

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky June 10, 2008

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on June 10, 2008 at 6:00 P.M. Present were Vice-Mayor Jim Gray in the chair presiding in the absence of Mayor Newberry, and the following members of the Council: Council Members Ellinger, Henson, Lane, McChord, Myers, Stevens, Beard, Blues, and Crosbie. Absent were Council Members DeCamp, Gorton, James, Stinnett and Blevins.

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An Ordinance changing the zone from a Planned Neighborhood Residential (R-3) zone to a Light Industrial (I-1) zone for 13.63 net (13.63 gross) acres of property located at 2040 Sandersville Road (a portion of) subject to buffering restrictions imposed as conditions of granting the zone change (Woodall Realty Company, LLC) was given second reading with a public hearing being held.

Vice-Mayor Gray explained the procedures of the public hearing and swore in the witnesses.

Mr. Jimmy Emmons, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) 2007 Comprehensive Plan, (4) 1983 Zoning Ordinance with amendments, (5) Land Subdivision Regulations, (6) MAR 2008-2, minutes and final report of the Planning Commission, (7) Staff Exhibit which included the following: (a) Excerpt from MAR 2003-36: Greenview Development Company, LLC, Recommendation of the Planning Commission; (8) Aerial photograph of subject property, (9) Map of 2008 Surrounding Zoning, (10) Comprehensive Plan Land Use map of subject property and surrounding area, (11) Pictometry pictures of requested zone change area, and (12) Preliminary Development Plan.

Mr. Emmons explained the concerns of the Div. of Planning and filed the following additional exhibit: (13) Planning Staff-prepared exhibit of the existing restrictions and applicant's proposed buffering zone.

Mr. Jon Woodall, attorney for the petitioner, explained the reasons for the requested zone change and filed the following exhibits: (1) Aerial Photograph of

2040 Sandersville Road and surrounding properties with zoning designations, (2) Exhibit book, which included the following: (a) Preliminary Development Plan depicting land use and landscape buffers, (b) Witness list, (c) Exhibit list and (d) Applicants proposed Findings of Fact; and (3) Affidavit of sign posted.

The Council asked questions of Mr. Woodall about the dimensions of the buffer zone.

Ms. Cynthia Bryant, Polk Lane, who was opposed to the requested zone change, asked questions of Mr. Woodall.

Mr. Beard asked a question of Mr. Emmons about the Polk Lane area.

The following citizens spoke against the requested zone change: (1) Ms. Pat Jones, Atoma Drive, (2) Ms. Cynthia Bryant, Polk Lane, who filed the following exhibits: (a) Video and (b) Handout; (3) Ms. Sheri Potter, Atoma Drive, who filed the following exhibit: (a) Community Health Concerns handout; (4) Mr. Steve Bowen II, Lost Trail Lane, President of Coldstream Neighborhood Association, who filed the following exhibit: (a) Petitions; (5) Mr. James Monroe, Willis Drive; (6) Mr. P.G. Peeples Sr., President of Urban League; (7) Mr. David Cozart, Konnor Woods Drive; (8) Mr. Ray Stumbo, Georgetown Road; and (9) Mr. Mark McGowan, Konnor Woods Drive.

Mr. Woodall gave his rebuttal.

Ms. Bryant expressed her concerns with not having been included in the process since her property was outside the notification area.

The Council asked questions of Mr. Emmons and Mr. Woodall.

Mr. Monroe stated a clarification regarding the entrance into this property.

The Council continued to ask questions of Mr. Woodall, Mr. Harry Burchett, ATS Representative, and Mr. Emmons.

Mr. Peeples asked a question of Mr. Woodall regarding the business' level of cooperation with Imani Baptist Church, an entity located close to the proposed business.

Mr. Woodall made an objection.

Mr. Ellinger asked for a point of order in reference to closing the hearing rather than hearing new evidence.

Mr. Logan Askew, Commissioner of the Dept. of Law, clarified the process.

Mr. Beard asked a question of Mr. Emmons about the future use of the property if the request was not approved.

Upon motion of Mr. Blues, seconded by Mr. Myers and approved by unanimous vote, the Council recessed at 8:29 p.m.

At 8:34 p.m., the Council returned with the same members present.

Mr. Blues made a motion, seconded by Mr. Myers, to approve the following Findings of Fact for conditional approval of the Planning Commission:

1. A major justification for previously rezoning the property from I-1 to R-3 was the land use buffer from the athletic facilities which were going to be constructed on the subject property.
2. The beneficial land use buffer that would have been provided by the previously proposed athletic facilities is no longer going to be provided.
3. The subject property is bounded on three sides by parcels already being used for industrial purposes so that I-1 zoning is consistent with the uses in close proximity.
4. This recommendation is made subject to the approval and certification of the applicable portions of ZDP 2005-05: Magna Entertainment Corporation (AMD.), prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
5. Under the provisions of Article 6-7 of the Zoning Ordinance, the property shall be subject to the following use and buffering restrictions:
 - a. A minimum 100' buffer and landscape area adjacent to the existing R-3 zone, containing a 10' tall earthen berm and passive recreational use, shall be provided.
 - b. Prohibited uses:
 1. Major automobile and truck repair, except as accessory to storage of vehicles on the property.
 2. Tire re-treading and re-capping.
 3. Machine shop
 4. Kennels, animal hospitals, or clinics
 5. Truck terminals and freight yards
 6. Circuses and carnivals
 7. Railway
 8. Crematory

These restrictions are appropriate and necessary to protect the existing residential neighborhood and church from the proposed industrial use, and to maintain an adequate land use buffer in the immediate area.

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

Aye: Ellinger, Gray, Henson, Lane, McChord,
Myers, Stevens, Beard, Blues, Crosbie-----10

Nay: -----0

Mr. Woodall stated that anyone wanting to receive the legal notice for the Development Plan stage could leave an address.

Upon motion of Mr. Blues, seconded by Mr. Myers, the ordinance was approved by the following vote:

Aye: Ellinger, Gray, Henson, Lane, McChord,
Myers, Stevens, Beard, Blues, Crosbie-----10

Nay: -----0

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Upon motion of Ms. Crosbie, seconded by Mr. Myers, and approved by unanimous vote, the meeting adjourned at 8:47 p.m.

Clerk of the Urban County Council