

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on September 18, 2007 at 5:00 P.M. Present were Mayor Jim Newberry in the chair presiding, and the following members of the Council: Council Members McChord, Moloney, Stevens, Beard, Blevins, Blues, Crosbie, DeCamp, Ellinger, Gorton, Gray, James and Lane. Absent were Council Members Myers and Stinnett.

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An Ordinance changing the zone from a Light Industrial (I-1) zone to a Mixed Use Community (MU-3) zone for 0.10 net (0.16 gross) acres and from a Neighborhood Business (B-1) zone to a Mixed Use Community (MU-3) zone for 5.07 net (5.44 gross) acres of property located at 225 Walton Avenue, subject to certain use and buffering restrictions imposed as conditions of granting the zone change (Ernie M. Hanna) was given second reading with a public hearing being held.

The Mayor explained the procedures of the public hearing and swore in the witnesses. He stated that the Dept. of Law had advised him he does not have the ability to vote to break a tie on any of the matters tonight, and that he would leave later in the meeting for a previous commitment.

Mr. Bill Sallee, Div. of Planning, made his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) MAR 2007-11, Minutes and final report of the Planning Commission, (4) Letters sent to Div. of Planning, (5) 1983 Zoning Ordinance with amendments, (6) Land Subdivision Regulations, (7) 2007 Comprehensive Plan, (8) Downtown Lexington Master Plan, (9) USA #25 Zoning Map, (10) Aerial photo and other photos of subject property and surrounding area, (11) North map of Comprehensive Plan, (12) Illustration of Downtown Master Plan, (13) Precinct Plan for the subject property and (14) Preliminary Development Plan.

Mr. Bruce Simpson, attorney for the petitioner, explained the reasons for the requested zone change, and filed the following exhibits: (1) Exhibit notebook which included the following: (a) Staff Report on Petition for Zone Map Amendment - MAR 2007-11: Ernie Hanna dated May 1, 2007. (b) Recommendation of the Urban County Planning Commission of Lexington and Fayette County, Kentucky for conditional

approval of MAR 2007:11 Ernie M Hanna, (c) Comprehensive Comp Plan Goals, (d) Land Use Relationships and Residential Infill and Redevelopment Program documentation, (e) Business Lexington Article on "A Bright (Yellow) Idea, (f) Lexington Herald-Leader Article dated September 13, 2007 on day long bike summit, (g) Brochure on Lexington Bike Summit '07, (h) Business Lexington Article dated May 18, 2007 on walking and bike trails, (i) Bicycle and Pedestrian Master Plan dated July 12, 2007, (j) Document regarding History of Bell Court Neighborhood Association, (k) Photographs and map landmarks within a 15 minute walk from proposed property, (l) Map of proposed property, (m) Lexington Herald-Leader Article dated September 8, 2007 on hospital construction, (n) Development drawings of proposed property, (o) Photographs of proposed property, (p) Summary of densities regarding selected urban and suburban developments, (q) Summary and photographs regarding tall buildings next to historic neighborhoods, (r) Traffic Impact Study prepared by Wilbur Smith Associates, (s) Bell Court Traffic Calming Study dated February, 2007 by N. Stamatiadis, Ph.D. P.E., (t) Bell Court Ad Hoc Traffic Committee report dated March, 2007, (u) Correspondence dated September 18, 2007 from Darryl Bennett to Bruce Simpson regarding Kennoy Study, (v) Lexington Herald-Leader Article dated September 15, 2007 on farmland, and (2) Affidavit of signs posted.

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Please Note: The Mayor left the meeting at 6:30 p.m., and turned the chair over to Vice-Mayor Gray.

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The following witness spoke in support of the requested zone change: (1) Mr. Tim Kelly, president and publisher of the Lexington Herald-Leader, and chair of the Citizens Advisory Committee for the Downtown Development Plan.

Mr. Fred Fugazzi, Jr., attorney for the Bell Court Neighborhood Association, and Mr. Bobby Clark, President of the Bell Court Neighborhood Association, gave reasons against the requested zone change, and Mr. Clark filed the following exhibits: (a) Letter from National Trust for Historic Preservation, and (b) E-mails given to him to enter into the record for others.

Vice-Mayor Gray asked the attorneys how they wanted to proceed concerning the comments from citizens.

It was agreed that those against would speak first and there would be a 3-minute time limit.

