

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky January 25, 2011

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on January 25, 2011 at 5:00 P.M. Present were Vice-Mayor Linda Gorton in the chair presiding in the absence of Mayor Gray, and the following members of the Council: Council Members Farmer, Ford, Henson, Kay, Lane, Lawless, Beard, Blues, Crosbie and Ellinger. Absent were Council Members Martin, McChord, Myers, and Stinnett.

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An Ordinance adding a Neighborhood Design Character Overlay (ND-1) zone for 53.7± net (67.5± gross) acres, to preserve existing neighborhood character for properties located at 601-821 Cooper Dr.; 1212-1251 Eldemere Rd.; 1203-1304 Kastle Rd.; 600-818 Montclair Dr.; 1213-1283 Scoville Rd.; 1200-1252 Summit Dr.; and 1500-1600 Tates Creek Rd. (even addresses only) (Urban County Planning Commission) was given second reading with a public hearing being held.

Vice-Mayor Gorton swore in the witnesses and explained the procedures for the public hearing.

Vice-Mayor Gorton asked if each side would be willing to limit their presentations to one hour. Each party agreed.

Upon motion of Mr. Blues, seconded by Ms. Henson, and approved by majority vote (Mr. Lane was absent when the vote was taken), the rules were suspended to allow an individual to speak out of order in the meeting.

Mr. Richard Getty, Tates Creek Rd., spoke in opposition to the requested zone change.

Ms. Deborah Tatum, Montclair Dr., President of the Montclair Neighborhood Association, representing the proponents of the requested zone change, asked questions of Mr. Getty. He responded.

Ms. Crosbie asked questions of Mr. Getty. He responded.

Vice-Mayor Gorton dismissed Mr. Getty.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: 1) Legal notice; 2) MAR 2010-10: Final Report and Minutes of the Planning

Commission; 3) Affidavit of notices mailed; 4) Affidavit of signs posted; 5) 2007 Comprehensive Land Use Plan; 6) Land Subdivision Regulations; 7) 1983 Zoning Ordinance as amended; 8) Planning Staff Exhibit: Revised ND-1 Design Standards for the Montclair Neighborhood MAR 2010-10: Urban County Planning Commission; 9) Letter to the Planning Staff from Ms. Margaret B. Herbert, W. Cooper Drive, in opposition to the zone change; 10) Zoning Map of the subject areas; 11) Aerial photos of subject properties on Cooper Drive, Montclair Road, Tates Creek Road, Eldemere Road, Summit Drive, Kastle Road, and Scoville Road; and 12) Comprehensive Plan Map 2007, portion with subject properties.

Vice-Mayor Gorton asked a question about procedure of Ms. Rochelle Boland, Dept. of Law. She responded.

The Council asked questions of Mr. Saltee regarding his presentation.

Ms. Tatum, Montclair Drive, President of the Montclair Neighborhood Association, made a presentation on behalf of the proponents of the zone change.

Vice-Mayor Gorton asked a question of Ms. Boland about the procedure in the absence of a petitioner for the zone change. Ms. Boland responded.

Ms. Crosbie suggested that Ms. Tatum be allowed to respond to comments throughout the hearing rather than making an extensive presentation.

The following citizens spoke in favor of the requested zone change: (1) Ms. Dabney Parker, Scoville Road; (2) Mr. Jerry Price, Kastle Road; (3) Ms. Kathryn Simon, Scoville Road; (4) Ms. Donna Cornish, Eldemere Road, read a letter from her husband Mr. Jim Cornish; (5) Ms. Pat Price, Kastle Road; (6) Ms. Marie Copeland, Summit Drive; (7) Mr. David Hafley, Montclair Drive; (8) Mr. Tom Meng, Summit Drive; (9) Mr. Tye Reece, Montclair Drive; and (10) Mr. Dick DeCamp, Montclair Drive.

Ms. Tatum gave additional information about the delay in the Council's consideration of the zone change, and about changes that were made to the Planning Staff's recommendations.

