

Bond Case Briefs

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ANNEXATION - KENTUCKY

Calhoun v. Tall Oak, LLC

Court of Appeals of Kentucky - March 22, 2024 - S.W.3d - 2024 WL 1222076

City residents, who lived next to property that was formerly country club, appealed decision of city commission to rezone property from agricultural to residential to allow for development of residential subdivision.

The Circuit Court affirmed commission's decision. Residents appealed.

The Court of Appeals held that:

- Residents waived argument that commission failed to comply with statute regarding amendment of comprehensive plan prior to annexation;
- Commission did not exceed its statutory powers in deciding to annex and rezone property without amending its comprehensive plan; and
- Property developer was not required by applicable city ordinances to submit storm water management plan along with rezoning request, and thus, commission's decision was not arbitrary.

City residents, who lived next to property that was formerly country club, waived argument that city commission failed to comply with statute regarding amendment of comprehensive plan prior to annexation, on resident's appeal of trial court's affirmance of commission's decision to rezone property from agricultural to residential to allow for development of residential subdivision, where residents did not raise such argument to city planning commission prior to developer's appeal to city commission.

City commission did not exceed its statutory powers in deciding to annex property that was formerly country club and to rezone property from agricultural to residential to allow for development of residential subdivision without amending its comprehensive plan; commission adopted ordinance expressing its intention to annex property prior to public hearing on application for city to annex and rezone property, commission took final action by adopting separate ordinance reversing decision of city's planning commission and annexing property, no amendment to plan was required to bring zoning amendment into conformity with it, requiring amendment of plan for every change to zoning map would yield absurd results, and other statutes contemplated changes to city zoning map without plan amendment.

Developer, who purchased property that was formerly country club with plan to develop it into residential subdivision, was not required by applicable city ordinances to submit storm water management plan along with request to have property rezoned from agricultural to residential, and thus, city commission's decision to annex and rezone property pursuant to developer's request was not arbitrary; ordinances required submission of storm water management plans as prerequisite for land disturbance activity, rather than initial approval of development plan or approval of rezoning request.