The following citizens spoke against the requested zone change: (1) Mr. Barry Richardson, Boonesboro Avenue, (2) Ms. Rebecca Stephenson, Boonesboro Avenue, who filed the following exhibit: (a) Statement, (3) Ms. Nina McCormack, Russell Avenue, (4) Ms. Jane Phillips, Boonesboro Avenue, who filed the following exhibit: (a) Letter to Mayor and Council, (5) Mr. Josh Short, Cramer Avenue, (6) Mr. Kevin Murphy, West Bell Court, architect, who filed the following exhibit: (a) Handout, (7) Mr. Don Pratt, Walton Avenue.

The following citizen spoke concerning the zone change request: (1) Ms. Alice Underwood, Boonesboro Avenue, who filed the following exhibit: (a) Letter to Council from Brady Barlow.

The following citizens spoke in support of the zone change request: (1) Ms. Knox Vanagle, Fayette Alliance, East Main St., (2) Ms. Lynne Roche-Phillips, Bullock Place, (3) Mr. Jim Wieland, Manor Drive, owner of warehouse property north of the subject property.

Mr. Simpson made rebuttal comments, and filed the following exhibit: (3) Distance from Houses to Proposed Building.

Mr. Fugazzi made rebuttal comments.

Mr. Simpson made his closing statement.

The Council asked questions of: Mr. Simpson, Mr. Ed Gardner, Dept. of Law, Mr. Clark, Mr. Sallee, Mr. Tony Barrett, Barrett Architects (a witness for the petitioner).

Vice-Mayor Gray responded to Mr. Clark's comments in response to questions from the Council.

Mr. DeCamp made a motion, seconded by Dr. Stevens, to approve the following Findings of Fact for Conditional Approval of the Planning Commission:

1. The requested zone change to a MU-3 zone is appropriate and the existing B-1 and I-1 zoning is inappropriate for the following reasons:
 - a. The MU-3 zone will allow greater flexibility to develop residential units than the existing B-1 zone, thereby meeting the DTMP recommendations for increasing residential development and maximizing density in vacant sites.
 - b. The MU-3 zone has special requirements that mandate design features related to pedestrian and bicycle accommodation, building

features, parking, and site lighting. These design features will help to ensure that this site will be a compatible transition from the adjoining Historic Bell Court Neighborhood and the adjacent commercial corridor on Midland Avenue.

- c. Increased residential density and mixed uses on this site are more appropriate uses than a solely retail or light industrial development because of the visibility limitations of the site and the proximity to the adjacent historic neighborhood. These proposed uses will also act as a transition between the historic neighborhood and the commercial corridor.

2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are recommended via conditional zoning:

PROHIBITED USES

- a. Self-service laundries, circuses and carnivals.
- b. Arcades including pinball machines, electronic games, pool and billiard halls.
- c. Package liquor stores, provided that the sale of package alcoholic beverages by drugstores and grocery stores shall not be prohibited.
- d. All drive-through facilities.
- e. Self-service car washes.
- f. Restaurants which devote more than twenty percent of the public floor area exclusively to the preparation and service of malt beverages, wine or alcoholic beverages.
- g. Restaurants offering live entertainment and/or dancing, cocktail lounges or nightclubs.
- h. Automobile service stations.

DENSITY/HEIGHT RESTRICTIONS

- a. The maximum height of all structures shall not exceed 65 feet.
- b. There shall be no more than 126 dwelling units.

LANDSCAPE BUFFERING

- a. Ten to twelve-foot-tall dense evergreen trees shall be planted along the common boundary line with the Bell Court properties, except that this landscape buffering restriction shall not apply to the boundary with 525 and 527 Boonesboro Avenue. The dense evergreen trees shall be planted 10' on center, except that no dense evergreen tree shall be planted at the 10' interval if it would require the removal of an existing tree. The dense evergreen trees shall meet 2004 American Standard Nursery Stock Standards adopted by the American Nursery and Landscape Association. The existing trees and shrubs along the common boundary with the Bell Court properties shall be preserved and maintained to the greatest extent possible, except that brush, including the honeysuckle, shall be removed as necessary to plant the dense evergreen trees.

These restrictions are necessary and appropriate to protect the Bell Court neighborhood from some of the more intensive uses otherwise permitted in the MU-3 zone.

The motion passed by the following vote:

Aye: McChord, Moloney, Stevens, Beard, Blevins, Blues, Crosbie,
DeCamp, Ellinger, Gorton, Gray, James, Lane ----- 13

Nay: ----- 0

The ordinance passed by the following vote:

Aye: McChord, Moloney, Stevens, Beard, Blevins, Blues, Crosbie,
DeCamp, Ellinger, Gorton, Gray, James, Lane ----- 13

Nay: ----- 0

Upon motion of Mr. Ellinger, seconded by Ms. Crosbie and passed by unanimous
vote, the Council adjourned at 8:30 p.m.

Clerk of the Urban County Council