

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky April 18, 2017

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on April 18, 2017 at 5:00 p.m. Present were Vice-Mayor Kay in the chair presiding, in the absence of Mayor Gray, and the following members of the Council: Lamb, Moloney, Mossotti, Plomin, Scutchfield, Stinnett, Bledsoe, F. Brown, Evans, Farmer, Gibbs, and Higgins. Absent were Council Members J. Brown and Henson.

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At 5:00 p.m., Vice Mayor Kay opened the hearing.

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An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 67.58 net (67.65 gross) acres, and to a High Density Apartment (R-4) zone, for 22.01 net (22.18 gross) acres, for properties located at 478 and 480 Squires Rd. (Ball Homes, Inc.; Council District 7) received second reading.

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Vice Mayor Kay swore in the witnesses, and reviewed the procedures and order of proceeding for the meeting.

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Mr. William Sallee, Div. of Planning, gave a presentation on the recommendation of the Planning Commission and filed the following exhibits: (1) Legal Notice of hearing to be held; (2) Affidavit of William Sallee of Notices Mailed; (3) Recommendation of the Planning Commission PLN-MAR-16-00016; (4) 1983 LFUCG Land Subdivision Regulations as Amended; (5) Zoning Ordinance; (6) 2013 Comprehensive Plan with Goals and Objectives; (7) PowerPoint Notes; (8) Traffic Impact Study Summary Review; (9) Stack of printed email messages; and (10) Two Diagrams.

Mr. Sallee described the subject property and surrounding property, and the various uses that have been applied to it in the past. He displayed photographs and maps of the subject property and described its physical characteristics. Mr. Sallee also

discussed the proposed development and the reasons for the Planning Staff's and the Planning Commission's recommendations.

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Mr. William Lear appeared as counsel for the Petitioner and filed the following exhibits: (1) Affidavit of Posting Signs; and (2) A written copy of the presentation given to Council; and (3) Variety of materials related to traffic studies.

Mr. Lear talked about the requested zone change, displayed photographs of the subject property, and discussed the flora at the location.

Mr. Phil Stuepfert, a planner with HRGreen, talked about infill development and the nature of the subject property and the proposed development.

Mr. Nick Nicholson, counsel for the Petitioner, spoke about the goals of the 2013 Comprehensive Plan.

Ms. Diane Zimmerman, Prospect, Ky., discussed the traffic impact study and trip generation reports.

Mr. Lear discussed the traffic impact study.

Mr. Tom Kimmerer, Chief Scientist at Venerable Trees, Inc., talked about trees on the subject property.

Mr. Lear reviewed an area map and talked about the trees and water line buffers.

Mr. Nathan Billings, counsel for the Opposition, cross-examined Mr. Kimmerer.

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Mr. Billings appeared as counsel for the Opposition (the Eastlake Neighborhood Association and others) and filed the following exhibits: (1) Opposition Binder and Proposed Conditional Restrictions; (2) Letters of Opposition; (3) CD and 2013 Comprehensive Plan with Goals and Objectives; (4) Letter from Daniel Potter, with attachments; (5) Conservation Buffer packet; (6) Kentucky American Water Comprehensive Planning Study – 2013; (7) Stormwater Quality Management Program – June 1, 2016; (8) Stormwater Manual – October 1, 2016; (9) Bicycle and Pedestrian Master Plan – August 22, 2007; (10) Partial copy of O-032-2016 and other documents; (11) Empower Lexington 2012; (12) Greenspace Plan; (13) Greenway Master Plan; and (14) Large map on poster board.

Mr. Billings spoke against the proposed zone change, citing concerns of density, traffic, and an environmental conservation buffer. Mr. Billings requested adjustments to proposed easements, buffers, and maximum residential units.

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6:58 p.m. The meeting stood at recess.

7:15 p.m. The meeting reconvened with the same persons present.