The following citizens spoke against the requested zone change: (1) Ms. Victoria Graff, Scoville Road, who filed the following exhibit: (a) CD with photographs of her residence; (2) Mr. Jeff Fox, Scoville Road; (3) Ms. Katharine Yunker, Cooper Drive; and

(4) Mr. Kevin Compton, Cooper Drive, who filed the following exhibit: (a) Photograph of his property.

Mr. Sallee stated that he had no rebuttal but would be glad to answer questions.

Ms. Tatum made a rebuttal on behalf of the proponents.

Mr. Fox reiterated his objection to the proposed zone change.

Vice-Mayor Gorton swore in Mr. Michael Hooper, Scoville Road, who gave a statement in opposition to the zone change.

Mr. DeCamp gave an additional statement of rebuttal in favor of the zone change.

Ms. Graff gave an additional statement of rebuttal in opposition to the overlay with regards to her property.

The Council asked questions of Mr. Sallee, Ms. Graff, Ms. Boland, Mr. Fox, and Ms. Tatum

Ms. Yunker spoke in rebuttal to evidence that had just been given, and asked a question of Ms. Tatum. Ms. Tatum, Ms. Lawless, and Mr. Sallee responded.

Ms. Graff spoke in rebuttal to evidence that had just been given. Ms. Kathryn Simon responded to the statement that Ms. Graff made.

Vice-Mayor Gorton declared the hearing closed at 6:45 p.m.

Ms. Lawless made a motion, seconded by Mr. Farmer, to accept the Findings of Fact including the Revised ND-1 Design Standards as presented by the Div. of Planning staff.

Ms. Henson asked a question about the procedure for accepting the Findings of Fact. Vice-Mayor Gorton responded.

Ms. Henson made a motion, seconded by Mr. Ford, to amend the Findings of Fact, Revised ND-1 Design Standard 1(a) to include that allowable exterior siding could also be a replacement of the existing exterior material if constructing an addition to the structure.

The Council continued to discuss the motion, and to ask questions of Mr. Todd Johnson, representative of Lexington Home Builders Association, regarding types of building materials.

Ms. Henson amended her motion, seconded by Mr. Ford, to amend the Findings of Fact, Revised ND-1 Design Standard 1(a) to add 'Allowable exterior siding finish building materials are brick, stone, cementitious fiberboard siding, natural wood or the same material as 90% of the existing structure (excludes windows and doors and their respective frames). All other materials are prohibited.

The Council continued to discuss the motion, and to ask questions of Ms. Boland.

The motion **passed** by a majority vote of 9-2 (Mr. Lane and Mr. Beard voted **no**).

Ms. Lawless made a motion, seconded by Mr. Farmer, to approve the following amended Findings of Fact for Approval:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
 - a. The Goals & Objectives of the Plan identify eight overriding themes, one of which is "preserving, protecting, and maintaining existing residential neighborhoods in a manner that ensures stability and the highest quality of life for all residents." This will be enhanced with this rezoning for Montclair. Further, Goal 15, Objective I states that neighborhood protection overlay zoning provisions should be implemented for establishing stability and protection in existing and, especially, older neighborhoods.
 - b. The implementation of a Neighborhood Design Character (ND-1) overlay zone is in agreement with the Comprehensive Plan's Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
 - c. The Montclair neighborhood has completed a design character study, defined the existing character of the neighborhood, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:
Design Standards
 1. Exterior Siding Materials
 - a. Allowable exterior siding finish building materials are brick, stone, cementitious fiberboard siding, natural wood, or the same material as 90% of the existing structure (excludes windows and doors and their respective frames). All other materials are prohibited.
 2. Roof Lines and Shape
 - a. Roof Pitch: Minimum 7:12 slope for Gabled Primary Roofs (excludes roofs built to match existing roof pitches, and allowable projections per Article 15-5 of the Zoning Ordinance) for principal and accessory structures.
 3. Landscaping Requirements
 - a. No front yard fences or walls allowed, except for properties facing Cooper Drive and Bates Creek Road. Permitted fences may be up to 4 feet in height and a minimum of 2 feet from the sidewalk, parallel to the public right-of-way.
 - b. Allowable wall/fence materials include, but are not limited to: brick; stone; wood and iron. Chain link fences are prohibited.
 4. Minimum Window/Door Openings
 - a. Minimum of 10 percent (10%) of the wall plane on each elevation of new construction is to be windows, doors, and/or vented openings;

