

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky May 19, 2016

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on May 19, 2016 at 6:11 p.m. Present were Vice-Mayor Kay in the chair presiding, in the absence of Mayor Gray, and the following members of the council: Akers, Bledsoe, F. Brown, J. Brown, Gibbs, Henson, Lamb, and Moloney. Absent were Council Members Mossotti, Scutchfield, Stinnett, Evans, Farmer, and Hensley.

While waiting for a quorum of Council Members to appear, Vice Mayor Kay reviewed the procedures and order of proceedings for the meeting.

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Mr. Farmer arrived giving Council the ten members needed for quorum.

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At 6:19 p.m. Vice Mayor Kay opened the public hearing and swore in the witnesses.

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An Ordinance changing the zone from a Mixed-Use 2: Neighborhood Corridor (MU-2) zone to a Neighborhood Business (B-1) zone, for 0.964 net (1.235 gross) acres, for property located at 1501, 1505, 1507 and 1509 Versailles Road. (Jake Riordan (AMD.); Council District 11) received second reading.

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Ms. Traci Wade, Div. of Planning, gave a presentation and filed the following exhibits: (1) Legal Notice of hearing to be held; (2) Affidavit of Notices Mailed; (3) Recommendation of the Planning Commission – MAR 2016-2; (4) 2013 Comprehensive Plan with Goals and Objectives; (5) 2015 Cardinal Valley Small Area Plan; (6) 1983 LFUCG Land Subdivision Regulations, as Amended; (7) 1983 LFUCG Zoning Ordinance as Amended; and (8) Citizen emails and a petition.

Ms. Wade described the history of the zoning of the subject property, the development plans and the subsequent amendment, the proposed Findings of Fact, and the proposed conditional and prohibited uses.

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Mr. Jihad Hallany appeared on behalf of the applicant, Mr. Jake Riordan. Mr. Hallany gave a presentation and filed the following exhibit: (1) Affidavit of sign posting on property.

Mr. Hallany discussed the difference between the current zoning and the proposed change and parts of the Cardinal Valley Small Area Plan and the 2013 Comprehensive Plan.

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Ms. Lane Boldman, Woodford Drive, appeared on behalf of her homeowners' association, spoke in opposition to the zone change and filed the following exhibits: (1) Emails with attachments; and (2) Petitions.

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Ms. Paula Singer, Hamilton Park, spoke in opposition to the plan and filed the following exhibits: (1) Speaking notes; (2) Aerial photograph; (3) Aerial photograph (Days Hotel); (4) Pedestrian crash locations; (5) Angle crash locations; (6) Land Use Map; (7) Colored map; (8) Rebuilding Neighborhood Retail; (9) Excerpt #1 from Cardinal Valley Small Area Plan; (10) Larger open space network map; (11) Excerpt #2 from the Cardinal Valley Small Area Plan; and (12) Excerpt #3 from the Cardinal Valley Small Area Plan.

Ms. Amy Clark, Kastle Road, ceded three minutes to Ms. Singer. The Council granted Ms. Singer an additional three minutes to speak.

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Ms. Amy Clark submitted the following exhibit: (1) Letter to Council Members.

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The following persons spoke in opposition to the zone change: (1) Ms. Laura Stone-Bell, Versailles Road, (Ms. Mary Anne Olson, Hamilton Park, ceded three minutes of time to Ms. Stone-Bell); (2) Ms. Jane Choate, Versailles Road; (3) Mr. Joey Shadowen, Woodford Drive; (4) Ms. Susan Spalding, Fredericksburg Road; and (5) Ms. Ann Holt, Hamilton Park.

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Ms. Wade and Mr. Hallany provided clarifications.

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Mr. Gibbs asked about development under the current zoning, parking, and access to businesses from a residential street. Ms. Wade responded.

Mr. Farmer asked about the history of zone changes for this property, and the reason for the previous postponements and changes to the proposed development. Ms. Wade responded.

