

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky April 15, 2014

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on April 15, 2014 at 5:00 P.M. Present were Council Member Ellinger in the chair presiding, in the absence of Mayor Gray and Vice-Mayor Gorton, and the following members of the Council: Council Members Scutchfield, Stinnett, Beard, Clarke, Farmer, Ford, Kay, Mossotti and Myers. Absent were Council Members Akers, Gorton, Henson, Lane, and Lawless.

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An Ordinance changing the zone from an Agricultural Urban (A-U) zone, to a Planned Neighborhood Residential (R-3) zone with conditional zoning restrictions, for 9.77 net (10.29 gross) acres; and from a Single Family Residential (R-1B) zone to a Planned Neighborhood Residential (R-3) zone, for 0.0 net (0.26 gross) acres, for property located at 690 Woodward Ln. (RK Holdings, LLC; Council District 6) was given second reading.

Mr. Ellinger swore in the witnesses and reviewed the procedures for the hearing.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice of Hearing to be Held; (2) Affidavit of Notices Mailed; (3) MAR 2013-18 Recommendation of the Urban County Planning Commission; 4) 1983 Zoning Ordinance with Amendments; (5) Land Subdivision Regulations; (6) 2013 Comprehensive Plan Goals and Objectives; (7) 2007 Comprehensive Plan; (8) Aerial Photographs of the Subject Area; (9) Section of Comprehensive Plan, Subject Area; (10) Additional Aerial Photographs of the Subject Area; (11) Sections of Subject Area from Comprehensive Plan. (12) December 19, 2013 Development Plan; (13) January 30, 2014 Development Plan; and (14) MAR 2013-18: Map of Subject Area.

Mr. Jihad Hallany, Vision Engineering, gave his presentation on behalf of the Applicant and filed the following exhibit: (1) Affidavit of Sign Posted.

The following witnesses spoke against the zone change: (1) Ms. Hart H. Graves, Fincastle Road; (2) Ms. Karen Eagle, Graftons Mill Lane, (3) Mr. Steve Goss, Checkerberry Drive; (5) Ms. Samantha Frederick, Wilderness Road; (6) Mr. Jimmy Eades, Wilderness Road and Woodward Lane; (7) Mr. Miles Magyar, Graftons Mill Lane; (8) Mr. John Arebalo, Graftons Mill Lane; and (9) Mr. David Royce, Woodward

Lane, who filed the following exhibits: (a) Original plat for Woodward Lane; (b) Purchase Orders for Easements; and (c) Grant of Easement.

Mr. Sallee declined to make additional comments on behalf of the staff.

Mr. Larry McCaslin, Hugging Bear Drive, President of Danby Corners Neighborhood Association, spoke against the zone change.

Mr. Hallany gave his rebuttal.

Ms. Mossotti asked questions of Mr. Sallee about the high-pressure gas line referenced in the presentation and the number of units in the development.

Mr. Stinnett asked questions of Mr. Sallee regarding the zoning conditions, density restrictions imposed by the Comprehensive Plan, access gates and traffic.

Mr. Stinnett asked questions of Mr. Hallany about traffic and utilities.

Mr. Clarke asked questions of Mr. Sallee about different zoning categories.

Mr. Kay asked questions of Mr. Sallee about traffic impact studies.

Mr. Ellinger closed the public hearing at 6:13 P.M.

The Council recessed at 6:14 P.M.

The Council returned at 6:20 P.M. with the same members present.

Mr. Stinnett made a motion, seconded by Ms. Scutchfield, to adopt the following Findings of Fact in Support of Disapproval of the zone change request:

1. The proposed zone change is premature because the proper facilities are not in place to serve the necessary development and traffic needs of the area.
2. There is not enough information to determine that the infrastructure will address all public safety concerns as a result of the proposed zone change.

Mr. Ellinger asked Ms. Tracy Jones, Dept. of Law, to review the procedures for adoption of Findings of Fact for Approval or Disapproval. Ms. Jones reviewed the procedures.

Mr. Farmer stated he supported Mr. Stinnett's motion.

Mr. Kay stated he would not support the motion.

