

Lexington, Kentucky December 4, 2007

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on December 4, 2007 at 6:00 P.M. Present were Council Member Linda Gorton in the chair presiding in the absence of Mayor Newberry and the following members of the Council: Council Members Blevins, Blues, Crosbie, DeCamp, Ellinger, James, Lane, McChord, Moloney, Myers, Stevens, Stinnett and Beard. Absent was Council Member Gray.

An Ordinance changing the zone from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone for 14.78 net (17.47 gross) acres of property located at 3600-3652 Winthrop Drive (JAH Winthrop) was given second reading with a public hearing being held.

Ms. Gorton swore in the witnesses and explained the procedures of the public hearing.

Ms. Gorton stated that the Council had received a letter from Mr. Bruce Simpson, attorney for the petitioner, requesting permission to present architectural renderings to the Council. Ms. Gorton asked the Council if they would like to allow this.

Mr. Blevins asked Mr. Ed Gardner, Dept. of Law, to state what the Dept. of Law's recommendation was on this matter.

Mr. Gardner stated that this was a request to waive Council procedure and that the Council could make a motion to waive the procedure.

Mr. Simpson stated his reasons for allowing the renderings.

Ms. Gorton asked Mr. Gardner how the renderings would affect the zone change and final development plan.

Mr. Gardner stated that the Council could only vote on the zone change.

The Council discussed whether they should allow the renderings or not.

The Council asked questions of Mr. Simpson, Mr. Sallee and Mr. Gardner concerning the developer's covenants and how they could be enforced.

Mr. Stinnett asked Mr. Simpson if they had looked at conditional zoning.

Mr. Simpson stated that they were looking at conditional zoning which this body could approve.

Mr. Stinnett asked Mr. Gardner about conditional zoning.

Mr. Gardner stated that the Council could impose conditions; however, there are stipulations that have to be followed when imposing conditional zoning which could affect the zone change request.

The Council asked additional questions of Mr. Gardner concerning the Council's decision to impose conditional zoning.

Ms. Crosbie made a motion, seconded by Mr. Ellinger, to exclude the architectural renderings.

The motion passed by the following vote:

Aye: Blues, Crosbie, DeCamp, Ellinger, Gorton, James, Lane, Moloney ----- 8

Nay: Blevins, McChord, Myers, Stevens, Stinnett, Beard ----- 6

Ms. Gorton stated that the Council would continue with the hearing and further explained the procedures of the public hearing.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) MAR 2007-21, Final Report and minutes of the Planning Commission, (4) 2007 Comprehensive Plan, (5) Zoning Ordinance with amendments, (6) Land Subdivision Regulations, (7) Zoning Map, Sector 55, (8) Aerial Photographs of Subject Area, (9) 2007 Comprehensive Plan Land Use Map, West Section and (10) Preliminary Development Plan.

Mr. Bruce Simpson, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Exhibit Book which included the following: (a) Memorandum of Understanding between Mayor and LFUCG Council dated January 26, 2007, (b) Development Plan for The Glen @ Lochdale, (c) 2007 Comprehensive Plan Interpretation Guidelines, (d) Bicycle and Pedestrian Master Plan dated July 12, 2007, (e) New Bus Route next to Proposed Mixed Used Center, (f) Letter dated September 27, 2007 from Bruce Simpson to Ms. Terry Crews, General Manager of LexTran regarding proposed site, (g) Lexington Herald-Leader Article dated September 27, 2007 on "Green Building", (h) Letter dated September 27, 2007 from Bruce Simpson to Randall Vaughn, Chairperson of Planning Commission committing to building "green", (i) Traffic Impact Study prepared by Wilbur Smith Associates, (j) Townley Center - Leestown Rd Zone Change Request re: Planning Commission minutes dated May 23, 2007, (k) Ordinance No. 172-2002 re: City Council decision

overruling Planning Commission Recommendation, (l) 25 Acre Mixed Use Zone Change Request approved by Urban County Council re: Warren Rosenthal, (m) Photographs of proposed property, (n) Declaration of Restrictive Covenants for 3600-3652 Winthrop Drive and (o) Findings of Fact for Approval.

Mr. Simpson asked all those in support of the requested zone change to stand.

The following witness spoke in favor of the requested zone change: (1) Mr. Stephen Austin, Town Planner, who filed the following exhibit: (a) Powerpoint Presentation.

Mr. Simpson continued with his presentation.

The following additional witness spoke in favor of the requested zone change: (2) Mr. Dermontii Dawson, Avenue of Champions, Nicholasville, Ky.

Mr. Simpson filed the following additional exhibit: (3) Affidavit of sign posted.

The following citizen spoke opposed to the requested zone change: (1) Ms. Dallyce Erickson, Joseph Bryan Way.

The following citizens spoke in favor of the requested zone change: (1) Mr. Jimmy Van Epps, Willow Bend Road, who filed the following exhibit: (a) Petition in support of requested zone change; (2) Mr. Bill Alt, Golden Trophy Trail; and (3) Mr. Paul Sisk, Fleetwood Drive, representing Anchor Baptist Church.

Mr. Sallee gave his rebuttal regarding two exhibits Mr. Simpson entered into the record.

Mr. Simpson gave his rebuttal and closing statements.

The Council asked questions of Mr. Simpson, Mr. Austin, Mr. Sallee and Mr. Dawson.

