

**GEORGETOWN-SCOTT COUNTY PLANNING COMMISSION  
REGULAR MEETING  
MINUTES**

**September 12, 2002**

The regular meeting was held in the Scott County Fiscal Courtroom on September 12, 2002. The meeting was called to order by Acting Chairperson Barry Brock at 7:00 p.m. Present were Commissioners Robert Hopkins, Omer Lee, William Peters, Elizabeth Williams, Planning Director Kelley Klepper, Planner Rachel Phillips, Engineer Brad Frazier, and Attorney Charlie Perkins. Absent were Chairperson Sara Sutton Commissioners, Pete Gritton, John Sharpe, and James Thomason.

Motion by Peters, second by Williams, to approve the August invoices. Motion carried.

Motion by Hopkins, second by Lee, to approve the August 8, 2002 meeting minutes. Clarification by Mrs. Williams p.2, par.4, "asking the City to help the applicant provide a day care facility in the area" comment was intended to mean "ask the City to help the applicant provide a day care facility in the area, elsewhere in North Georgetown (general area opposed to a specific location)". Motion carried.

Motion by Peters, second by Williams, to approve the August 20, 2002 special meeting minutes. Motion carried.

Motion by Hopkins, second by Williams, to approve the September agenda. Motion carried.

**Postponements/Withdrawals**

Acting Chairman Brock reported that the Fisher's Mill Landing Phase I, Unit B and Phase I, Unit C have been postponed to the October meeting. The Wilder Cluster is recommended for withdrawal due to applications inactivity during the past several months and failure to obtain the required Health Department approval. Motion by Williams, second by Peters to accept the two items for postponement and the one item for withdrawal. Motion carried.

## Consent Agenda

Representatives of the applications for Ward Property, 147 Crumbaugh Pike – Villages of Elkhorn Green Unit 8 (including 13<sup>th</sup> condition regarding street light approval by City Engineer), Whispering Woods Riding Camp, Dudee Property agreed to staff's conditions of approval, and no concerns about the projects were expressed by the Commission or the public.

**Motion by Williams, second by Lee, to approve the four applications on the Consent Agenda subject to their respective conditions of approval. Motion carried.**

PSP-2002-56 McCullagh Cluster Subdivision – Preliminary Subdivision Plat for a 20-lot rural residential development (19 cluster lots, 1 agricultural lot), located on the east side of Leesburg-Newtown Pike, north of U.S. 460 (Paris Pike), northeast of Thistle Way

Acting Chairperson Brock opened the public hearing.

Brent Combs, Thoroughbred Engineering, submitted documentation regarding notification requirements and asked for postponement to obtain Health Department review and approval.

Acting Chairperson Brock postponed the matter to the October meeting.

ZMA-2002-53 A & K Child Development Center – Rezoning request for 0.67 acre from R-2 Residential to B-1 Neighborhood Commercial, located on the south side of Young Street, southeast of North Hamilton Street, north of Hickman Street. PUBLIC HEARING

Acting Chairman Brock continued the public hearing from the August meeting and noted that the notice requirements under KRS had been submitted at last month's meeting.

Mr. Klepper reviewed the staff report. He reiterated staff's concerns from the August public hearing regarding the adopted Comprehensive Plan designation for residential in the north Georgetown area, traffic concerns and the Transportation Element of the adopted Comprehensive Plan, the concept of spot zoning (including the definitions as noted in the staff report), KRS 100, and possible precedent for commercial requests within this and other residential areas. Based on these elements, staff recommended denial.

Mr. Klepper also updated the Commission on recent discussions with the Mayor's Office (letter included in packet) and discussions with the applicant.

Mr. Hopkins asked about other locations that may be available and more suited to a commercial use and this type of use.

Mrs. Williams commented on the ownership of the property and the Commission's role in the rezoning process. She also asked about spot zoning and asked for further information.

Mr. Klepper read the definition of spot zoning as defined by the "Glossary of Zoning, Development and Planning Terms". He also clarified and simplified the term including the necessity for transitioning and buffers.

Mrs. Williams noted that the Commission's discussion and review of the application is not based on whether the Commission thinks childcare is necessary but is the property suitable for rezoning. She also noted that once property is zoned, the applicant is able to develop according to the list of permitted uses noted in the Zoning Ordinance. Mrs. Williams quoted from the Zoning Ordinance "purpose" and Transportation Element "Goals & Objectives #1". She also expressed her desire for the applicant to be able to find a more suitable piece of property for their proposal.