The motion **failed to pass** by operation of law (8 votes are required to override the Planning Commission) by the following vote:

Aye: Scutchfield, Stinnett, Beard, Clarke, Farmer,
Ford -----6

Nay: Ellinger, Kay, Mossotti, Myers -----4

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Mr. Stinnett made a motion, seconded by Ms. Scutchfield, to amend Section 2(a) of the following Findings of Fact for Approval from the Planning Commission to change 83 units to 45 units:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Land Use Element of the Plan recommends Medium Density Residential (MD) future land use, defined as 5-10 dwelling units per net acre, for 6.84 acres of the subject property closest to Woodward Lane (front); and Low Density Residential (LD) future land use, defined as 0-5 dwelling units per net acre, for 2.93 acres of the subject property.
 - b. The Plan suggests a density range of between 34 and 83 dwelling units, in total, for the subject property.
 - c. The petitioner proposed to construct 45 single-family dwelling units on the site, with a residential density of 4.6 dwelling units per net acre, in agreement with the Plan's recommendation.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is appropriate for the property via conditional zoning:
 - (a) The property is to be developed with no more than 83 single family residential units.

This use restriction is necessary and appropriate in order to maintain a character consistent with surrounding residential properties and the 2007 Comprehensive Plan Land Use Element.

The motion **passed** by the following vote:

Aye: Scutchfield, Stinnett, Beard, Clarke, Ellinger,
Farmer, Ford, Kay, Mossotti, Myers-----10

Nay: -----0
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Ms. Scutchfield made a motion, seconded by Mr. Beard, to adopt the following Findings of Fact for Approval from the Planning Commission as amended:

1. The requested Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan, for the following reasons:
 - a. The Land Use Element of the Plan recommends Medium Density Residential (MD) future land use, defined as 5-10 dwelling units per net acre, for 6.84 acres of the subject property closest to Woodward Lane (front); and Low Density Residential (LD) future land use, defined as 0-5 dwelling units per net acre, for 2.93 acres of the subject property.
 - b. The Plan suggests a density range of between 34 and 83 dwelling units, in total, for the subject property.
 - c. The petitioner proposed to construct 45 single-family dwelling units on the site, with a residential density of 4.6 dwelling units per net acre, in agreement with the Plan's recommendation.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restriction is appropriate for the property via conditional zoning:
 - (b) The property is to be developed with no more than 45 single family residential units.

This use restriction is necessary and appropriate in order to maintain a character consistent with surrounding residential properties and the 2007 Comprehensive Plan Land Use Element.

The motion **passed** by the following vote:

Aye: Scutchfield, Beard, Clarke, Ellinger, Ford,
Kay, Mossotti, Myers-----8

Nay: Stinnett-----1
(Mr. Farmer abstained when the vote was taken)

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Ms. Scutchfield made a motion, seconded by Mr. Myers, to approve an Ordinance changing the zone from an Agricultural Urban (A-U) zone, to a Planned Neighborhood Residential (R-3) zone with conditional zoning restrictions, for 9.77 net (10.29 gross) acres; and from a Single Family Residential (R-1B) zone to a Planned Neighborhood Residential (R-3) zone, for 0.0 net (0.26 gross) acres, for property located at 690 Woodward Ln. (RK Holdings, LLC; Council District 6) as amended by amended Findings of Fact from the Planning Commission.

Mr. Ford made a motion, seconded by Mr. Myers, to reconsider the Findings of Fact and amend the Findings of Fact to include an additional condition. The motion passed by unanimous vote.

Mr. Ford made a motion, seconded by Ms. Mossotti, to add the condition that the developer must conduct a traffic impact study.

Ms. Jones advised Council that the only amendments that could be made at that stage of the process were limited to the use of the property under the zone or buffering. She stated adding a requirement of a traffic study could not be categorized as use or buffering, but that issues of traffic would be discussed at the development plan stage.

Mr. Ford withdrew his motion. Ms. Mossotti withdrew her second to the motion.

Ms. Scutchfield's motion **passed** by the following vote:

Aye: Scutchfield, Stinnett, Beard, Clarke, Ellinger,
Kay, Mossotti, Myers-----8

Nay: Ford-----1
(Mr. Farmer abstained when the vote was taken)

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Upon motion of Mr. Farmer, seconded by Mr. Myers, and approved by unanimous vote, the meeting adjourned at 6:37 p.m.

Clerk of the Urban County Council