

Lexington-Fayette Urban County Government Special Council Meeting

Lexington, Kentucky January 13, 2009

The Council of the Lexington-Fayette Urban County Government, Kentucky convened in special session on January 13, 2009 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 Blues, Crosbie, Ellinger, Feigel, James, Lawless, McChord, Stinnett, and Beard. Absent were Council Members Gorton, Henson, Lane and Myers. The 10th District seat was vacant at the time of the Meeting.

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An Ordinance changing the zone from a Neighborhood Business (B-1) zone to a Wholesale and Warehouse Business (B-4) zone, for 2.8650 net (3.4609 gross) acres, for property located at 1447 Antique Drive, subject to certain use and buffering restrictions imposed as conditions of granting the zone change (Southern Industrial, LLC) was given second reading with a public hearing being held.

The Vice Mayor swore in the witnesses and explained the procedures for the public hearing.

Mr. Bill Sallee, Div. of Planning, gave his presentation and filed the following exhibits: (1) Legal notice, (2) Affidavit of notices mailed, (3) MAR 2008-24: Final Report and Minutes of the Planning Commission, (4) 1983 Zoning Ordinance as amended, (5) Land Subdivision Regulations, (6) 2007 Comprehensive Land Use Plan, (7) Staff Exhibit, MAR 2008-24, showing current allowable uses of the subject property and proposed allowable uses of the subject property, (8) Zoning Atlas Map #16, including subject property (9) Aerial photos of subject property, from east and north, (10) Comprehensive Plan Map Inset 2007, portion with subject property, (11) Photo from north of subject property showing drainage easement, and (12) Preliminary Development Plan.

Mr. Dick Murphy, attorney for the petitioner, gave the reasons for the requested zone change and filed the following exhibits: (1) Affidavit of notices posted, (2) Exhibit book, including the following exhibits: (a) 2006 Goals and Objectives, (b) 1983 Zoning Ordinance excerpt defining B-1 zone, (c) 1983

Zoning Ordinance excerpt defining B-4 zone, (d) Revised conditional zoning restrictions, (e) 1983 Zoning Ordinance excerpt defining items not allowed in B-4 zone, (f) Chart of existing zoning compared to applicant's proposal, (g) Mr. Murphy's talking points for Planning Commission meeting, (h) Copy of notice delivered to area residents regarding proposed zone change, (i) Letter from Shirley Young, Meadowthorpe Neighborhood Association President, supporting the zone change, and (3) Photographs of the subject property.

The following citizens spoke in favor of the requested zone change: (1) Ms. Shirley Young, Meadowthorpe Neighborhood Association President, who filed the following exhibit: (a) Letter supporting the zone change, and (2) Mr. David Banks, Pelican Way.

The following citizens spoke against the requested zone change: (1) Mr. Bob Layton, N. Forbes Rd., who filed the following exhibit: (a) CD containing photographs of the subject property area, and (2) Ms. Janey Jones, Manager of the Goodwill Store at 1441 Leestown Rd., who filed the following exhibit: (a) photographs of the Goodwill Store property with flood damage.

Mr. Sallee gave his rebuttal and commented on the child care center's playground which was situated partially on the subject property.

Mr. Murphy gave his rebuttal.

The following witnesses spoke in favor of the requested zone change: (1) Mr. Billy Newton, petitioner, and (2) Mr. James Black, Hydrological Engineer and Geologist, who filed the following exhibit: (a) Photographs of the subject property.

Mr. Layton gave his summation on behalf of the opposition.

Mr. Murphy gave his summation on behalf of the petitioners.

The Council asked questions of Mr. Sallee, Mr. Murphy, Ms. Young, Mr. Newton, and Ms. Rochelle Boland, Dept. of Law.

Mr. Blues asked Ms. Boland whether the Findings of Fact could be amended to satisfy Council's concerns. Ms. Boland responded with suggestions for amendment.

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

1. The restricted Wholesale and Warehouse Business (B-4) zone requested by the applicant is appropriate, and unrestricted Neighborhood Business (B-1) zone, is no longer appropriate at this location, for the following reasons:
 - a. The subject property, adjacent to a number of residential uses, is to be greatly restricted in its future uses, including a number of allowable office uses, rather than the unrestricted business use currently allowable at that location.
 - b. Very little traffic impact is anticipated for the proposed machine shop and shops of special trade.
 - c. The lack of visibility, the odd shape and the circuitous access for this property account for the fact that it has not developed over the past 30 years, although zoned B-1.
2. This recommendation is made subject to approval and certification of ZDP 2008-108: Meadowthorpe Community Business Center, Unit 1 (Halifax Land Company), 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 are to be prohibited at this location via conditional zoning:

PROHIBITED USES:

- a. Ice Plant.
- b. Tire re-treading and re-capping.
- c. Sales of feed and grain or other agricultural supplies (except for offices for such sales.)
- d. Establishments and lots for display, rental, repair or sale of farm equipment, automobiles, trucks, mobile homes, recreational vehicles, motorcycles or boats.
- e. Truck terminals and freight yards.
- f. Automobile service station.
- g. Establishments for the display and sale of pre-cut, pre-fabricated, or shell homes.
- h. Circuses and carnivals.
- i. Pawn shops.
- j. Mining.
- k. Kennels and animal hospitals.
- l. Major and minor automobile and truck repair, except for vehicles used accessory to the business.
- m. Parking lots and structures as principal uses.

BUFFERING RESTRICTIONS:

- a. A four foot landscape easement shall be provided along the north and east property lines.
- b. There shall be no outside loudspeakers.
- c. There shall be no building openings, except for stationary windows, facing the north property line, unless required by the Fire Department or Code for emergency egress.
- d. Exterior lighting shall be designed to prevent light shining directly from the source to adjoining properties to the north.

These restrictions are appropriate for the subject property, in that they have been offered by the applicant for the subject property, and they will help ensure that the proposed development will be more compatible with nearby residential and commercial land uses.

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

Aye: Blues, Crosbie, Ellinger, Feigel, Gray,
James, Lawless, McChord, Stinnett, Beard----- 10

Nay: ----- 0

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

Aye: Blues, Crosbie, Ellinger, Feigel, Gray,
James, Lawless, McChord, Stinnett, Beard----- 10

Nay: ----- 0

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Upon motion of Mr. Ellinger, seconded by Ms. Crosbie, the Council adjourned at 8:26 p.m.

Clerk of the Urban County Council