

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky September 12, 2017

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on September 12, 2017 at 5:13 p.m. Present were Vice-Mayor Kay in the chair presiding, in the absence of Mayor Gray, and the following members of the Council: J. Brown, Evans, Gibbs, Henson, Lamb, Plomin, Scutchfield, Smith, and F. Brown. Absent were Council Members Farmer, Moloney, Mossotti, Stinnett, and Bledsoe.

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At 5:13 p.m., Vice Mayor Kay opened the hearing.

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An Ordinance changing the zone from a Single Family Residential (R-1B) zone to a Highway Service Business (B-3) zone, for 4.66 net (6.29 gross) acres, for property located at 2300 Paris Pike (J. Roger Jones, III; Council District 12) 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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Ms. Traci Wade, Div. of Planning, gave a presentation on the recommendation of the Planning Commission and filed the following exhibits: (1) Published legal notice; (2) Affidavit of mailing; (3) Planning recommendation packet; (4) Paris Pike Corridor Commission Minutes, June 5, 2017; (5) 2013 Comprehensive Plan; (6) Paris Pike Corridor Small Area Plan; (7) Zoning Ordinance; (8) Land Subdivision Regulations; (9) Email message from Denice Bullock to planning mailbox. In addition to the marked exhibits, Ms. Wade referred to two large diagrams.

Ms. Wade described the subject property and surrounding property, and the various uses that have been applied to it in the past. She displayed photographs and maps of the subject property and described its physical characteristics. Ms. Wade also discussed the proposed development and the reasons for the Planning Staff's and the Planning Commission's recommendations.

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Mr. Richard Murphy appeared as counsel for the Petitioners and filed the following exhibits: (1) Affidavit of Brian Roach; (2) Document excerpts; (3) Colored maps labeled 1988 Comprehensive Plan.

Mr. Murphy introduced various representatives for the Petitioners; he talked about the requested zone change, displayed photographs of the subject property, and discussed the location and proposed uses, as well as historical uses that have applied.

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Mr. Hank Graddy appeared as counsel for the Opposition (the Joyland Neighborhood Association and others) and filed the following exhibits: (1) Blue-colored folder labeled Friends of Paris Pike, containing various documents.

The following persons spoke in opposition to the proposed zone change as part of the Opposition presentation: (1) Mr. Morris Floyd, Paris Pike, who filed Opposition exhibit (2) Blue-colored binder labeled Petition of Paris Pike Farm Owners; and (2) Mr. Adam Kirk, Kentucky Transportation Center.

Mr. Graddy offered additional remarks in opposition to the zone change.

The following person spoke in support of the proposed zone change: (1) Ms. Jane Cottrell, Tates Creek Road.

The following persons spoke in opposition to the proposed zone change: (3) Mr. Dick DeCamp, Montclair Dr.; (4) Ms. Patty Draus, Allen Ct.; (5) Ms. Libby Jones, Woodford County; (6) Mr. John Hayes, Iron Works Pike; (7) Ms. Josie Jones, Kingston Road, who filed Opposition exhibit (3) Petitions; (8) Mr. David Cooper, Allen Ct. (Mr. Cooper was ceded time by another attendee); (9) Mr. Walt Gaffield, Bamboo Drive, who filed Opposition exhibit (4) Letter; (10) Mr. Henry Alexander, Paris Pike Corridor Commission; (11) Mr. Ben Blyton, Blue Ash Ct., who filed Opposition exhibit (5) Speaking notes; (12) Ms. Catherine Perkins, Swigert Avenue, who filed Opposition Exhibit (6) Letter with attached data stick; (13) Mr. William Woodward, Swigert Avenue; and (14) Ms. Paula Singer, Habersham Park.

6:37 p.m. The meeting stood at recess.

6:42 p.m. The meeting reconvened with the same persons present.

The following additional persons spoke in opposition to the proposed zone change:

(15) Ms. Catherine Perkins read a statement from Ms. Garnetta Graham, Paris Pike, who filed Opposition Exhibit (7) Letter with attachments (Mr. Cobb ceded time to Ms. Graham); and (16) Ms. Amy Clark, Kastle Road, who filed Opposition exhibit (8) Paris Pike Corridor maps (on motion by Ms. Evans, seconded by Ms. Plomin, and approved by unanimous vote, Ms. Clark was granted extra speaking time).

