

**PLANNING COMMISSION
NOVEMBER 5, 1997**

A Regular Meeting of the Lexington Planning Commission was held Wednesday, November 5, 1997 at 7:30 p.m. at the Municipal Building, 406 E. 7th Street. Commissioners present were Vice-Chairman Bill Grant, Toby Owens, Bill Pepper, Rob Waterman, Margaret Nielsen, Charlene West. City Officials present were Assistant City Manager Joe Pepplitsch, Chief Building Inspector Tom Nelson, City Attorney Willard Weinhold, Administrative Assistant Shirley Lewis. Others present were Mirta Beins and family, Mr. & Mrs. Ryan Bauer and family, Mr. and Mrs. Bill Doughy, Kyle Otte, and Linda Kruse. The press was represented by KRVN.

CALL TO ORDER: The meeting was called to order by Vice-Chairman Bill Grant.

PRESENTATION OF MINUTES 8-3-97: The minutes from the August 3, 1997 meeting were presented for Planning Commission approval. Bill Pepper moved to approve the minutes from the August 3, 1997 meeting. Toby Owens seconded. Roll call. Voting "aye" were Owens, Pepper, Waterman, Nielsen, Grant, West. Motion carried.

**PUBLIC HEARING-
MIRTA BEINS ZONING
CHANGE REQUEST:** Vice Chairman Bill Grant declared the public hearing open. Chief Building Inspector Tom Nelson introduced Mirta Beins. Mrs. Beins requested having her residence be changed from an R-1 dwelling to an R-2 dwelling. The commission was informed that there is a family residing in the basement of Mrs. Beins home, other than Mrs. Beins and her family. Building Inspector Tom Nelson stated the home is a split level building, and the lot size is 100' x 140'. Mr. Nelson further stated that the house is about 1,200-1,400 sq. ft. Mirta Beins said this was a large house. Planning Commission member Bill Pepper inquired about how many people live in the upstairs, and how many people live in the basement. Mrs. Beins stated there were four people that lived upstairs, and four downstairs. Building Inspector Tom Nelson informed the Commission members that if this is approved, the family will have to have another entrance put into the house, as there is currently only one entrance, and each family would have to have their own entrance. A neighbor that lives one house down from Mrs. Beins presented his disagreement to the Commission. He stated that this is a residential area. He further stated

that a few years ago, there was a man who wanted to build a duplex across the street at 700 W. Elm, and it had been voted down. He went on to say that this building was designed to be a single family dwelling and should remain that way. Planning Commission Member Rob Waterman inquired about how long the other family had been living there. Mirta Beins stated that it has been about three years now. Another neighbor of Mrs. Beins informed the Commission that he had not had any problems with the family that lives there or anyone that lives in the block. With no further comments, Vice Chairman Bill Grant declared the public hearing closed. Planning Commission Rob Waterman moved to approve the recommendation to change Mirta Beins residence from R-1 to R-2. Motion died for lack of second. Motion made by Bill Pepper to submit a recommendation of denial to the City Council on the issue of changing Mirta Beins' residence from R-1 to R-2. Seconded by Margaret Nielsen. Roll call. Voting "aye" were Owens, Pepper, Waterman, Nielsen, Grant, West. Motion carried. Vice Chairman Grant informed Mirta Beins that she now has the option to approach the City Council about this at the November 25, 1997 meeting.

**PUBLIC HEARING-
RYAN BAUER ZONING
CHANGE REQUEST:**

Vice Chairman Bill Grant reopened the Public Hearing. Ryan Bauer introduced himself, and explained that he has made application to rezone some property on east 13th Street for use of a funeral home, from R-3 to C-O. Margaret Nielsen inquired about what street the funeral home would face. Mr. Bauer stated it would face 13th Street and would involve 2.94 acres. Planning Commission member Bill Pepper asked if Mr. Bauer was aware that the property is currently zoned R-3, which under special use permit, will allow mortuaries or funeral homes. Mr. Bauer stated that he is aware of that, but looking down the road from his position, he and his wife would like to have children some day, and might want to turn this business over to his son or daughter. If that was the case, if it was under special use permit, he would have to go through these proceedings again. With the Commercial zoning, that wouldn't be the case. They are in understanding and agreement to comply with all the provisions and requirements of the C-O code, including the building codes,