Mr. Klepper noted the staff's review of legal issues and relevant court cases regarding spot zoning. He also discussed the Education Component of the Comprehensive Plan and noted that the plan states that there is a need for child care in the community, but did not specify or outline specific locations.

Mr. Charles Vinegar, father of the applicant and area resident, voiced his support for the application and noted the submitted petition supporting their request. He also questioned the concerns regarding traffic. Mr. Vinegar discussed previous commercial uses within the north Georgetown area including a grocery store and a slaughterhouse. He also expressed concern about safety for children.

Mr. Wayne Leach, area resident, questioned why child care would be located or required to locate in commercial, suggesting residential areas are more appropriate. He stated the different types of uses that could locate adjacent to a child care center if it is in a commercial zone. He also questioned the traffic concerns.

Mr. Brock reiterated the Commission's concerns for childcare and stated that they are not opposed to providing childcare within the community, but outlined the request is for rezoning to commercial. He expressed concerns regarding the possibility of the applicant relocating from this site to another site, and the fact that a commercially-zoned piece of property would remain.

Mr. Leach questioned Mr. Brock's comments regarding relocation from the site.

Mr. Brock clarified that his example was based on the idea that the facility would need to expand and relocate to a larger facility. This would leave the property commercially zoned and allow another commercial business to operate in that same location.

Mr. Leach commented about possible expansion on this site or onto an adjacent property. Mr. Brock commented that it would require a similar request to rezone that property.

There was additional discussion regarding spot zoning from Mr. Leach and Mr. Brock.

Mr. Leach discussed the neighborhood and then asked about the zoning districts within the area. Mr. Klepper explained the zoning map. Mr. Leach questioned some specific uses within the area including the junkyard on Bridge Street and a welding shop. Mr. Klepper explained the conditional use process and the role of the Board of Adjustments. There was additional discussion regarding "grandfathering" of uses. Mr. Leach noted the use and the distances to various streets, including distances to other types of uses. He also expressed concern about semi-trucks driving through these streets and their impact on this area. Mr. Leach noted his concern for the Commission's discussion items and traffic on other streets.

Mrs. Williams noted that the Commission is responsible for zoning. She also stated that the Commission cannot look at mistakes in the past and use those for subsequent approvals, but they do have to look at the precedent they may set. The Commission must look at zoning law and regulations. She also noted the intent of the zoning regulations to protect not only the applicant's property, but also other properties. She expressed concern for disregarding the zoning laws and KRS 100, and the potential for being overturned by the courts. Mrs. Williams stated she was not against the childcare, but the location.

Mrs. Kimberly Vinegar pointed out there is an existing Type I day care on Marks Street that is open 24 hours. There was considerable discussion regarding this child care facility, including the previously approved conditional use, number of allowable children, hours of operation, and if there are violations, a complaint would need to be filed with the Chief Building Official's office. There was additional discussion regarding the time period when it was approved and began operation. Discussion continued on the "grandfather" clause from a legal and development perspective. Mr. Perkins explained the statutes regarding "grandfathering" of uses. He further explained the previous approval of the childcare on Marks Street, including the specific guidelines.

Mr. Vinegar reiterated his concern for safety and the lack of sidewalks in the Boston area. Mr. Perkins noted that there are numerous neighborhoods without sidewalks, including Indian Hills. There was additional discussion regarding the regulations and existing childcare facilities. Mr. Leach reiterated his concern that childcare needs to be in residential areas, not commercial areas.

Mr. Brent Combs, Thoroughbred Engineering, asked about conditionally zoning the property and limiting its use. Mr. Perkins expressed his concern regarding conditionally zoning a piece of property based on the regulations and the courts' interpretation. He then clarified the difference between zone changes and conditional use approvals. Mr. Perkins stated that a conditional use for this request would not be reasonable based on the number of children, possible improvements, and traffic.

There was additional discussion regarding the conditional use process. Mr. Klepper outlined the differences between a Type I and Type II Day Care per the Zoning Ordinance. Mr. Klepper outlined the staff's review process with regard to this application based on the number of children/amount of traffic, commercial activities and required street designations, Comprehensive Plan, Zoning Ordinance, KRS 100, and sound planning & zoning principles.

