



Planning and Public Works Committee
June 18th, 2013
Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:00pm. Committee members Jennifer Mossotti, Vice Mayor Linda Gorton, Charles Ellinger, Steve Kay, Chris Ford, Diane Lawless, Julian Beard, Harry Clarke and Peggy Henson were in attendance. Kevin Stinnett and Shevawn Akers attended as non-voting members.

1. Approval of Summary

Motion by Gorton to approve the summary. Seconded by Kay. Motion passed without dissent.

2. Adult Day Care Centers

Henson presented her proposal to separate adult day care centers from day drop-in centers. Henson said that she would like to add a new definition allowing for day drop-in centers. These would be facilities that provide services to at least four (4) adults, who are free to come and go at will, part-time, day or night, but less than twenty-four (24) hours. Henson proposed that these centers be conditional uses if within 500 feet of a school, daycare center, adult day center or residential zone. She also proposed an off-street parking requirement of one (1) space for every ten (10) persons being provided services, plus one (1) space per staff member on the maximum shift.

Henson proposed changing the definition of an adult day care center to any adult facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults, who must be in a protective environment, not related to the operator of the adult care facility by blood, marriage, or adoption.

Bill Sallee came to the podium to respond to Henson. Sallee distributed a handout from the Division of Planning on the issue. Sallee said that the use that Henson has described has been described by the American Planning Association (APA) as a social service facility. APA also recommends that the social service facilities be regulated differently than adult day care facilities. The social service facilities are generally conditional uses in commercial zones but are not allowed at all in residential zones. Community centers are often conditional uses in residential zones and permitted in commercial zones and that is how they are regulated in Fayette County as well. Adult day care centers are usually permitted uses in both residential and commercial zones.

Sallee said that the Division of Planning does not have an issue with the proposed parking changes. Sallee said it was unclear to him that if the use is more than 500 feet from a school, daycare center, adult day care center or residential zone, whether they will be permitted or not. Henson responded that in the four (4) zones, P-1, B-1, B2, and B-2A if it is more than 500 feet, it would be permitted.

Beard asked Henson why they would change the parking requirement from one space per four (4) people to one space per ten (10) people. Henson said that participants in these types of programs usually have significant disabilities and are unable to drive.

Ford asked Sallee if he thinks the social service facility definition is more appropriate. Sallee said that he thinks the drop-in center definition or the day shelter definition seems more appropriate for the original use that prompted this text amendment a year ago. Ford agreed that either of those definitions would be more appropriate in the spirit of compromise.

Ford asked how they would apply the conditional use if it is only 500 feet. Sallee said that it would be a determination that would be made when the permit is applied for. Sallee said that it could be determined at that time if the particular situation had to go before the Board of Adjustment (BOA).

Gorton said that she wants to see another draft with the new language.

Henson asked Sallee how they would go about changing the definition. Chris King said that Traci Jones will have to provide a legal opinion.

Henson said that they will have to know where all the schools, daycare centers, and adult day care centers are. She went on to say that it might be easier to make them conditional uses across the city.

Stinnett asked King if they could produce a map illustrating the 500 foot buffer to see where these facilities could be located. King said that doing a map to show a 500 foot buffer from residential zones would be doable. King was reluctant to commit to producing a map that would illustrate all the buffers.

Motion by Ford to approve the revision to the parking requirements from one space for every four (4) to one space for every ten (10) persons being provided services, plus one (1) space per caregiver on the maximum shift. Seconded by Mossotti. Motion passed without dissent.

Motion by Ford to define adult day care centers as “Any adult care facility which provides part-time care, day or night, but less than twenty-four (24) hours, to at least four (4) adults, who must be in a protective environment, not related to the operator of the adult care facility by blood, marriage, or adoption.” Seconded by Lawless. Motion passed without dissent.

Motion by Ford to accept the definition of Homeless Day Center as “A facility whose primary purpose is to provide service to those experiencing homelessness, such as day center, free meals or snacks, free clothing, personal hygiene facilities, information and referral, counseling, mail and/or telephone services with overnight shelter prohibited.” Seconded by Henson.

Ford withdrew his motion. Henson withdrew her second.

Motion by Kay to define a day shelter as a facility providing basic services generally during daylight hours, which may include food; personal hygiene support; information and referrals; employment, mail and telephone services; but excluding overnight sleeping accommodations, to people with limited financial resources, including people who are homeless. Seconded by Henson. Motion passed without dissent.

Motion by Ford to make day shelters conditional uses throughout the zones in the original ZOTA. Seconded by Kay. Motion passed without dissent.

3. B1 ZOTA

Farmer spoke briefly about the history of the B1 ZOTA.

Lawless expressed concern about rehabilitation homes.

Motion by Lawless to investigate making rehabilitation homes conditional uses in P-1 and B-1 zones regardless of how far they are from residential. Seconded by Ford.