- however, no openings shall be required if Building Code requires Fire Ratings (excludes any new construction with a wall plane area of less than 150 square feet, chimneys, and side wall dormers). Calculation of gross wall plane shall exclude projected chimneys and sidewall dormers.
- b. No exterior accessory steps or stairs are allowable to doors or windows above the ground floor.
5. Front Building Features
 - a. Main entry door must face a public street.
 6. Garages & Accessory Structures
 - a. Garages must be set back a minimum of 10 feet from the front building plane.
 - b. Maximum building footprint of 800 square feet for all accessory structures per lot. Maximum 22-foot height to roof ridge, maximum of 12-foot height to eave (aka gutter line) (roof height to be measured from the average grade elevation of the entry side of the structure). No exterior stairs shall be permitted above the ground floor. Maximum 50 percent of roof square footage allowed to be shed dormer (eave height measured at top of fascia board and does not apply to dormers).
 7. Lot Widths
 - a. The minimum width on all lots for Summit Drive, Eldemere Road and Bates Creek Road is 70 feet, as measured at the building line.
 - b. The maximum width on all lots for Summit Drive, Eldemere Road and Bates Creek Road is 100 feet, as measured at the building line (except corner lots).
 8. Building Height
 - a. Maximum of 30 feet or 35 feet to highest ridge line depending on property location. Properties on Kastle, Scoville, Cooper (601-663, 702 & 714), Montclair (600-666 & 705) are at a 30-foot height limit, while all properties east on Summit, Eldemere, Bates Creek, Cooper (705-821, excluding 702 & 714), and Montclair (700-818, excluding 705) are at a 35-foot height limit. (New additions may exceed 30 feet or 35 feet, depending on height zone, in order to match existing ridge line; provided they do not exceed 30 feet or 35 feet at the mid-gable, depending on height zone.) Under no conditions shall provisions listed in #8. Building Height be understood to override provisions of #2. Roof Lines and Shape.
 - b. Additions may not exceed the height of the principal structure.
 9. Building Setbacks
 - a. The minimum and maximum front setbacks for each street are (excludes allowable projections per Article 15-5 of the Zoning Ordinance):
 - i. Montclair Road 30 – 35 feet
 - ii. Cooper Drive 30 – 40 feet
 - iii. Scoville Road 35 – 45 feet
 - iv. Kastle Road 35 – 45 feet
 - v. Summit Drive 40 – 50 feet
 - vi. Eldemere Road 45 – 55 feet
 - vii. Bates Creek Road 60 – 70 feet
 10. Rear Yard Building Setbacks
 - a. Maximum building dimension of the principal structure from the front building plane is 55 feet (excludes allowable projections per Article 15-5 of the Zoning Ordinance).
 11. Off-street Parking Design
 - a. Front yard parking is prohibited except for Bates Creek Road and Cooper Drive. Allowable front yard parking on these streets must not exceed 120 square feet in area.
 - b. All driveways may be a maximum of 10 feet wide up to the front building plane, except circular driveways, which can be a maximum of 12 feet (circular driveways and turnarounds must have foliage of

a minimum 3-foot height planted on the street side of the driveway to shield the pavement from street view).

These restrictions are appropriate, given the extensive study undertaken to identify the existing neighborhood character by the Neighbors of Montclair, and are necessary to maintain that existing character in the future.

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

Aye: Farmer, Ford, Gorton, Henson, Kay,
Lawless, Blues, Crosbie, Ellinger-----9

Nay: Lane, Beard-----2

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Upon motion of Ms. Lawless, seconded by Mr. Ellinger, the ordinance was

approved by the following vote:

Aye: Farmer, Ford, Gorton, Henson, Kay,
Lawless, Blues, Crosbie, Ellinger-----9

Nay: Lane, Beard-----2

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Upon motion of Ms. Crosbie, seconded by Ms. Lawless, and approved by

unanimous vote, the meeting adjourned at 7:05 p.m.

Clerk of the Urban County Council