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The following persons spoke in opposition: (1) Ms. Suzanne Bhatt, Rain Ct; (2) Mr. Ramesh Bhatt, Rain Ct; (3) Mr. Walter Gaffield, Bamboo Dr. (who filed Gaffield Exhibit 1 – Speaking Notes); (4) Ms. Marilyn Seiler, Cool Water Dr.; (5) Ms. Wendy Henry, Cool Water Ct.; (6) Mr. Steven Rice, Headley Green; (7) Mr. Bob Kennedy, Buckhorn Dr., (8) Mr. Albert Kelley, Ellerslie Park Blvd.; (9) Ms. Bridget Abernathy, DelMar Ave.; (10) Ms. Mary Jane Wenke, Shoreside Dr.; and (11) Ms. Elizabeth Wegner, Fog Ct.

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In the interest of time economy, Vice Mayor Kay summarized the concerns of the speakers in opposition to include: trail, trail location, the requested greenway, homeowner control, size of the trees, problems caused by mechanical equipment, and danger to the existing significant Bur Oak.

Vice Mayor Kay asked for a show of hands to determine the sentiment of the remaining speakers on his summary of points already made.

The Council discussed the polling of the prospective speakers.

Vice Mayor Kay asked for a show of hands on the concerns of density, traffic, and the uncertainty of whether a school will be built.

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The following additional persons spoke in opposition: (12) Mr. Chris Leng, Green River Ct.; (13) Ms. Mary Ann Crawford, Squires Rd.; (14) Mr. Ray Salsman, Fog Ct.; (15) Mr. Jeff Herrin, Buckhorn Dr.; (16) Ms. Helen Born, Rain Ct.; (17) Mr. Clay Sutherland, Turkey Foot Rd.; (18) Ms. Teresa Sutherland, Hunter's Point Dr.; (19) Mr. Addison Hosea, Hunter's Point Dr.; (20) Mr. Lee Wegner, Fog Ct.; (21) Ms. Sharron Wesley-Porter, S. Eagle Creek Dr.; (22) Mr. Daniel Smathers, E. Main St.; (23) Ms.

Libby King, Dewey Dr.; (24) Ms. Brenda Oldfield, Lakebend Ct.; (25) Ms. Renee Denton, Dewey Dr.; (26) Mr. James Haldeman, Dewey Dr.; (27) Mr. Anthony Brusate, Rosemont Garden (who filed Brusate Exhibit 1 – Width of Riparian Zones for Birds); (28) Mr. Julian Campbell, Willowood Rd. (who filed Campbell Exhibit 1 – Speaking Notes); (29) Mr. Dave Leonard, Plummer Rd., Stamping Ground, Ky. (Mr. Greg Doyle yielded time to Mr. Leonard); (30) Mr. Mark Tower, Eastin Rd.; (31) Mr. Tom Kriegel, Lakebow Ct.; (32) Ms. Martha Geoghegan, Gibson Ave.; (33) Ms. Judith Humble, Lincoln Ave.; and (34) Mr. Don Pratt, Walton Ave.

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8:53 p.m. The meeting stood at recess.

9:05 p.m. The meeting reconvened with the same persons present.

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The following additional person spoke in opposition: (35) Ms. Carol Hurst, Sycamore Rd.

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Mr. Sallee offered rebuttal comments.

Mr. Lear made his rebuttal on behalf of the Petitioner.

Mr. Billings made his rebuttal and summation on behalf of the Opposition.

Mr. Lear offered his summation for the Petitioner.

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Vice Mayor Kay opened the floor for questions from the Council Members.

Mr. Gibbs asked about density calculations, buffers, and a trail easement. Mr. Sallee responded. Mr. Billings responded.

Ms. Mossotti requested clarification on the difference between the buffers proposed by the Petitioner and the Opposition; in addition, she asked about fences and fence locations. Mr. Sallee responded.

Ms. Plomin asked whether the Petitioner and the Neighborhood Association have met to communicate about the proposed development. Mr. Lear and Mr. Nicholson responded.

Ms. Scutchfield asked about parking for the proposed elementary school. She asked also about the width of Squires Rd. and average lot size of existing homes in the area. Mr. Sallee responded.

Mr. F. Brown asked whether a representative of Kentucky American Water (the current owner of the property) was included in meetings with the Div. of Planning, the Petitioner and Opposition. Mr. F. Brown expressed concern for water quality and the need for additional buffers and asked about boat docks for residents of the new development. Mr. Sallee and Mr. Lear responded.

