. CM Stinnett asked what is stored with the docket on the online system. Wade said the Planning Department keeps a case file that includes the final report, a legal description, and the ordinance. CM Stinnett asked if these documents are on Planning's web site. Wade said historically they are kept as a paper copy. She said with *Accela*, when they upload the ordinance, it includes the entire packet. Wade said they keep all of the ordinances and that is what notifies them to work with GIS to update maps. CM Stinnett commented on the notification process and asked within how many feet it is that notice is sent to residents. Wade said it is sent to every property owner (to address of record on PVA) within 500 feet. Wade said if there is agricultural property adjacent, they will notify an additional 1,900 feet beyond that. CM Stinnett commented for clarification that the amendment we are discussing would not change the notification process and Wade said that is correct.

CM Bledsoe commented that Duncan and the Planning Commission have heard the concerns from everyone. She said it is important to have those concerns addressed by the Planning Commission in final form throughout the process as it moves forward. She said if this moves forward today, it moves the intent and allows the time we have requested for web site development, more conversation and more development. She said she doesn't want to NOT move forward just because we do not have everything ready. She said in government that is really hard to do. She said it is important to move this forward.

A motion by CM Bledsoe to move the Zoning Map Amendment Process Change - KRS 100.2111 (as amended) forward so we can continue to have the conversation down the road, seconded by VM Kay, the motion passed without dissent.

Wanda Delaplane spoke as a homeowner. She disbursed a handout for committee members. She said her home is a financial investment. She said zoning changes impact her financial investment and her quality of life and she is opposed to anything that will make it more difficult to be involved in the process. She said the handout included problems that can occur in the zone change process. She said she does not have time to monitor every committee meeting in government.

Judith Olsen spoke on behalf of Higbee Mill Neighborhood Association. She said she has read the amendment. She commented on the section pertaining to vigilance by citizens. She said this makes things more difficult for the average citizen.

Walt Gaffield president of Fayette County Neighborhood Association spoke on the item. The committee agreed to give him the 1.25 minutes remaining from previous speaker. He said you should not initiate something to go back to the Planning Commission if you do not know what it is. He said he has concerns with contested zone changes coming out of Planning Commission that Council decides not to hear. He said *Accela* is difficult to use and a new system would be helpful.

Amy Clark spoke on the item. She said this discussion shows that council members care about their constituents and care about serving them. She said this is a needless change and there are other things that need to be fixed and this isn't one of them.

Todd Johnson Building Industry Association spoke in favor of the item.

CM Mossotti said there needs to be some revisions so you understand our concerns and take them into consideration. She requested Planning Department to come with recommendations so there is no undue burden on the citizens. Duncan suggested rather than initiating a text amendment, that it be referred to Planning Commission for consideration.

A motion by CM Mossotti to amend the original motion Zoning Map Amendment Process Change - KRS 100.2111 from "initiate" to "refer", seconded by CM Plomin, the motion passed without dissent.

A vote was taken on motion to amend.

A vote was taken on original motion as amended.

### **III. Blackburn Avenue Residential Parking Permit Proposal**

CM Smith presented the item explaining the importance of this residential parking permit. A resident of the neighborhood spoke in support of this proposal.

VM Kay expressed his support of the Blackburn Avenue Residential Parking Permit.

A motion by CM Smith to move the Blackburn Avenue Residential Parking Permit Proposal to the Full Council, seconded by CM Lamb, the motion passed without dissent.

### **IV. Zoning Text Amendment Related to Conditional Uses**

CM Henson gave a brief overview of the item and how this came to committee. James Marx, Planning Manager, presented the item. He explained what the conditional uses are and provided examples. He discussed the process for applying to the BOA and he reviewed the proposed changes and why these changes are needed. He also explained additional minor revisions.

VM Kay asked for clarification that these are conditional uses that are included in a variety of zones at this time. Marx said that is correct. VM Kay asked if it is indicated in the details of a certain zone that it will become an approved use and in certain other zones it will remain conditional. Marx said that is correct; the zoning ordinance is constructed in a way that all of this is by zone. He said there are pages for each zone and it all specified in those particular zones.

CM Bledsoe expressed appreciation for the presentation and explanation. She said she supports this effort.

A motion by CM Bledsoe to move the Zoning Text Amendment Related to Conditional Use to the full council, seconded by CM Mossotti, the motion passed without dissent.

#### **V. West 2<sup>nd</sup> Street Residential Parking Permit Proposal**

A motion by CM J. Brown to move the West 2nd Street Residential Parking Permit Proposal to the Full Council, seconded by CM Lamb, the motion passed without dissent.

#### **VI. On The Table Results**

James Duncan, Director of Planning, presented the item. He reviewed the report for the public input which is a cornerstone of the goals and objectives for the 2018 Comprehensive Plan. He said over 11,000 people participated and the received almost 10,000 individual comments. Some of the points of concern were growth, transportation, greenspace, public outreach, and employment.

CM Mossotti expressed appreciation to Duncan and his staff for gathering the information.

CM Plomin expressed appreciation to Duncan and his staff for gathering the information. She said this is great information. She said we have received the community's input and now we need to listen.

No further comment or action was taken on this item.

#### **VII. Items Referred to Committee**

A motion was made by CM Henson to remove the Zoning Text Amendment Related to Conditional Uses item from committee, seconded by CM Bledsoe. The motion passed without dissent.

A motion was made by CM J. Brown to remove the West 2<sup>nd</sup> Street Residential Parking Permit Proposal item from committee, seconded by VM Kay. The motion passed without dissent.

A motion was made by CM Smith to remove the Blackburn Avenue Residential Parking Permit Proposal item from committee, seconded by CM Bledsoe. The motion passed without dissent.

A motion was made by CM Scutchfield to remove the On The Table Results item from committee, seconded by CM Bledsoe. The motion passed without dissent.

A motion was made by CM Bledsoe to adjourn, seconded by CM Plomin. The motion passed without dissent.



The meeting was adjourned at 2:44 p.m.

KT 10.23.17