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Ms. Wade offered additional information and clarification on behalf of the Div. of Planning.

Mr. Murphy introduced rebuttal testimony for the Petitioner: (1) Ms. Diane Zimmerman, of Diane B. Zimmerman Traffic Engineering; (2) Mr. Jay Jones.

Mr. Murphy made his rebuttal arguments for the Petitioner.

Ms. Evans raised a point of order and Vice Mayor Kay responded.

Mr. Murphy continued and concluded his rebuttal arguments for the Petitioner.

Mr. Graddy made his rebuttal arguments and summation for the Opposition.

Vice Mayor Kay asked a question of law regarding conditional zoning restrictions. Ms. Tracey Jones, Dept. of Law, responded.

Vice Mayor Kay allowed Ms. T. Jones and Ms. Clark time for a sidebar discussion.

Ms. T. Jones commented on the proposed conditional zoning restrictions. Vice Mayor Kay commented on the proposed conditional zoning restrictions.

Ms. Henson asked Ms. T. Jones to comment on the proposed conditional use restrictions. Ms. T. Jones responded.

Ms. Lamb talked to speakers about the appropriate time to introduce proposed conditional zoning restrictions.

Mr. Graddy waived further summation.

Mr. Murphy made his summation for the Opposition.

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

Mr. Lamb asked about the Urban Services Boundary, sanitary sewer capacity, R-1D zone density, and the notification area for this specific property. Ms. Wade responded.

Ms. Lamb asked about notification to the Opposition. Mr. Graddy responded.

Mr. Gibbs asked about the objectives of the Comprehensive Plan, minimizing disruption during development, and barriers to development. Ms. Wade responded.

Mr. F. Brown asked about whether the railroad tracks are active, and about the boundaries of the Paris Pike Corridor. Ms. Wade responded.

Mr. F. Brown asked about past attempts to sell the property. Mr. Murphy responded.

Ms. Plomin asked about the general objections to using the subject property for residential development. Mr. Murphy responded.

Ms. Scutchfield asked about conditional zoning restrictions that may be added, and what might be included in the development plan. Ms. T. Jones responded.

Vice Mayor Kay asked about zoning for property surrounding the subject property. Ms. Wade responded.

Ms. Lamb asked about commercial intensity. Ms. Zimmerman responded.

Mr. Lamb asked about the uses applied to Ms. Graham's property. Ms. Perkins responded.

Ms. Lamb asked about the uses applied to the property at 2350 Paris Pike. Mr. Graddy responded.

Ms. Scutchfield asked about the status of development plans when they come before the Council for a zone change. Ms. Wade responded.

Ms. Evans asked about the theoretical nature of a development plan at this stage. Ms. Wade responded

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At 9:05 p.m., Vice Mayor Kay closed the hearing.

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Mr. J. Brown thanked the speakers for their participation and he expressed concern for the traffic challenges in the Paris Pike Corridor.

Ms. Henson thanked all of the attendees. She talked about the historical changes to the roadways near the property.

Ms. Lamb expressed her appreciation for the community's involvement in the hearing and talked about the importance of developing within the existing Urban Services Boundaries.

Mr. Gibbs said how grateful he is for the community turnout for the meeting. He expressed concern about losing residential zoning within the Urban Services Boundary.

Ms. Plomin noted the beauty of the horse farms that distinguish the Paris Pike Corridor and thanked the attendees for their participation.

Ms. Evans talked about surrounding properties and development, and expressed concern with the theoretical nature of the development plan.

Mr. Smith thanked the attendees for their participation. He noted issues with traffic that affect that area.

Vice Mayor Kay echoed appreciation for all of the participation in the hearing to help the Council understand the issue. He talked about how he has considered this issue and the elements that support his vote.

Mr. F. Brown assumes the Chair.

Vice Mayor Kay moved to adopt the findings of fact as approved by the Planning Commission. Ms. Henson seconds the motion.

Vice Mayor Kay assumes the Chair.