specifications of the building, and adequate off-street parking, so that they would cause no conflicts with the residential character of the neighborhood. A resident in the neighborhood, Bill Doughty, inquired about Garfield Street. Mr. Doughty was concerned about budgeting for his part of the assessment if the street would be extended and paved. Mr. Bauer stated that at this time, he has no plans to extend Garfield. City Attorney Will Weinhold added that there is a subdivisional agreement for the original O'Donnell's division that provides that such time there is development, Garfield has to be paved. Technically, unless the City Council is willing to amend that subdivision agreement, Garfield Street would have to be paved. Mrs. Doughty stated she is willing to have it paved, but would just want to know about it. Mr. Weinhold went on to say that there was a separate agreement made with the Episcopal Church, that Garfield street would not have to be open at the time the Church was built. He can't say what agreement might be made, or even how City staff feels about it at this time. That is an open issue. Neighbor Mrs. Doughty then inquired about this type of zoning, and does it only encompass the confines of Ryan Bauer's land, or does that open it up to any other type of zoning in that surrounding area. Planning Commission Chairman Bill Grant explained that C-O zoning only permits barbershops and beauty parlors, child care centers, detached banking facilities, home occupations, administrative and professional offices, and mortuaries, among other associated uses. Planning Commission Member Bill Pepper stated his concerns about 2.94 acres being more acreage than a mortuary would need, which would indicate to him, that Mr. Bauer is asking for a rezoning on an area larger than what the Commission's intentions would have been at the passage of this ordinance. Commission Member Margaret Nielsen stated that parking needs to be one car for every four seats. Mr. Pepper then asked Mr. Bauer how many seats he plans to have. Mr. Bauer informed the Commission that they plan to have seating for 180 people in the chapel. He went on to say that the research he did shows that it is not recommended for new construction of mortuaries to have less than 3 acres. He did secure a little more than he needed simply

because of concerns of what might go in next to them. With a funeral home, that is important to think about. Assistant City Manager Joe Peplitsch asked Mr. Bauer if the sale was contingent upon the rezoning. Mr. Bauer stated that everything is contingent upon the rezoning. Mr. Kyle Otte commented that as a resident in the area, he is concerned about the parking. If the Commission were to make it a smaller area for zoning, then the parking would have to be on the street for the mortuary. He would just as soon the parking be there than on Garfield or 13th Street. His profession in law enforcement would encourage that as well. Off street parking is much more safer than on street parking. As a homeowner on Garfield Street, he is in support of Ryan Bauer. He doesn't think a funeral home is going to cause any disruption to the neighborhood at all. Mrs. Bauer supported Ryan Bauer by stating another mortuary in Lexington would be a good asset to the city. She and Ryan Bauer want to offer as much as possible to the City of Lexington. Lexington resident Linda Kruse also showed her support by stating another mortuary in Lexington is needed, as the current funeral home cannot always hold the large amount of people that come for the services. Mr. Randy Bauer explained that one of the reasons he chose this location was because of the access to the cemeteries. Every direction you need to go is very close. Planning Commission member Rob Waterman requested those in opposition to the rezoning request to please come forward. There were none in attendance to oppose. Vice Chairman Grant declared the public hearing closed. Rob Waterman moved to submit a favorable recommendation to City Council on the issue of changing the zone to C-0. Charlene West seconded. Roll call. Voting "aye" were Owens, Pepper, Waterman, Nielsen, Grant, West. Motion carried. Vice Chairman Grant informed Ryan Bauer that his next step is to approach the City Council at the November 25, 1997 meeting.

**ROUND-TABLE
DISCUSSION:**

Planning Commission Member Bill Pepper inquired about the Ward Residential Subdivision. He was under the impression that that was going to be a permanent home. A home was put up along with another home that he thought had a permanent

foundation, but now the home is gone (like a show home). It was explained that the house had to be moved, and that is why it is gone.

Vice Chairman Grant inquired about home occupations. Assistant City Manager Joe Peplitsch stated that there was discussion on that, and also spoke to City Attorney Willard Weinhold about it, and if we are going to do a full-blown zoning and subdivision review and restructuring, we felt it be probably best to do it all at one time. It would be better to get something new and usable, rather than piecing it all together.

ADJOURNMENT:

There being no further business to come before the Commission, Vice Chairman Grant declared the meeting adjourned at 8:12 p.m.

Respectfully submitted,

Shirley Lewis
Administrative Assistant