

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky    October 28, 2008

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on October 28, 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, Gorton, Henson, James, Lane, McChord, Stevens, Beard, Blevins, and Blues. Absent were Council Members DeCamp, Myers, Stinnett and Crosbie.

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An Ordinance changing the zone from an Agricultural Urban (A-U) zone to a Planned Unit Development-1 (PUD-1) zone for 24.88 net (27.7 gross) acres, for property located at 4500 Old Schoolhouse Lane, subject to certain landscape and buffering restrictions imposed as conditions of granting the zone change (Kevin Crouse, Premier Villages) was given second reading.

The Vice Mayor swore in the witnesses and asked Mr. Jimmy Emmons, Div. of Planning, to explain the procedures for the hearing.

Mr. Emmons explained the procedures for the hearing.

Mr. Emmons gave his presentation and filed the following exhibits: (1) Legal Notice, (2) Affidavit of notices mailed, (3) MAR 2008-14: Final Report and Minutes of the Planning Commission, (4) 2007 Comprehensive Plan, (5) 1983 Zoning Ordinance as amended, (6) Land Subdivision Regulations, (7) Map of area, (8) Zoning Map, (9) Pictometry photographs, (10) Photographs of subject property, (11) Map with arrows, (12) Preliminary development plan, and (13) Applicants' tree plan.

Mr. Bill Lear, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Exhibit Book, which included the following: (a) Revised Site Plan, (b) Aerial Photograph - General Vicinity, (c) Aerial Photograph - Subject Property and Immediate Surroundings, (d) Aerial Photograph - Dedicated Greenway at Rear of Subject Property, (e) Photos - Views Into and Out of Subject Property, (f) PUD Uses, Requirements and Restrictions, (g) Comprehensive Plan Provisions, (h) Comprehensive Plan History - Subject Property, (i) Preliminary Development Plan Disapproved by

Planning Commission, (j) Revised Development Plan, (k) Sanitary Sewer Flow Calculations, (l) Property Perimeter Screening Requirements: Zoning Ordinance 18-3(a)(1), (m) Rear Yard Requirements - Zoning Ordinance Article 8, (n) Conditional Zoning Buffer Imposed by Planning Commission, (o) Detail of Revised Plan at Northwest Corner of Property, (p) Aerial Photographs - Harrods Hill, Palomar Hills, Rabbit Run; (2) Affidavit of Signs Posted, and (3) Copy of Zoning Change Alert.

The following citizens spoke against the requested zone change: (1) Mr. John Yozwiak, Bud Lane, (2) Mr. Marvin Mills, Dogwood Trace Blvd., who filed the following exhibits: (a) Statement from Mr. Mills and (b) Map showing entrance street layout; (3) Ms. Lanita Clarke, Matthew Ct.; (4) Mr. Dan Danford, Scenic View Road; (5) Mr. Mark Sok, Agape Dr., who filed the following exhibit: (a) Letter from Mr. and Mrs. Sok; (6) Ms. Lauren Larson, Rhema Way; (7) Mr. Jeff Monthie, Charisma Ct.; (8) Mr. Roger Marion, Dogwood Trace Blvd., who filed the following exhibit: (a) Statement from Mr. Marion; (9) Mr. Bob Pattie, Sungale Ct.; (10) Ms. Alana Ventura, Matthew Ct.; (11) Ms. Jann Geddes, Rhema Way, who filed the following exhibit: (a) Statement from Ms. Geddes; (12) Ms. Kim Crocetti, Rhema Way, who filed the following exhibits: (a) Aerial map of trails planned for the Area Neighborhoods and (b) Conditions to zone change for 4500 Harrodsburg Road regarding South Elkhorn Greenway; (13) Ms. Beth Chambers, Rhema Way, who filed the following exhibit: (a) Aerial photographs; (14) Mr. Dave Leonard, N. Limestone, who filed the following exhibits: (a) Photograph of Burr Oak Tree, and (b) USDA Forest Service list of Top 10 Reasons We Need Trees; (15) Mr. Fred Wohlstein, Rhema Way, who filed the following exhibit: (a) Requested Restrictions on Zoning Change from A-U to PUD-1 IF Zone Change is Granted (4500 Old Schoolhouse Lane); (16) Ms. Cindy Rullman, Price Ave.; (17) Ms. Cynthia Day, Rhema Way, who read a statement from Ms. Anne Faulconer, Rhema Way; (18) Ms. Patti Ruff, Dogwood Trace Blvd.; (19) Mr. Trainxiang Li, Ladera Lane; (20) Ms. Christina Dudek, Waterknoll Ct.; (21) Mr. David Kolpek, Doubletree Ct.; and (22) Ms. Janice Parsons, Rhema Way.

