

From: Lee Merrill <merrill@rockbridge.net>
Sent: Tuesday, July 25, 2017 1:47 PM
To: ffriedman@lexingtonva.gov; Noah Simon; arne Glaeser
Cc: Chris Wise; Barbara Walsh; gregg amonette; Douglas Harwood; kit Huffman
Subject: RACC Comments on Zoning revisions
Attachments: image001.jpg; Untitled attachment 00169.htm; LUC TO CC July 25.docx; Untitled attachment 00172.htm

Dear Mayor Friedman,

The Executive and Land Use Committees of the Rockbridge Area Conservation Council (RACC) have a keen interest and an important stake in the updating of the City's Comprehensive Plan and the zoning ordinance supporting it.

Attached please find [and distribute to Council] RACC's position paper on this undertaking, developed after our review of the proposed zoning ordinance. We ask that you give it serious consideration, and we hope to enjoy the chance to discuss it in detail with you and the members of the City Council.

Sincerely yours,

Gregg Amonette
Co-President

Lee Merrill
Co-President

July 25, 2017

The Rockbridge Area Conservation Council's Land Use Committee (RACC LUC) would like to thank the Planning Commission and the staff for their considerable efforts to update the City of Lexington's zoning ordinance. As in earlier public comments regarding the current proposal, we have continuing significant concerns, some of which are summarized below, together with additional observations and suggestions regarding the updating of the Comprehensive Plan.

Proposed Zoning Ordinance and the Relationship to the Lexington Comprehensive Plan

An underlying assumption in planning practice is that the zoning plan is developed in accordance to the comprehensive plan. The Virginia statutes note that zoning ordinances and districts shall be drawn and applied with reasonable consideration for the comprehensive plan, trends of growth or change, the current and future requirements of the community as to land for various purposes as determined by population, economic and transportation studies and other considerations. Our concern is that the proposed zoning ordinance, which includes a future land use map and a new zoning map, may well drive the comprehensive plan update rather than the recommended process where the comprehensive plan informs the zoning process. Specific observations in regard to the proposed Zoning Ordinance include:

1. RACC understands that a Green Infrastructure Plan is to be developed to inform land use decisions based on environmental and recreational assets, deficiencies and future goals. The findings of such a plan, if adopted, may require the rezoning of open space that is currently zoned for mixed use or residential under the proposed ordinance. Specific open space issues that should be considered under a Green Infrastructure Plan include:
 - a. The importance of Jordan's Point designation as a park on the Future Land Use Map;
 - b. The proposed zoning of the city's Spotswood property and school yards which currently function as important open space and are zoned for residential or mixed use.
 - c. The Future Land Use Map contained in the current Comprehensive Plan designates the public school sites within the City as Public Buildings/Open Space. The proposed Future Land Use Map, which would be adopted as part of the Zoning package, designates these school properties for residential use. The logic for this designation is not clear given that these properties will remain as schools and affiliated uses through several Comprehensive Plans to come.

Including schools in the residential districts surrounding them would allow them to be converted to residential use with minimum public input. A sounder approach would be to expand the Park, Cemeteries and Open Space District to include schools. Then conversion to residential would require rezoning. This also makes sense from a land use perspective because these schools are a key recreational resource: their gyms, auditoriums and fields are used by the community when school is not in session.

We ask that you specifically address these issues in the Green Infrastructure Plan.

2. While combining the PSR and RLC districts may simplify the ordinance, it should be noted that these districts were created for fundamentally different reasons. The PSR district was to permit

medically related offices in the primarily residential area around the hospital. The RLC district was to facilitate a mixed residential, crafts and light industrial area around McLaughlin Street. Trying to combine these two districts misses the point of their initial creation. Looking at the proposed “use matrix” such uses as custom manufacturing, garden center, consumer repair service and other similar commercial uses would be permitted around the hospital, including on the disputed City land adjacent to the rescue squad building. We see no problems with maintaining two more focused districts.

We ask that you refrain from combining PSR and RCL districts into a single category.

3. Currently the Planned Unit Development provisions have no minimum lot size. The Intent and Purpose for the PUD states, in part, that a PUD is intended to provide both for development flexibility of undersized parcels and to allow for the use of diversified development techniques for larger parcels. The provisions were often used to allow for creative use of many of the small vacant parcels which had been passed over. The proposed Ordinance establishes a minimum of 5 acres for the establishment of a PUD. How many vacant tracts of this size remain? The proposed Ordinance seems to have replaced standards which were developed to allow applicants to find better ways to develop the small parcels which remained in the City, with a classic PUD ordinance more appropriate in a developing area with large vacant parcels available.

We ask that you delete the requirement of a 5-acre minimum for PUD parcels.