Ms. Lamb asked about trees located on the property, fences around the proposed lots, responsibility for the lot where the proposed school would be located, the conservation buffer, and any communication with the Fayette County School Board. Mr. Leonard and Mr. Lear responded.

Mr. Farmer asked about other reservoirs (not abutting the property subject to this proceeding), reservoirs from which Kentucky American Water draws water, and the Lake Ellerslie Fishing Club. Mr. Lear responded.

Ms. Evans asked about the traffic study and the size of existing houses in the neighborhood. Mr. Sallee and Mr. Lear responded.

Ms. Bledsoe asked about the Dogwood Trace development and ingress/egress to that development, along with trails in the proposed development and fencing. Mr. Sallee and Mr. Lear responded.

Mr. Stinnett asked about a proposed trail, stormwater retention basins, density of various development plans, and road improvements. Mr. Sallee and Mr. Lear responded.

Ms. Mossotti asked about proposed trails, buffers, and liability. Mr. Billings responded.

Mr. Moloney asked about the proposed trail and fences. Mr. Lear responded.

Ms. Higgins asked about the property. Mr. Sallee responded.

Mr. F. Brown asked about requesting a zone change for property that a Petitioner does not own, and how the requested change affects the rights of the Lake Ellerslie Fishing Club. Mr. Sallee and Mr. Lear responded.

Mr. Farmer asked about the Fishing Club and fencing. Mr. Lear responded.

Mr. Gibbs asked about protecting significant trees on the property, the proposed conservation buffer and trail, and tree removal. Mr. Sallee, Mr. Leonard, and Mr. Kimmerer responded.

Mr. Moloney asked about proposed lots with trees, and responsibility for liability on the buffer. Mr. Sallee responded.

Ms. Bledsoe asked about a homeowners' association for the proposed development. Mr. Lear responded.

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Mr. Lear presented sur-rebuttal comments for the Petitioner.

Mr. Billings presented sur-rebuttal comments for the Opposition.

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At 10:38 p.m., Vice Mayor Kay closed the hearing.

At 10:39 p.m. the meeting stood at recess.

At 10:49 p.m. the meeting reconvened with the same persons present.

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Ms. Scutchfield thanked all the hearing participants for attending.

Ms. Scutchfield moved to approve a zoning map amendment from Agricultural Urban (A-U) zone to a Single Family Residential (R-1D zone) for 89.59 net (89.83 gross) acres for properties located at 478 and 480 Squires Road, finding that it is in substantial agreement with the Comprehensive Plan, based on the following findings:

Growing Successful Neighborhoods (Theme A, and Chapter 3) encourages infill redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b).

Protecting the Environment (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b) and management of green infrastructure, which includes the protection of environmentally sensitive areas before development occurs by providing a conditional zoning restriction for 75-foot buffer along the A-U zoning boundary near the water's edge of Reservoir #4 to protect the shoreline and maintain a healthy ecosystem around the reservoir.

The 2013 Plan recommends compact and contiguous development within the Urban Service Area (Theme E, Goal #1) which is being met by the Petitioner's proposal within the Urban Service Boundary.

Conditional zoning restrictions:

- a. Along the boundary of the subject property which is shared with Kentucky American Water (Reservoir #4) there shall be a 75-foot, with a fence, landscape buffer area established from the zone change

boundary. Within the buffer area:

1. All structures, including accessory structures, fences and play structures shall be prohibited;
2. Existing trees with a 1.5" caliper or greater, shall be preserved, except for dead, diseased, hazardous trees or invasive species;
3. All other trees may be removed only with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive area.
4. 25 feet of the proposed buffer shall be reserved for the possibility of a trail.

This buffer restriction is appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir and to more fully implement the principles of the 2013 Comprehensive Plan.

The motion was seconded by Mr. Gibbs.

Council discussed the motion to clarify its intent.

Mr. Moloney discussed a matter of law with Ms. Tracy Jones, Dept. of Law.

At the request of the Chair, Ms. Scutchfield clarified the purpose of the motion.