Mrs. Vinegar outlined the State's requirements regarding childcare.

Mr. Klepper noted that the discussion needed to remain centered on this application and its merits. He noted that state requirements are not part of the local zoning requirements and not enforceable by the Planning Commission and the City.

There being no further discussion from the Commission and the audience, Mr. Brock closed the public hearing.

**Motion by Hopkins, second by Williams, to deny the zone change request because it does not meet the B-1 Neighborhood Commercial qualifications, the Comprehensive Plan designates this area for residential use, possibly constitutes spot zoning, potential adverse traffic problems, and it could establish a precedent. By roll call vote, motion carried 4-0.**

PDP-2002-62 Minniefield Townhomes – Preliminary Development Plan for 8 townhome units, located on the north side of Barbara Blvd., north of Charlotte Ave., east of Elkhorn Meadows Dr.

Ms. Phillips reviewed the staff report noting the history of the development and prior approvals. She noted staff's recommendation to reduce the number of proposed parking spaces from 21 to 19 to allow additional landscaping and more

efficient vehicle movements. There was discussion regarding the garbage pad locations and the required sidewalk extension.

Mr. Brent Combs, Thoroughbred Engineering, agreed to the conditions of approval, including the recommended variance to the parking spaces.

There being no further comments, **motion by Peters, second by Lee, to approve the variance to parking space reduction from 21 to 19 and the Preliminary Development Plan subject to the 12 conditions listed in the staff report. Motion carried.**

Comprehensive Plan – Cellular Telecommunications Towers PUBLIC HEARING

Acting Chairperson Brock opened the public hearing.

Mr. Klepper briefly reviewed the proposed amendment to the Community Facilities element of the Comprehensive Plan regarding Cellular Telecommunications Towers.

Acting Chairperson Brock closed the public hearing.

**Motion by Williams, second by Hopkins, to recommend approval of the Cellular Telecommunications Towers component of the Community Facilities element of the Comprehensive Plan, with the deletion of the duplicate “tremendous in” wording. By roll call vote, motion carried 4-0.**

**Later in the meeting, Acting Chairperson Brock recounted the vote on the issue, adding his own vote, as required by KRS 100. By roll call vote, motion carried 5-0.**

Proposed amendments to the Zoning Ordinance regarding H.B. 270 – Cellular Telecommunications Towers PUBLIC HEARING

Acting Chairperson Brock opened the public hearing.

Mr. Klepper briefly reviewed the proposed amendment to the *Zoning Ordinance* regarding regulations for cellular antenna towers and cellular telecommunications services as required by H.B. 270). Several issues were clarified for the Commission.

Acting Chairperson Brock closed the public hearing.

**Motion by Hopkins, second by Peters, to recommend approval of the proposed amendment to the Zoning Ordinance regarding H.B. 270 – Cellular Telecommunications Towers. By roll call vote, motion carried 4-0.**

**Later in the meeting, Acting Chairperson Brock recounted the vote on the issue, adding his own vote, as required by KRS 100. By roll call vote, motion carried 5-0.**

Proposed amendments to Article XI and Article XII of the *Subdivision and Development Regulations* regarding Stormwater Management PUBLIC HEARING

Acting Chairperson Brock opened the public hearing.

Engineer Brad Frazier reviewed several minor changes based on comments from interested parties.

After brief discussion, Acting Chairperson Brock closed the public hearing.

**Motion by Williams, second by Peters, to adopt the proposed amendments to Article XI and Article XII of the *Subdivision and Development Regulations* regarding Stormwater Management. By roll call vote, motion carried 5-0.**

Proposed amendments to the *Subdivision and Development Regulations* regarding digital plats and plans PUBLIC HEARING

Acting Chairperson Brock opened the public hearing. Mr. Klepper reviewed the proposed amendment.

After brief discussion, Acting Chairperson Brock closed the public hearing.

**Motion by Hopkins, second by Williams, to adopt the proposed amendment to the *Subdivision and Development Regulations* regarding digital plats and plans. By roll call vote, motion carried 4-0.**

Update of previously approved projects and agenda items

Mr. Perkins reported that he made a request to the Franklin Circuit Court that the Cary Hall lawsuit be transferred back to Scott Circuit Court.

The meeting was then adjourned.

Respectfully,

  
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Barry Block, Acting Chairperson

Attest:

  
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Charlie Perkins, Secretary