4. We also note that the Multifamily Mobile Home District has been deleted from the proposed ordinance. We see this as a potential problem. The existing mobile home park on Shop Road would become a nonconforming use as a result. This park is not going to go away, and making it a nonconforming use would limit future efforts to upgrade it. We also note that this type of housing meets a legitimate need, has presented no public problem, and should not be precluded from City land.

We ask that you delete the zoning proposal concerning the mobile home district.

These are some examples where the findings and recommendations from sectoral studies normally associated with a Comprehensive Planning process (Housing, Transportation, Services, Open Space etc.) will inform land use decisions. As the findings and recommendations emerge from and the final adoption of the Comprehensive Plan takes place, it will be important that the Planning Commission undertake any necessary zoning amendments to align land uses to an adopted Comprehensive Plan.

- *The Planning Commission and City staff have noted to us that they will revisit specific issues within the zoning ordinance and proposed land use as part of the updating of the Comprehensive Plan.*
- *In keeping with these assurances, we request that no legal actions (including but not limited to) the sale of city-owned property pending the approval of the Comprehensive Plan and subsequent compatible revisions of the zoning code: i.e., a moratorium is placed on entering into agreements regarding the use or sale of city-owned land.*

Strengthening Community-Based Planning

For the forthcoming updating of the Comprehensive Plan, a well-articulated community-based planning process can make a significant contribution to shaping the future growth and development of Lexington and cooperation with its neighboring jurisdictions. In the past, the three local governments have taken significant steps in land use and community planning, for example: The Route 60 East entrance corridor; the East Lexington Future Development Study, the Tourism Corridor Overlay Zoning; the County's planning efforts including the Comprehensive Plan update; the sliding scale used in determining subdivision rights, agricultural forestall districts and the purchase of development rights program.

These steps forward were accomplished with broad public input and support. While it was not always easy, the process for making change and shaping future development allowed all affected parties to feel that the decisions did not favor one group over another and that process was not driven by administrative expediency. Community members came out of the process feeling that everyone was in it together.

RACC has been involved in these developments and its Land Use Committee members, who have expertise in urban planning, ecology, geology, hydrology, landscape architecture, real estate, economics, and other relevant fields, are willing to contribute their time and expertise to help make our community a better place to live.

- *Prior to starting the formal update of the Comprehensive Plan, we believe it will be important to outline the following: (1) the strategic objective(s) in undertaking the Comprehensive Plan and linkages to the Strategic Planning process underway by the City Council ; (2) the proposed content of the Comprehensive Plan; (3) the timeline for any required studies, drafting the plan and the approval process; (4) the technical and administrative resources that are available; and (5) the community engagement process to ensure maximum participation and leveraging of community knowledge and consensus.*
- *RACC is ready to work with the Planning Commission and the City Staff in outlining an effective and engaged process for updating the Comprehensive Plan.*

Planning Review and Approval Process

In our opinion some recent local planning issues, for instance the planning process for Kendal's expansion, Brewbaker Annex, and the Spotswood cemetery proposal, have not followed the above mentioned community engagement process and has led to some citizens feeling that the process is broken. Our sense of community seems to have diminished.

We are concerned that the proposed ordinance generally expands administrative decision-making thus reducing opportunities for effective public input and timely notice to affected parties. Issues of concern include but are not limited to:

- 1) Community input v. administrative discretion. The Matrix of Uses by Zone, by increasing the number of "by right" uses (requiring no public input) as opposed to current "conditional" uses (requiring public input) drastically reduces community participation, site-specific considerations, and has potential negative impacts on neighborhood harmony in residential areas.

The City has made extensive and effective use of the Conditional Use process for at least the last two decades. City officials and City staff believed that it provided a means for potentially affected citizens to participate in the project review process, and that it enabled developers to better understand the potential impact of their project on the surrounding neighborhood. The result was better projects. While it requires staff time to manage the process, we believe that the results more than justify it.

- 2) "Incentive zoning" (the allowance of super-density as a tradeoff for open space and other amenities) is at least inadequately defined, and the relevant text is drafted to give broad discretion to developers; it is not transparent, as required for public understanding.
- 3) As expanded submittal requirements for Site Plans can be burdensome to small-scale development, and a disincentive to local entrepreneur, and as appropriate waiving power is granted to the Zoning Official, published waivers policy guidelines would helpful to all parties.

We note that there is a growing public perception that the decision making process regarding land use decisions is moving away from past city practices of ensuring effective public participation, understanding, and consensus regarding proposed changes. There a concern that the process is being driven by administrative priorities and the financial/time constraints that accompany the use of outsourced planning expertise.

- *In light of the new zoning ordinance's development, it is important to have a discussion about how planning decision making in Lexington will be done in the future. RACC is willing to work with city officials and interested citizens to find a solution and looks forward to joining the process.*