Ms. Jones discussed with the Council permissible methods of limiting density within the bounds of the requested zone change and the prior review by the Planning Commission.

Vice Mayor Kay discussed the requested change to density. Council Members Gibbs, Farmer, Bledsoe, and Evans also discussed density.

Ms. Scutchfield withdrew her motion.

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11:06 p.m. The meeting stood at recess.

11:14 p.m. The meeting reconvened with the same persons present.

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Ms. Scutchfield moved to approve the zoning map amendment as approved by the Planning Commission, and add and amend the following zoning restrictions:

Amend zoning restrictions A to 75-foot buffer and changing A.2 to 1.5" caliper and add the following conditional zoning restrictions:
B. Density to 400 single-family detached units.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

The proposed Findings of Fact were as follows:

1. The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Comprehensive Plan recommends Growing Successful Neighborhoods (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.) The corollary development plan also depicts the connection of collector streets and the shared-use path (Easthills Trail) between Squires Trail and Jacobsen Park. The maximum density allowed is 400 single-family detached units
 - b. The 2013 Plan recommends Protecting the Environment (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas before development occurs.
 - c. The 2013 Plan recommends Improving a Desirable Community (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1); providing for accessible community facilities and services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); and protecting and enhancing natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3). The petitioner has worked to incorporate the planned share-use trail, preserve the aesthetic beauty of the area, and accommodate a Fayette County Public Schools middle school site. The school site will provide open space and serve as a focal point for the neighborhood.
 - d. The 2013 Plan recommends compact and contiguous development within the Urban Service Area (Theme E, Goal #1) and encourages development of vacant and underutilized parcels (Theme E, Goal #3), both of which are being met by the petitioner's proposal within the Urban Service Boundary.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00040: The Peninsula, prior to forwarding a 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 buffering restrictions are recommended for the subject property:
 - a. Along the boundary of the subject property which is shared with Kentucky American Water (Reservoir #4), there shall be a seventy-five (75) foot landscape buffer area established from the zone change boundary. Within the buffer area:
 - i. accessory structures, fences and play structures shall be prohibited;
 - ii. existing trees with a 1.5" caliper, or greater, shall be preserved, except for dead, diseased, hazardous trees or invasive species.
 - iii. all other trees may be removed only with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive area.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

The motion was seconded by Mr. Gibbs.

Mr. Farmer and Mr. Stinnett clarified with Ms. Scutchfield the intent of the motion.

Mr. Stinnett asked Mr. Sallee about the effect of the proposed amendment. Mr. Sallee responded.

Ms. Mossotti clarified with Ms. Scutchfield the intent of the motion.

Vice Mayor Kay expressed concerns about reducing density but limiting the development to single family homes.

Mr. Stinnett assumed the Chair.

Vice Mayor Kay moved to amend the motion to eliminate the restriction on the development to only single-family homes. Ms. Mossotti seconded the motion.

Ms. Lamb asked for clarification on the motion and Vice Mayor Kay responded.

The motion to amend Ms. Scutchfield's motion passed by majority vote (Lamb, Scutchfield, F. Brown, and Evans voted No).

Vice Mayor Kay assumed the Chair.

Ms. Evans discussed a clarification on the motion with Ms. Jones and Ms. Scutchfield.

Ms. Mossotti asked a question about the original plan. Mr. Sallee responded.

Council discussed the original motion to amend and add conditional zoning restrictions, as amended.

At the request of the Chair, Ms. Scutchfield restated the motion, as amended:

A motion to approve the zoning map amendment as approved by the Planning Commission, and add and amend the following zoning restrictions:

Amend zoning restrictions A to 75-foot buffer and changing A.2 to 1.5" caliper and add the following conditional zoning restrictions:
B. Density to 400 units.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

Vice Mayor Kay clarified with Ms. Jones that Ms. Scutchfield's motion is to approve conditional zoning restrictions and Findings of Fact.