Motion to amend by Lawless to make rehabilitation homes conditional uses in P-1, P-2, B-1 and B-2A zones. Amendment seconded by Ford. Amendment passed without dissent.

Beard expressed concern that setting a 500 foot boundary is ridiculous. He said that if someone is mentally ill, a line drawn is not going to stop them.

King said that he would have to ask the Law Department about the potential changes to see if it will need to go back to the Planning Commission.

In response to a question from Kay, King said that if they make a change in a zone and there was no advertisement that they were making a change in that zone, it would be a red flag and would need to be re-heard by the Planning Commission. King said if they were going to introduce or eliminate a use from a zone, this would be an orange flag to the Law Department. King urged the Council to see where they are comfortable and King said he will proceed as necessary.

Clarke said that he does not see why rehabilitation homes cannot be conditional uses and went on to say that he supported the motion by Lawless.

Amended motion passed without dissent.

Mossotti asked for clarification on whether or not a tattoo parlor would be considered a prohibited use in a P-1 zone. Sallee said yes.

King said that right now, tattoo parlors are allowed by right in P-1 zones.

Motion by Mossotti to remove tattoo parlors from the B1 ZOTA prohibited uses in the P-1 zone and make them principle uses in the P-1 zone. Seconded by Beard. Motion failed 4-6. Gorton, Clarke, Farmer, Kay, Ellinger, and Henson voted nay.

Clarke directed the Committee members to page eighteen (18) number forty (40) (refers to 8-16 (o)(4) which is not in the document). Clarke said it should read 8-16 (o)(3). Farmer noted the change.

Motion by Lawless to remove tattoo parlors from the B1 ZOTA prohibited uses in the B-2B zone and make them conditional uses in the B-2B zone. Seconded by Kay. Motion passed without dissent.

Gorton mentioned the Recreational ZOTA Work Group. She asked how the recommendations from that Work Group will come forward to fit into this document. Sallee said that they will be worked into this language.

King said that he will consult with the Law Department to see if the revised language has to be sent back to the Planning Commission. King said that they can report it out to the full Council and King will advise if the full Council will need to send it to the Planning Commission.

Motion by Gorton to forward the revised B1 ZOTA to the full Council. Seconded by Kay. Motion passed without dissent.

4. Subdivision Bonds and Letters of Credit

Brad Frazier, the Director of the Division of Engineering, came to the podium.

Frazier said that he was going to quickly go through the process about accepting sureties for new development. Frazier said that the Division of Planning has subdivision regulations for new development and they require development plans and/or preliminary subdivision plans. They also require construction drawings.

Frazier told the Committee members that Article 4 (7) lists the subdivision regulations. He also referenced Appendix E of the Division of Engineering's Procedures Manual for Infrastructure Development.

Frazier discussed surety cost determination:

- Warranty Period
 - Roadways
 - Sanitary sewer facilities
 - Stormwater facilities

- Surety Amount
 - 100% of the punch list items
 - 10% of the cost estimate of the completed project infrastructure
 - 20% contingencies of previous listed items

Frazier said that there are three types of sureties: letters of credit (LOC's), checks, and bonds. The LOC's are essentially promises to pay for items listed in the provided documentation. They are issued by banks with offices in Lexington-Fayette County. Frazier said that checks are a cash surety. He went on to say that in 2011, the Division of Engineering began accepting bonds along with LOC's and checks.

Performance bond forms should specify if a plat is needed or if a plat is not required. The bonded surety calculation is the same as LOC. Frazier said that the Principal (developer) and surety insurance company are to fill out, have witnessed, and provide the Embossed Insurance Company Seal to the performance bond form. Frazier also said that the General Power of Attorney form is to be provided with the completed performance bond form.

Stinnett asked Frazier if his presentation focused on the process for new development only. Frazier said yes.

Stinnett reminded Committee members that this issue came up three years ago when there were several defaults. Stinnett said that the LFUCG is now a party to the bond. Stinnett asked Frazier if this is the same process we would require from one of our sub-contractors. Frazier said the process is different. Frazier said that the infrastructure is being done privately in this case. The bonds would be structured differently in the capital section.

Stinnett asked if the LFUCG is requiring one bond for the entire project or if they can be piecemealed? Frazier said that the platting process determines this. He said that there is quite a bit of flexibility. There is a surety tied to each plat.

Frazier said that the developers can reduce the letters or credit or the bonds down as the projects progress.

Stinnett asked Frazier to find out how other counties in Kentucky are operating. He asked Frazier to look at the language other counties are using for their bonds. Frazier agreed to research this. Stinnett also said

that any efforts by the LFUCG to make it less stringent or equal would be welcomed. He expressed concern that a more stringent process drives up land costs.

5. Items in Committee

Farmer said that there was not time to review the items in Committee but told Council Members that the items referred list had been reorganized to list current and recurring items separately.

Motion by Beard to adjourn. Seconded by Gorton. Motion passed without dissent.

Submitted by Jenifer Benningfield, Council Administrative Specialist