Mr. Emmons gave his rebuttal concerning the revised development plan presented by petitioner and filed the following additional exhibits: (14) Revised Recommendation of the Planning Commission, MAR-2008-14; and (15) Revised Draft #8 10/28/08, Conditional Zoning Restrictions.

Mr. Lear presented his rebuttal.

Mr. Bruce Simpson, attorney representing Jeff and Jenny Stringer, 4420 Old Schoolhouse Road and Jonathan and Mimi Porter, 4450 Old Schoolhouse Road, was sworn in by Vice Mayor Gray.

Mr. Simpson stated that they had agreed on conditions on landscape screening and buffering with the developers and the stub street, and that they were in agreement about the potential zone change.

Mr. Wohlstein, representing Dogwood Trace, gave a rebuttal on behalf of the citizens against the requested zone change. He stated their concerns about the Bur Oak Tree, and he addressed Article 22-6(k) in the zoning ordinance concerning traffic.

Mr. Mills stated his concerns about the potential traffic on Agape, and filed the following additional exhibit: (c) Email from Steven Ross, P.E., Ky. Transportation Cabinet.

Mr. Danford stated that his concerns about the development were not tied to property values, but to a variety of different reasons.

Ms. Larson spoke about population density and unusable land.

Mr. Lear made his closing statement.

The Council asked questions of Mr. Emmons and Ms. Tracy Wade, Div. of Planning.

Mr. Blues stated his concerns about saving the Bur Oak tree.

Ms. James stated for the record that she was in favor of the protection of the Bur Oak tree.

The Council asked questions of Mr. Lear, Mr. Emmons, and Mr. Mark Burrows, CDS Associates, project engineer.

The Council recessed at 9:58 p.m.

At 10:05 p.m., the Council returned with the same members present.

Mr. Blevins made a motion, seconded by Mr. McChord, to approve the following Revised Findings of Fact for Disapproval:

1. The PUD Zones are intended to encourage innovative design in part to ensure development that is responsive to both natural and man-made features of the site. The plan as proposed fails to adequately evidence whether the design follows the natural terrain and minimizes grading and filling, as set forth in Article 22A-6(j).
2. The development fails to provide sufficient detail to assure adequate protection of the significant Bur Oak.
3. The preliminary development plan as proposed at this hearing fails to comply with Article 22A-6(k) by omitting any provision to provide a connection with Twain Ridge Drive. Therefore the connectivity to be provided in a PUD is not provided.
4. No evidence was provided of any significant innovative techniques used in this development to respond to natural features of this property or any natural or man-made features on surrounding properties.
5. As a result of the above findings, this proposal fails to substantially meet the intent and requirements of the PUD-1 Zone.

The Council asked questions of Ms. Rochelle Boland, Dept. of Law.

Mr. Gray asked Ms. Gorton to take the chair while he stated his concerns about the zone change.

There was further discussion among the Council and questions of Mr. Lear, Ms. Boland, and Mr. Emmons.

Ms. Gorton made a motion to call for the question, seconded by Mr. McChord, and approved by a majority vote (Mr. Lane voted no).

Mr. Blevins' motion **passed** by the following vote:

Aye: Ellinger, Gorton, Gray, Henson, James,  
McChord, Beard, Blevins, Blues----- 9

Nay: Lane, Stevens----- 2

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Upon motion of Mr. Blevins, seconded by Mr. McChord, the ordinance

**failed to pass** by the following vote:

Aye: Lane, Stevens-----2

Nay: Ellinger, Gorton, Gray, Henson, James,  
McChord, Beard, Blevins, Blues-----9

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Upon motion of Ms. Gorton, seconded by Ms. James, the Council

adjourned at 10:35 p.m.

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Clerk of the Urban County Council