The motion failed by the following vote:

Aye:	Kay, Evans, Gibbs,	-----3
Nay:	Lamb, Moloney, Mossotti, Plomin, Scutchfield, Stinnett, Bledsoe, F. Brown, Farmer, Higgins	-----10

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Ms. Scutchfield moved to approve the zoning map amendment as approved by the Planning Commission, and add and amend the following zoning restrictions:

Amend zoning restrictions A to 75-foot buffer and changing A.2 to 1.5" caliper and add the following conditional zoning restrictions:

B. Density to 400 single-family detached units or duplex townhome units.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

The proposed Findings of Fact for approval are as follows:

The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:

1. The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Comprehensive Plan recommends Growing Successful Neighborhoods (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.) The corollary development plan also depicts the connection of collector streets and the shared-use path (Easthills Trail) between Squires Trail and Jacobsen Park. The maximum density allowed is 400 single-family detached units or duplex townhome units.
 - b. The 2013 Plan recommends Protecting the Environment (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas before development occurs.
 - c. The 2013 Plan recommends Improving a Desirable Community (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1); providing for accessible community facilities and services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); and protecting and enhancing natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3). The petitioner has worked to incorporate the planned share-use trail, preserve the aesthetic beauty of the area, and accommodate a Fayette County Public Schools middle school site. The school site will provide open space and serve as a focal point for the neighborhood.
 - d. The 2013 Plan recommends compact and contiguous development within the Urban Service Area (Theme E, Goal #1) and encourages development of vacant and underutilized parcels (Theme E, Goal #3), both of which are being met by the petitioner's proposal within the Urban Service Boundary.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00040: The Peninsula, prior to forwarding a 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 buffering restrictions are recommended for the subject property:

- a. Along the boundary of the subject property which is shared with Kentucky American Water (Reservoir #4), there shall be a seventy-five (75) foot landscape buffer area established from the zone change boundary. Within the buffer area:
 - i. accessory structures, fences and play structures shall be prohibited;
 - ii. existing trees with a 1.5" caliper, or greater, shall be preserved, except for dead, diseased, hazardous trees or invasive species.
 - iii. all other trees may be removed only with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive area.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

The motion was seconded by Mr. Gibbs.

Ms. Lamb spoke about the density in the proposed development plan and discussed the motion with Ms. Scutchfield.

Vice Mayor Kay discussed a procedural matter with Mr. Sallee.

Council discussed the motion.

At the request of Mr. Farmer, Vice Mayor Kay discussed a matter of law with Ms. Jones.

Mr. Farmer moved to suspend the rules to allow discussion with counsel for the Petitioner and the Opposition. Ms. Lamb seconded the motion. The motion passed by majority vote (Mr. F. Brown voted No.)

Mr. Lear discussed the Petitioner's stance on the motion. He stated that the developer can agree to a reduction of fifty units at the most. He stated that developer could not agree to the extended buffer.

Mr. Billings discussed the Opposition's stance on the motion. He spoke about the number of dwelling units.

Ms. Mossotti and Vice Mayor Kay discussed whether a recess would be helpful to the parties at this point. Mr. Billings and Mr. Lear responded.

Ms. Lamb spoke about a compromise and dealing with the motion on the floor.

Ms. Mossotti moved to amend the motion on the floor to change the proposed 75-foot buffer to a 50-foot buffer. Ms. Higgins seconded the motion.

The motion to amend the motion on the floor failed by the following vote:

Aye:	Lamb, Mossotti, Higgins	-----3
Nay:	Kay, Moloney, Plomin, Scutchfield, Stinnett, Bledsoe, F. Brown, Evans, Farmer, Gibbs	-----10

Mr. F. Brown discussed a matter of law with Ms. Jones.

Ms. Plomin asked for clarification of the motion on the floor. Vice Mayor Kay and Ms. Jones responded.

Mr. Farmer called the question.