Mr. McChord made a motion, seconded by Mr. Stinnett, to approve the following Findings of Fact for approval:

1. The rezoning is in agreement with the 2007 Comprehensive Plan.
  - a. The Land Use Map Element recommends high-density residential (R-4) uses for the property. The mixed-use development will include 164 apartment units, yielding a density of 11.10 dwelling units per acre, which is within the recommended density range for the R-4 zone.
  - b. The development complies with the following Goals and related Objectives of the Comprehensive Plan: Goal 7, to support and uphold the Urban Service Area Concept and related growth management strategies; Goal 11, to provide diverse business and employment opportunities for Lexington-Fayette County; Goal 13, to provide housing opportunities to meet the needs of all citizens; Goal 14, to establish and promote well-

designed communities that provide appropriate services to multi-neighborhood areas and encourage community interaction; Goal 15, to preserve, protect and enhance the character and quality of existing neighborhoods; Goal 16, to promote well-designed new development that creates and enhances neighborhoods and communities; and Goal 19, to provide and maintain a comprehensive transportation system.

The mixed-use concept will facilitate convenient provision of needed goods and services, including banks, drug stores, and restaurants for residents who live within the same development or adjacent to it, thus reducing reliance on the automobile and encouraging greater pedestrian and bicycle activity among residents within the general neighborhood, thus helping to create a community in the truest sense. A bus stop on the premises will provide an additional alternative to the use of the automobile.

- c. The mixed-use development is in accord with the land use principles set out on pages 8-10 of the Comprehensive Plan, which recommends placing more intensive land uses near arterial roads, and will also provide an appropriate transition in intensity between the existing neighboring residential uses and Man O' War Boulevard.
- d. The proposal agrees with the Interpretation of the Land Use Maps and Categories section of the Implementation Element of the Comprehensive Plan. This section of the Comprehensive Plan recommends interpreting land use proposals in context with all the Plan elements and not just the Land Use Map. In particular, this section recommends an interpretation of agreement with the Plan for development that incorporates the following principles, among others:
  - 1. Increased residential density that is complementary to and compatible with existing nearby development;
  - 2. The creation of a cohesive urban form;
  - 3. Environmental responsibility and sustainability;.
  - 4. Linkage with the community; and
  - 5. Furthers the Goals and Objectives of the Comprehensive Plan without seriously conflicting with other goals or objectives.

The proposed mixed-use development meets these principles in that it will increase residential density which is compatible with neighboring areas, will be in a cohesive urban form of a mixed use with non-residential uses on the ground floor with apartments above, promotes environmental responsibility and sustainability by incorporating detention as an amenity and the use of "green" building design, will link with adjoining neighborhoods and, finally, will meet the minimum residential density recommended for the property. This fully complies with the characteristics of development set out on page 10 of the Implementation section of the Comprehensive Plan, including:

- 1. Projects that incorporate the recommendations of the Land Use element and, in addition, provide needed uses or services to the immediate neighborhood.
- 2. Projects for which the design is not driven by surface parking lots.
- 3. Projects that provide for housing diversity and incorporate affordable housing as an inherent component.
- 4. Projects that use green building and site design principles.
- 5. Projects that maximize the availability of transit services.
- 6. Projects designed to promote walkability, both in terms of the site, and its integration into surrounding neighborhoods and destination.

Based on the foregoing findings, I further move to place on the subject property, the following conditional zoning restrictions which are necessary and appropriate to ensure that the project will be developed as a mixed-use development, to allow only

uses that are compatible with the adjoining neighboring area, and to provide buffering to enhance the visual quality of the development:

1. There shall be not less than 164 dwelling units.
2. Prohibited uses:  
Principal permitted uses:
  - a. Free-standing stores that sell alcoholic beverages.
  - b. Self-service laundries and clothes-cleaning establishments, except that laundry pick-up stations shall be permitted.
  - c. Repair of household appliances.
  - d. Automobile service stations.
  - e. All gasoline pumps.
  - f. Drive-through facilities for free-standing restaurants.Accessory uses:
  - a. The rental of trucks.
  - b. Warehousing, wholesaling and storage.Conditional uses:
  - a. Self-service car washes.
  - b. Mining of non-metallic minerals.
  - c. Truck rental.
  - d. Gasoline pumps available to the public without an employee on site.

3. Screening and Buffering:

There shall be planted and maintained along the southern boundary of the retention basin 8' pine trees staggered 10' on center.

The motion passed by the following vote:

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

Nay: James ----- 1

Mr. McChord made a motion, seconded by Mr. Myers and passed by the majority vote of 13-1 (Ms. James voted no), to amend the ordinance to add certain use and buffering restrictions imposed as conditions of granting the zone change.

An Ordinance changing the zone from a High Density Apartment (R-4) zone to a Neighborhood Business (B-1) zone for 14.78 net (17.47 gross) acres of property located at 3600-3652 Winthrop Drive subject to certain use and buffering restrictions imposed as conditions of granting the zone change (JAH Winthrop) was given first reading as amended.

Upon motion of Mr. Blevins, seconded by Mr. Myers, the rules were suspended by the majority vote of 13-1 (Ms. James voted no).

The ordinance was given second reading. Upon motion of Mr. Blevins, seconded by Mr. Blues, the ordinance was approved by the following vote:

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

Nay: James ----- 1

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Upon motion of Mr. Blevins, seconded by Mr. Stinnett and passed by unanimous vote, the Council adjourned at 8:50 p.m.

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Deputy Clerk of the Urban County Council