

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky September 9, 2008

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on September 9, 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 Beard, Blevins, Blues, Crosbie, Ellinger, Henson, James, Lane, McChord, Myers, and Stevens. Absent were Council Members Stinnett, DeCamp, and Gorton.

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An Ordinance changing the zone from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone for 15.21 net (17.10 gross) acres; and from a Light Industrial (I-1) zone to a Highway Business (B-3) zone subject to certain use restrictions imposed as conditions of granting the zone change, for 0.87 net (1.94 gross) acres, for properties located at 709-715 Byars Street; 701-870 DeRoode Street (excluding 757 and 763 DeRoode); 714-726 Deshort Circle; 906 West High Street (a portion of); 555-621 McKinley Street (odd addresses only); 800-833 Neville Street; 565-637 Patterson Street (portions of odd addresses only); and 812-820 Pine Street (Urban County Planning Commission) was on the docket for second reading.

Mr. Blues made a motion, seconded by Mr. Ellinger, and approved by unanimous vote, to amend the ordinance to delete the following addresses from the proposed zone change from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone: 565-637 Patterson Street (portions of odd addresses only) that deleting these properties changed the area to be rezoned from I-1 to R-3 to 14.95 net (16.84 gross) acres and that this was a material change and required a new first reading.

An Ordinance changing the zone from a Light Industrial (I-1) zone to a Planned Neighborhood Residential (R-3) zone for 14.95 net (16.84 gross) acres; and from a Light Industrial (I-1) zone to a Highway Business (B-3) zone subject to certain use restrictions imposed as conditions of granting the zone change, for 0.87 net (1.94 gross) acres, for properties located at 709-715 Byars Street; 701-870 DeRoode Street (excluding 757 and 763 DeRoode); 714-726 Deshort Circle;

906 West High Street (a portion of); 555-621 McKinley Street (odd addresses only); 800-833 Neville Street; and 812-820 Pine Street (Urban County Planning Commission) was given first reading as amended.

Upon motion of Mr. Blues, seconded by Mr. Blevins, the rules were suspended by unanimous vote. The ordinance was given second reading with a public hearing being held.

The Vice-Mayor swore in the witnesses.

Mr. Blevins made a motion, seconded by Mr. Lane, and approved by majority vote (12-1, Ms. James voted no) to limit testimony to twenty minutes per side.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) Affidavit of signs posted, (4) MAR 2008-16: Final Report and minutes of the Planning Commission, (5) 2007 Comprehensive Plan, (6) Southend Park Urban Village Plan, November, 2003, (7) Land Subdivision Regulations, (8) 1983 Zoning Ordinance with amendments, (9) Staff Exhibit: Revised Findings of Fact for MAR 2008-16 (AMD), (10) Zoning Map, USA 24, (11) Aerial Photographs, (12) Comprehensive Plan Map, (13) Preliminary Development Plan.

Mr. Ellinger asked Mr. Sallee to identify the applicant and the objectors. Mr. Sallee stated that the Planning Commission is the applicant in this instance.

The following individuals spoke in favor of the requested zone change: (1) Ms. Maranna Perkins, DeRoode St.; (2) Mr. J.E. Caton, property owner on DeRoode St.; (3) Ms. Cynthia Reynolds, DeRoode St.; (4) Ms. Regina Cowan, DeRoode St., President of Davistown Neighborhood Association; (5) Ms. Dorothy Coleman, Patterson St., community liaison for the Newtown Pike Extension project; (6) Ms. Tameka Cowan, DeRoode St.; (7) Ms. Judy Dixon, DeRoode St.; and (8) Ms. Judy Gibson, Combs St.

The following individuals spoke against the requested zone change: (1) Mr. Lawson King, property owner on DeRoode St., was unaware of the requested zone change; and (2) Mr. Jim Allen, DeRoode St..

Mr. Andrew Grunwald, Div. of Engineering, Newtown Pike Extension Project Manager, gave his presentation and filed the following exhibits: (1) Excerpt of Right of Way Appraisal Guidelines – Kentucky Transportation Cabinet (Department of Highways – Revision Date 1999) Section IV, and (2) Email from Mr. David Whitworth, Ky. Dept. of Transportation, regarding the Federal Highway Administration’s involvement in the project.