The original motion failed by the following vote:

Aye:	Kay, Scutchfield, Gibbs	-----3
Nay:	Lamb, Moloney, Mossotti, Plomin, Stinnett, Bledsoe, F. Brown, Evans, Farmer, Higgins	-----10
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Mr. Farmer moved to approve PLN MAR 16-00016 based on the Findings of Fact as approved by the Planning Commission with the following amendments:

A. Amend zoning restrictions A to a 35-foot buffer and add the following conditional zoning restrictions:

B. Density to 451 units.

The Findings of Fact for approval are as follows:

The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:

1. The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Comprehensive Plan recommends Growing Successful Neighborhoods (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.) The corollary development plan also depicts the connection of collector streets and the shared-use path (Easthills Trail) between Squires Trail and Jacobsen Park. The petitioner has proposed a mixture of residential dwelling unit types, including single-family, townhouses and multi-family dwelling units to meet the needs of the community as a maximum density of 451 units.
 - b. The 2013 Plan recommends Protecting the Environment (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas before development occurs.

- c. The 2013 Plan recommends Improving a Desirable Community (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1); providing for accessible community facilities and services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); and protecting and enhancing natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3). The petitioner has worked to incorporate the planned share-use trail, preserve the aesthetic beauty of the area, and accommodate a Fayette County Public Schools middle school site. The school site will provide open space and serve as a focal point for the neighborhood.
 - d. The 2013 Plan recommends compact and contiguous development within the Urban Service Area (Theme E, Goal #1) and encourages development of vacant and underutilized parcels (Theme E, Goal #3), both of which are being met by the petitioner's proposal within the Urban Service Boundary.
2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00040: The Peninsula, prior to forwarding a 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 buffering restrictions are recommended for the subject property:
 - a. Along the boundary of the subject property which is shared with Kentucky American Water (Reservoir #4), there shall be a thirty-five (35) foot landscape buffer area established from the zone change boundary. Within the buffer area:
 - i. accessory structures, fences and play structures shall be prohibited;
 - ii. existing trees with a 3" caliper, or greater, shall be preserved, except for dead, diseased, hazardous trees or invasive species.
 - iii. all other trees may be removed only with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive area.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

The motion was seconded by Mr. Stinnett.

Mr. Gibbs moved to amend the motion to change the proposed buffer to 50 feet.

Ms. Mossotti seconded the motion.

The motion to amend the motion on the floor did not meet the eight vote minimum needed to amend a ruling by the Planning Commission and failed by the following vote:

Aye:	Lamb, Mossotti, Scutchfield, Bledsoe, Evans, -----7 Gibbs, Higgins
Nay:	Kay, Moloney, Plomin, Stinnett, F. Brown, -----6 Farmer

Council discussed the buffer and the density issues.

Ms. Scutchfield commented on the effect of not agreeing to amend the work of the Planning Commission.

Mr. Stinnett assumed the Chair.

Vice Mayor Kay moved to amend the motion on the floor to have density remain at 451 and impose a 50-foot buffer. Mr. Stinnett stated that this motion had been made previously and failed. The motion also failed for a lack of second.

Vice Mayor Kay assumed the Chair.

Mr. Farmer's motion to approve the Findings of Fact as approved by the Planning Commission, and add and amend the zoning restrictions to include a 35 foot buffer and a maximum density of 451 units failed by the following vote:

Aye:	Moloney, Stinnett, Bledsoe, Farmer	-----4
Nay:	Kay, Lamb, Mossotti, Plomin, Scutchfield, F. Brown, Evans, Gibbs, Higgins	-----9
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Ms. Mossotti moved to approve the Findings of Fact as approved by the Planning Commission, and to change the density to 450 units and the buffer to fifty (50) feet. After discussion, Ms. Mossotti added a 1.5" tree caliper to the amendment as well. The proposed Findings of Fact are as follows:

The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:

1. The proposed Planned Neighborhood Residential (R-3) zone and High Density Apartment (R-4) zone is in substantial agreement with the 2013 Comprehensive Plan for the following reasons:
 - a. The Comprehensive Plan recommends Growing Successful Neighborhoods (Theme A, and Chapter 3), which encourages expanding housing choices that addresses the market needs for all of Lexington-Fayette County's residents (Goal #1b.); encourages infill, redevelopment and adaptive reuse that respects the area's context and design features (Goal #2a); and providing well-designed neighborhoods, including neighborhoods that are connected for pedestrian and various modes of transportation (Goal #3 and #3b.) The petitioner has proposed a mixture of residential dwelling unit types, including single-family, townhouses and multi-family dwelling units to meet the needs of the community as a maximum density of 450 units.
 - b. The 2013 Plan recommends Protecting the Environment (Theme B and Chapter 4) by encouraging sustainable use of natural resources (Goal #2b.) and management of green infrastructure, which includes the protection of environmentally sensitive areas before development occurs.
 - c. The 2013 Plan recommends Improving a Desirable Community (Theme D and Chapter 6) by working to achieve an effective and comprehensive transportation system (Goal #1); providing for accessible community facilities and

