



Planning and Public Works Committee
September 17th, 2013
Summary and Motions

Chair Bill Farmer Jr. called the meeting to order 1:00pm. Council Members Jennifer Mossotti, Charles Ellinger, Steve Kay, Chris Ford, Julian Beard, Harry Clarke and Peggy Henson were in attendance. Vice Mayor Linda Gorton and Diane Lawless were absent.

1. Approval of Summary

Motion by Beard to approve the summary. Seconded by Ellinger. Motion passed without dissent.

2. Adult Day Care

Henson told the committee members that she had an amendment to the definition of Adult Day Care.

Motion by Henson to adopt the definition of Adult Day Care Centers as follows: 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 are not related to the operator, by blood, marriage or adoption. The operator must be certified or licensed by a state public agency and may include personal care assistance, administering and/or assistance with medication, and social recreational activities. Seconded by Clarke. Motion passed without dissent.

Henson asked Farmer to move the issue to the full Council. He agreed to do that when he reports out the summary.

3. Elm Tree Lane Sidewalk Closure

Ford introduced the item. He said that he referred the item to committee for further discussion.

Kevin Wenthe said that this request came to his office and since it was the first request he had ever received to close a sidewalk, he treated it like a road closure. He asked for comments from the impacted division directors and no one dissented to the actual closure. Wenthe examined the KRS and it requires the consent of all abutting property owners. The Shiloh Baptist Church did not consent to the closure, which, in turn, limited the area that could be closed among the abutting property owners. Wenthe said if the Council voted to not close the section of the sidewalk, he suggests that they remove and replace the existing sidewalk due to its condition.

Ford asked Wenthe to illustrate where the sidewalk closure would be. Wenthe put an illustration up on the overhead. The sidewalk connects Elm Tree Lane and Rand Avenue. It runs north and south between 5th and 6th street.

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Eight constituents spoke on the issue. Five were in favor of keeping the sidewalk open because of its connectivity function and three spoke to close the sidewalk due to crime.

Henson asked Wentte if the Administration wanted to close the sidewalk. Wentte said they are impartial. Henson then asked about the cost. Wentte said that under current unit price contract numbers it would be approximately \$5,000 to remove and replace the current sidewalk.

Henson said that it concerns her that we would close a sidewalk when the LFUCG is constructing trails all around Fayette County.

Wentte said that since there was a petition filed to close it, the mechanism was triggered to begin the process to convert that right-of-way. It was then brought to the Council for approval, where it was referred into committee.

Henson said that the sidewalk gives the area character but is in terrible shape.

Beard asked how long the stretch of sidewalk is. Farmer said it is 200 feet and is the standard four foot wide sidewalk.

Beard said that the property owners would be responsible for upkeep on the area if the area was quit claimed to them.

Ford said that this issue was studied three or four years ago but was never pushed through to a committee or the docket.

Ford said that since the sidewalk is in his district, his constituents have challenged him to determine if the closure would be for the public good. Ford said he wants to find a balance between safety and connectivity.

Ford said that he visited the area and saw three groups passing through. Two groups seemed to be just passing through and the third did not seem to be just passing through.

Ford said that with this proposal, only half of the sidewalk would be closed. Ford asked committee members if the option was still out to reduce crime but keep the pedestrian path open. Finally, Ford said that it is tough to get a stroller and a bicycle through the area. The LFUCG is at fault because it is their right-of-way.

Clarke said that he appreciated Ford's comments because he felt the same. He said that he was not convinced that closing the sidewalk would reduce crime. Clarke said that they may need more police enforcement and a more accessible, cleaner sidewalk. Clarke asked Wentte if they vote to close the sidewalk, what guarantee would the Council have that the neighbors would even close it. Wentte said that once they transfer the right-of-way, the LFUCG would not have control over how or if access would be restricted.

Mossotti asked Wentte if the LFUCG owned the right-of-way. He said yes. Mossotti asked why it hasn't been maintained. Wentte said that until a situation in the right-of-way is brought to the attention of someone at the LFUCG, some areas are not maintained. Wentte said that easements are not mapped in GIS. They are constantly changing. He said that it is a reactive measure, not a proactive measure.

Mossotti asked how much it would cost to put in a streetlight to deter criminal activity. Wentte said that it would require further evaluation. Wentte said that they may need to request from a property owner the permission to add a streetlight on their property.

Kay asked Derek Paulsen, the Commissioner of Planning, if he was in favor of closing the sidewalk. Paulsen said that in order to prepare for the meeting, he visited the site that morning.

Paulsen said that because of his experience with the Secured by Design program, he would normally be involved in these types of decisions on the front end. He told committee members that he would not have supported building the sidewalk as a cut through. He said that he would discourage that type of design because they do create opportunities for crime. He said that when these types of sidewalks are built, they should be much wider. Sidewalks work well to deter crime because they are usually out in front of a property and are at the same level as cars. You can see and be seen.

Paulsen said that in this situation, you cannot see or be seen. Paulsen does not have crime statistics for the area.

Paulsen said that the high fence and the overgrowth make it a dark area. He said that there is one light on one side of the sidewalk.

Kay asked Paulsen if closing half of it would reduce or increase crime. Paulsen said that it could have an impact on crime.

Kay said that the property owner would have to take down the fence and move it to increase visibility. Paulsen said that they may not have to move it, but the type of fence and lack of lightening is a concern.

Paulsen said that just fixing the sidewalk would not reduce the opportunity for crime. Kay asked that even with increased usage, could crime decrease?

Paulsen said what makes it attractive to criminals is that it is off the street. Paulsen said the light may or may not stay on at all times.

Kay said that the property is 3.5 blocks from his house. He said that it is hard for him to believe that closing the sidewalk will stop crime. Kay said he is inclined to keep it open.