The Council asked questions of Mr. Grunwald.

Mr. King asked Mr. Grunwald for clarification on the parameters of the requested zone change.

Mr. Sallee gave his rebuttal and filed the following additional exhibit: (14) Notifications returned from the Planning Commission Hearing.

Ms. James asked questions of Mr. Sallee.

Mr. Blevins asked questions of Mr. Sallee and Ms. Rochelle Boland, Dept. of Law.

Mr. Blues made a motion, seconded by Ms. James, to approve the following Findings of Fact for Approval:

1. The proposed Planned Neighborhood Residential (R-3) zone is in agreement with the 2007 Comprehensive Plan for the following reasons:
 - a. The Plan recommends High Density Residential (HD) future land use, defined as 6-20 dwelling units per gross acre, for a portion of the subject area along its western boundary. The corollary development plan identifies 34 dwelling units within about 4.69 acres, for a residential density of 7.25 dwelling units per gross acre, which is within the residential density range recommended by the Plan.
 - b. The Plan recommends Other Public Uses (OPU) future land use for just under three acres of property along the eastern side of the subject area, north of the proposed mixed-use area. This designation recognizes the desire for the Nathaniel United Methodist Mission to remain a prominent part of the Southend Park Neighborhood to continue to provide valuable outreach services. This area is proposed for R-3 zoning, which permits a community center or church as a conditional use with Board of Adjustment approval.
 - c. The Plan recommends Public Recreation (PR) future land use for about eleven acres of property to serve this neighborhood. R-3 zoning is proposed to accommodate the proposed park, which will be expanded, and will continue to be operated by the Urban County Government.
2. Although the proposed B-3 zone does not allow residential uses, as recommended by the Mixed Use future land use designation of the Comprehensive Plan, it is far more appropriate for a significant gateway and prominent intersection along the corridor than the existing Light Industrial zone, which is inferior and entirely inappropriate at this location.
3. This recommendation is made subject to approval and certification of the applicable portions of ZDP 2008-71: Southend Park, Section 1, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commissions’

approval. (Note: the applicable portions of the development plan were certified on June 26, 2008)

4. Under the provisions of Article 6-7 of the Zoning Ordinance, the following uses shall be prohibited for the B-3 zone via conditional zoning:
- a. Establishments and lots for the display, rental, sale, service, and minor repair of farm equipment, contractor equipment, automobiles, motorcycles, trucks, boats, travel trailers, mobile homes, or supplies for such items.
 - b. Automobile service stations.
 - c. Car washing establishments.
 - d. Drive-in restaurants.
 - e. Minor automobile and truck repair.
 - f. Circuses and carnivals, even on a temporary basis.
 - g. Taxidermy establishments.
 - h. Pawnshops.
 - i. Liquor stores.
 - j. Parking lots and structures, as a principal use.
 - k. Adult arcades, massage parlors, adult bookstores, adult video stores, adult cabarets, adult dancing establishments, adult entertainment establishments, and sexual entertainment centers.
 - l. Drive-through facilities for sale of goods or products or provision of services otherwise permitted herein.
 - m. Advertising signs and billboards, as defined by Article 17-3(b) of the Zoning Ordinance.
 - n. No free-standing business signs taller than 8' in height, or larger than 32 square feet in size.

These use restrictions are appropriate and necessary for land at the southwest corner of the intersection of Newtown Pike and Pine Street in order to protect the gateway entrance to the Southend Park Neighborhood from the most intrusive and intensive commercial land uses, and to help implement the Comprehensive Plan's vision for the Newtown Pike corridor.

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

Aye: Beard, Blevins, Blues, Crosbie, Ellinger,
Henson, James, McChord, Myers,
Stevens, Gray----- 11

Nay: ----- 0
(Mr. Lane abstained when the vote was taken.)

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Upon motion of Mr. Blevins, seconded by Mr. Ellinger and passed by

unanimous vote, the Council adjourned at 7:05 p.m.

Clerk of the Urban County Council