Upon motion by Mr. J. Brown, seconded by Ms. Henson, and approved by unanimous vote, the findings of fact are amended to add a zoning restriction to require a landscape buffer of 20 feet along the northeast property boundary; trees (selected from the large species list in the planning manual) shall be planted every 30 feet.

Upon questioning by Ms. Henson, Ms. T. Jones notes a 5-foot buffer in the proposed development plan.

Mr. Murphy noted his client has no object to the requirement for a 20-foot buffer on the northeast boundary.

Ms. Evans asked about existing conditions that are displayed in the proposed development plan. Ms. T. Jones responded.

Ms. Evans asked about the distance and grading between certain physical characteristics of surrounding property. Ms. Wade responded.

Ms. Lamb asked about the 20-foot buffer and its permanence as regards the zoning of the property. Ms. T. Jones responded.

Ms. Lamb asked about the species included in the large species trees. Ms. Wade responded.

Ms. Scutchfield asked whether the zoning ordinance can include the planting of trees. Ms. T. Jones responded.

The motion to amend passed by majority vote (Evans, Plomin, Scutchfield and F. Brown voted No).

Ms. T. Jones noted that the proper motion to achieve the Council's purpose would be to amend the ordinance, and not the findings of fact.

The findings of fact were adopted by the following vote:

Aye: J. Brown, Henson, Kay, Lamb, Smith, F. Brown -----6

Nay: Evans, Gibbs, Plomin, Scutchfield -----4

The findings of fact are as follows:

1. A restricted Highway Service Business (B-3) zone is in agreement with the 2013 Comprehensive Plan's Goal and Objectives, as well as the recommendations of the Paris Pike Corridor Small Area Plan (adopted by the Paris Pike Corridor Commission and by the Planning Commission in 1995), for the following reasons:

a. The Goals and Objectives of the 2013 Comprehensive Plan encourages infill development of long-time vacant land within the Urban Service Area (Theme A, Goal #2) and development that will uphold the Urban Service Area concept (Theme E, Goal #1). This site has been within the Urban Service Boundary since its inception in 1958, the subject property is adjacent to existing commercial development, and infrastructure is available or can be extended to serve the subject property.

b. The Goals and Objectives also recommend creation of new jobs near residential neighborhoods to promote the "live where you work" concept (Theme C, Goal #1d.). The site is located very near neighborhoods in the Joyland neighborhood, as well as neighborhoods along the northern-most Old Paris Pike.

c. Paris Pike Corridor Small Area- Plan (PPCSAP) recommends that the essential character of the corridor be preserved due to its nationally recognized scenic and historic qualities. Further, the SAP recognizes that the corridor is broken into three distinct areas of land use, and within the Lexington "urban end," (where the subject property is located), the SAP recommends future land use consistent with the current Comprehensive Plan

d. The proposed B-3 zone is in agreement with the prior 1988 Comprehensive Plan's land use recommendation of Highway Commercial future land use, which was in place at the time the SAP was adopted in 1995. In addition, the most recent land use recommendation for the subject property in 2007 continued to be for Highway Commercial, which is consistent with the Highway Service Business (B-3) zone.

2. This recommendation is made subject to the approval and certification of PLN-MJDP-17-00046: Jones/Cottrell Property, 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 uses shall be prohibited on the subject property:

a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, and mobile homes.

b. Cocktail lounges and nightclubs.

c. Car wash establishments.

d. Pawnshops.

e. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.

f. Advertising signs, also known as billboards, as regulated by Article 17 of the Zoning Ordinance.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property that could have a negative impact on adjacent agricultural and residential land uses and the aesthetic condition of the Paris Pike Corridor.

Upon motion by Mr. F. Brown, seconded by Mr. Smith, the ordinance, as amended, to include a conditional zoning restriction of a twenty (20) foot tree buffer along the northeast property boundary, passed by the following vote:

Aye: J. Brown, Henson, Kay, Lamb, Scutchfield -----7
Smith, F. Brown

Nay: Evans, Gibbs, Plomin -----3

Vice Mayor Kay thanked the participants for their involvement.

Upon motion by Mr. F. Brown, seconded by Ms. Plomin, and approved by unanimous vote, the meeting adjourned at 9:27 p.m.

Deputy Clerk of the Urban County Council