Ms. Henson described historical zoning in the area and nearby apartment buildings, stating that the relevant properties are currently blighted. Ms. Henson asked if the zone change was denied whether the owner could demolish the property. Ms. Wade responded.

Mr. J. Brown asked about parking, and if Council may add conditional uses to the property. Ms. Wade responded. He asked about the developer's plan, matching the building to the neighborhood character, and about the tree canopy. Mr. Hallany responded.

Ms. Akers asked about sidewalks and about the businesses currently operating nearby. Mr. Hallany responded. She asked if tattoo parlors were permitted in B-1 zoning. Ms. Wade and Mr. Hallany responded.

The Council discussed a point of law and Ms. Tracy Jones, Dept. of Law, responded.

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Vice Mayor Kay swore in Ms. Jan Hellenbusch, Hamilton Park, who then spoke in opposition to the development.

Ms. Boldman clarified a point of information.

Ms. Choate clarified a point of information, and asked about the tree canopy. Mr. Hallany responded.

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Vice Mayor Kay closed the hearing.

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At 7:48 p.m., the Council went into recess.

At 7:55 p.m., the Council reconvened with the same members present.

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Vice Mayor Kay discussed the order of voting.

Ms. Henson moved to disapprove the Findings of Fact regarding the proposed zone change MAR 2016-2 for the following reasons: 1) The existing zoning is appropriate and the proposed zoning is inappropriate because the existing zoning allows for commercial use but also maintains residential use, which preserves the character of the surrounding neighborhood; 2) There have been no major changes of an economic, physical or social nature that were not anticipated in the Comprehensive Plan and altered the basic character of the area; and 3) The proposed zoning would create additional traffic and create a more unsafe pedestrian area which is inconsistent with the Cardinal Valley Small Area Plan. The motion was seconded by Mr. Moloney.

The Council discussed the motion.

The motion failed by the following vote:

Aye:	F. Brown, Gibbs, Henson, Kay, Lamb, Moloney	-----6
Nay:	Akers, Bledsoe, J. Brown, Farmer	-----4

The motion failed to override the recommendation of the Planning Commission which requires eight votes and in this case, there were six aye votes.

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Ms. Akers moved to amend the conditional zoning restrictions approved by the Planning Commission to include tattoo parlors as a prohibited use. The motion was seconded by Mr. Farmer.

The motion passed by unanimous vote.

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Ms. Akers moved to approve the Findings of Fact as submitted by the Planning Commission, as amended to include the additional prohibited use. The motion was seconded by Mr. Farmer.

The Council discussed a matter of law with Ms. Jones.

The motion failed by the following vote:

Aye:	Akers, Bledsoe, J. Brown, Farmer, Kay	-----5
Nay:	F. Brown, Gibbs, Henson, Lamb, Moloney	-----5

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The Council discussed a matter of law with Ms. Jones.

Vice Mayor Kay moved to reconsider the motion to approve the Findings of Fact as submitted by the Planning Commission, as amended to include the additional prohibited use. The motion was seconded by Mr. F. Brown.

The motion to reconsider passed by majority vote (Ms. Henson and Mr. Moloney voted no).

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Mr. Farmer moved to approve the Findings of Fact as submitted by the Planning Commission, and as amended to include the additional prohibited use. The motion was seconded by Ms. Akers. The Findings of Fact are as follows:

1. A restricted Neighborhood Business (8-1) zone is in agreement with the 2013 Comprehensive Plan and the Cardinal Valley Small Area Plan (CVSAP), adopted by the Planning Commission in April 2015, for the following reasons:
 - a. Theme A of the Plan, Growing Successful Neighborhoods, emphasizes the infill, redevelopment and adaptive reuse of the urban area that respects the area's context and design features (Goal #2a.), and encourages striving for positive and safe social interactions in neighborhoods (Goal #3b.). In addition, the Goals and Objectives suggest that the community should "enable infill and redevelopment that creates jobs where people live" (Theme C, Goal #1d.); attract and retain high-paying jobs (Theme C, Goal #2c.); and to uphold the Urban Service Area concept by encouraging "compact, contiguous, and/or mixed-use sustainable development within the Urban Service Area, as guided by market demand, to accommodate future growth needs" (Theme E, Goal #1b.).
 - b. The Plan encourages the consideration of how proposals relate to existing development in the immediate vicinity, as well as protecting neighborhoods and residential areas from incompatible land uses. The proposed B-1 zone is compatible with the immediate vicinity, and a landscape buffer along the rear property line will help to provide an appropriate transition in land use.
 - c. The proposed B-1 zone along an entrance corridor to downtown Lexington that was recently studied by the Division of Planning and the Kentucky Transportation Cabinet (District 7 office) will provide an opportunity to provide some jobs closer to where people live.
 - d. The Cardinal Valley Small Area Plan encourages aesthetic and functional improvements that will make the Versailles Road corridor more accessible to pedestrians, which seems to speak to encouraging pedestrian-oriented development. The corollary development proposed for the site conforms to the B-1 zone setbacks, which encourages pedestrian interaction and development closer to the street. This is consistent with the CVSAP recommendations.
2. This recommendation is made subject to the approval and certification of ZDP 2016-4: VALLANDALE SUBDIVISION (AMD.), prior to forwarding this recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
3. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions shall apply to the subject property:
 - a. Prohibited Uses:
 - i. Drive-through facilities within 100' of Delmont Drive.
 - ii. The sale or provision of wine, beer or alcoholic beverages, other than by the drink.
 - iii. Live entertainment and/or dancing.

- iv. Cocktail lounges, brew-pubs and nightclubs.
- v. Automobile service stations.
- vi. Arcades, including pinball and electronic games.
- vii. Sale of firearms other than by federally licensed manufacturers, importers or dealers.
- viii. Car washing establishments.
- ix. Pool tables, within an establishment, even as an accessory use.
- x. Automobile and vehicle refueling stations.
- xi. Tattoo Parlors.
- b. Other Use Restrictions:
 - i. A landscape buffer of at least ten (10) feet in width shall be provided along the northern property boundary, with plantings as specified by Article 18-3(a)(1)2 of the Zoning Ordinance, including the retention or replacement of a 6-foot tall privacy fence.
 - ii. Outdoor lighting shall be shielded and directed away from any adjacent residential zone. Lighting attached to a pole or any structure shall be a maximum of twenty (20) feet in height.
 - iii. Any free-standing sign erected shall be a maximum of ten (10) feet in height.

These use and buffering restrictions are appropriate and necessary for these four lots to ensure greater compliance with the 2013 Comprehensive Plan and Cardinal Valley Small Area Plan and to provide greater consistency with prior action by the Planning Commission and the Urban County Council involving business uses at this location.

The motion passed by the following vote:

Aye:	Akers, Bledsoe, F. Brown, J. Brown, Farmer, Kay	-----6
Nay:	Gibbs, Henson, Lamb, Moloney	-----4
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Upon motion by Mr. Farmer, and seconded by Ms. Akers, an Ordinance changing the zone from a Mixed-Use 2: Neighborhood Corridor (MU-2) zone to a Neighborhood Business (B-1) zone, for 0.964 net (1.235 gross) acres, for property located at 1501, 1505, 1507 and 1509 Versailles Road. (Jake Riordan (AMD.); Council District 11) was approved by the following vote:

Aye:	Akers, Bledsoe, F. Brown, J. Brown, Farmer, Kay	-----6
Nay:	Gibbs, Henson, Lamb, Moloney	-----4
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Upon motion by Mr. Farmer, seconded by Ms. Akers, and approved by unanimous vote, the meeting adjourned at 8:20 p.m.

Deputy Clerk of the Urban County Council