Beard said that the LFUCG should have kept the area maintained and clean.

Ford asked if the LFUCG now has the opportunity to redesign and improve the sidewalk. Paulsen said that there is an opportunity. Paulsen said that the question is what could we do? The answer depends on how much right-of-way we have. Paulsen also said that he wants to discuss this with the Division of Police. Paulsen said that zoning allows for an eight foot privacy fence on a property line. Paulsen said that we need to work with them to improve visibility. Paulsen said that we can enforce that the landscaping is kept trimmed, but the fence height will still be an issue. Paulsen said that 10 feet is his preference.

Clarke said it might be appropriate to have crime statistics for the area.

Motion by Ford to keep the sidewalk that connects Elm Tree Lane and Rand Avenue open and remove the item from the Council docket. Seconded by Clarke. Motion passed without dissent.

Motion by Ford to request that the Administration proceed with the redesign of the sidewalk that will improve pedestrian and bicycle access as well as safety, and return to the Planning and Public Works Committee with the redesign. Seconded by Mossotti. Motion passed without dissent.

4. Private Street: Enforcement, Maintenance, and Specifications

Bill Sallee, from the Division of Planning, came to the podium to offer an overview of the process. He said that most often private streets are not maintained by the LFUCG, but instead are maintained by an

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association of property owners. Small homeowners associations have reported difficulty at times, maintaining easements.

Sallee said that private streets account for far less than 8% of all streets in Fayette County. He went on to say that the other problem is street connectivity issues. This has not happened as much recently. There is now more flexibility for public street design.

Mossotti asked for Council Members input on whether or not the LFUCG should continue to allow private streets. Mossotti said that many of the streets we take in have not been maintained and we have to get them up to grade. Mossotti asked if the LFUCG should continue to allow private streets at all.

Chris King, the Director of the Division of Planning said that private streets have been allowed through the subdivision regulations. King said that the older streets have been more problematic than the new private streets. The regulations have gotten tighter. King said that the development community should be allowed to weigh in on this discussion if the Council wants to pursue this.

King said that the Council should include the commercial development community in the discussion as well.

King said that Mossotti is correct in saying that often the LFUCG does take in streets that have not been maintained. He went on to say that the communities that pursue private streets should know the responsibilities that go along with private streets because the language is strict. The language also says that before the LFUCG takes the private street in, it should be brought up to code.

Stinnett said that before 2009, it was difficult to determine which roads were public or private. He referenced a situation where the LFUCG put a sewer on private property. The LFUCG had to go back and get the easement.

Stinnett asked what standard we hold the property owners to in order to bring the road up to grade. He provided an example of one neighborhood with 20 homes with a cost of \$400,000. Average price of a home in that neighborhood is \$150,000. The road will deteriorate and we will have a safety hazard on our hands. The LFUCG is making them put in curbs, gutters, and sidewalks. Stinnett expressed concern that we may be quoting these prices to discourage the property owners. It is a way to say that LFUCG does not want the street.

Stinnett said all streets should be up to our standard, period. Stinnett asked King if the LFUCG allows sub-standard private roads. King said that some are. King said in commercial, there is a whole different situation. King said that sometimes non-traditional parking is allowed on a private street.

Stinnett said that they need to separate commercial from residential. Stinnett said that he does not want the LFUCG approving sub-standard specifications. King said that there have not been any sub-standard specifications in terms of engineering since he has worked at the LFUCG.

King said that he would not have a problem not allowing private streets in residential zones. But he said that townhouse projects require excessive improvements in order to allow an easement.

Stinnett said that he has no problem requiring property owners to bring the paving and resurfacing up to code, but things like adding curbs and gutters seems excessive.

Clarke said that he just received a call yesterday from a constituent that wants to make their private street public. Clarke asked King how there is a private street in Palomar. King said that the subdivision regulations allow this. There are criteria that must be followed. King said that the privacy that comes with this is appealing to some.

Clarke said that there is only one street in Palomar that is private according to his research.

Henson asked Sallee what they do when they have a private street that is not properly maintained. Henson said that she has drainage issues on a particular street. Now the neighborhood downstream is flooding. Sallee said that the older subdivisions do not always have drainage easements.

Charlie Martin from the Division of Water Quality came to the podium and said that from a stormwater system perspective, the community has made mistakes. There is a major disconnect between public and private systems.

Martin went on to say that he does not think we should have private systems. Henson said she may refer this issue to the Environmental Quality Committee.

Beard asked Wentz if school busses go up into these areas and he also inquired about fire apparatus. Wentz said that the fire apparatus do enter these areas but is unsure about school buses. Beard said that there are times that fire apparatus may not always have the means to get into these areas.

Mossotti asked if we can set parameters for new developments. Wentz said that he believes that Public Works have done a good job moving towards the notion of complete streets. Wentz said that the LFUCG has a number of private streets requesting to become public, but the costs and stormwater requirements are going to be too expensive, so they decide not to change them to public streets.

Wentz said that they are operating off of a CAO policy. He said that there can be improvements made to ensure a defined set of standards.

Mossotti said that she understands that there may be pushback on this. King said that if they want to get the conversation going about not allowing any new private streets in residential areas, the Council can initiate an amendment to the land subdivision regulations that would remove that option from the development application.

King said that then folks from the public could come and participate in that conversation. Mossotti asked Farmer to move that option into the Planning and Public Works Committee for the next month's meeting. She asked to discuss the option of a text amendment.

Farmer said that he would like a motion and a second because it is separate issue from the one that had been referred.

Mossotti then asked only for further discussion on this issue for the October meeting.

Farmer said that there were already three items on the October meeting agenda. Farmer said that he will add this item to that agenda as well.

5. Items in Committee

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

Submitted by Jenifer Benningfield, Council Administrative Specialist