services to meet the health, safety and quality of life needs of residents and visitors (Theme D, Goal #2); and protecting and enhancing natural landscapes that give Lexington its unique identity and image (Theme D, Goal #3).

- d. The 2013 Plan recommends compact and contiguous development within the Urban Service Area (Theme E, Goal #1) and encourages development of vacant and underutilized parcels (Theme E, Goal #3), both of which are being met by the petitioner's proposal within the Urban Service Boundary.
- 2. This recommendation is made subject to approval and certification of PLN-MJDP-16-00040: The Peninsula, prior to forwarding a 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 buffering restrictions are recommended for the subject property:
 - a. Along the boundary of the subject property which is shared with Kentucky American Water (Reservoir #4), there shall be a fifty (50) foot landscape buffer area established from the zone change boundary. Within the buffer area:
 - i. accessory structures, fences and play structures shall be prohibited;
 - ii. existing trees with a 1.5" caliper, or greater, shall be preserved, except for dead, diseased, hazardous trees or invasive species.
 - iii. all other trees may be removed only with the written consent of the Division of Environmental Services, if deemed to be necessary for the overall health of this environmentally sensitive area.

These use and buffer restrictions are appropriate and necessary for the subject property in order to more fully protect the adjacent reservoir, to address concerns of traffic in the area based on the traffic impact study, and to more fully implement the principles of the 2013 Comprehensive Plan.

Ms. Plomin seconded the motion.

Mr. Stinnett asked about the change to the developable area as a result of the proposed increase in the buffer. Mr. Sallee responded.

The Council approved the Findings of Fact, as amended, by the following vote.

Aye:	Kay, Lamb, Mossotti, Plomin, Scutchfield, Stinnett, Bledsoe, Evans, Gibbs, Higgins	-----10
Nay:	Moloney, F. Brown, Farmer	-----3

* * *

Note: The Council Meeting extended beyond midnight and continued into April 19, 2017.

* * *

Vice Mayor Kay discussed a matter of law with Ms. Jones.

Ms. Lamb moved to amend the ordinance to reflect the conditions approved in the Findings of Fact. The motion was seconded by Ms. Plomin and approved by unanimous vote.

An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Planned Neighborhood Residential (R-3) zone, for 67.58 net (67.65 gross) acres, and to a High Density Apartment (R-4) zone, for 22.01 net (22.18 gross) acres, for properties located at 478 and 480 Squires Rd. (Ball Homes, Inc.; Council District 7), as amended, received a new first reading.

Vice Mayor Kay discussed a matter of Law with Ms. Glenda George, Dept. of Law.

Ms. Lamb moved to suspend the rules and give second reading to the ordinance. Ms. Mossotti seconded the motion. The motion passed by the following vote:

Aye:	Kay, Lamb, Mossotti, Plomin, Scutchfield, Bledsoe, Evans, Farmer, Gibbs, Higgins	-----10
Nay:	Moloney, Stinnett, F. Brown	-----3

The Ordinance received second reading.

Upon motion by Ms. Mossotti, and seconded by Ms. Plomin, the ordinance passed by the following vote:

Aye:	Kay, Lamb, Mossotti, Plomin, Scutchfield, Bledsoe, Evans, Gibbs, Higgins	-----9
Nay:	Moloney, Stinnett, F. Brown, Farmer	-----4

Vice Mayor Kay thanked the participants for their involvement.

Upon motion by Mr. Farmer, seconded by Ms. Plomin, and approved by unanimous vote, the meeting adjourned at 12:14 a.m.

Deputy Clerk of the Urban County Council