

SUPPLEMENTAL STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2016-19: CITY VIEW INVESTMENTS, LLC

STAFF REVIEW

City View Investments, LLC, the owner of six condominium units within the Kimball House Square mixed-use project, has requested an amendment to the existing conditional zoning restrictions for their property located at 275 South Limestone. In the past month, the applicant has withdrawn their original request for a variance in conjunction with this zone change. Also, they have obtained written consent by the Condominium Association for Kimball House Square, which consents with this zone change request.

The petitioner proposes to increase the maximum number of residential dwelling units from 22 to 30 units, thereby allowing several of their vacant first floor and basement spaces to be finished for residential dwelling units, rather than to remain available for commercial or office space.

Since the Zoning Committee meeting last month, the petitioner has offered a revised justification. Also, they have dropped their variance request, and now agree to maintain the minimum of 15% of the mixed-use project's floor area for non-residential use. They still request that some of the property within the Kimball House Square project's first floor and basement space be able to be used for residential use instead of for commercial or office space. The staff has no disagreement with that part of the applicant's proposal. South Limestone is a mixed-use corridor that provides for both commercial and residential land uses and a direct connection between the University of Kentucky and downtown. There is no reason that the Kimball House Square can't fit into this mix as well.

Nearly a decade ago, conditional zoning restrictions were established for the MU-2 portion of the Kimball House site by the Urban County Council, following a lengthy public hearing. The restrictions, in part, limit the allowable residential density of the property to a total of 22 dwelling units, although an additional 14 dwelling units were permitted in the R-4 zoned area of the development. The applicant requests an additional eight (8) dwelling units (30 in total) for the MU-2 portion of the development. Some 6,268 square feet of commercial space, including all or part of two suites occupied by the applicant, will meet the minimum 15% requirement for this mixed-use development.

KRS 100 and Article 6-7 of the LFUCG Zoning Ordinance state that the Planning Commission and/or Council may grant an amendment only if found that there has been a major change of a physical, social or economic nature on the subject property or within the immediate area which was not anticipated at the time the restriction was imposed, and which has substantially altered the basic character of the area making the restriction inappropriate or improper. The petitioner has more fully addressed this required finding in their justification, since postponing Commission consideration of this application last month, in addition to claiming that higher densities are supported by several of the Goals and Objectives of the 2013 Comprehensive Plan.

True enough, the 2013 Comprehensive Plan, unlike the 2001 Plan in effect when the site was rezoned, does place a premium upon residential density and the need for housing of all types, including basement and first-floor units proposed by the applicant. However, this is a shift in policy, and not a physical, social or economic change that affects the subject site. There is stronger demand for such uses though, as evidenced by the fact that the petitioner has experienced very few occupants of these spaces for non-residential use over the past decade, while all the other units in the Kimball House project are occupied. Except for a brief period when one of the applicant's units was rented for a barber shop, they have not been able to rent or sell even one of their non-residential condominium units. This is a clear unanticipated change since 2007.

It was expected that office and retail uses would be viable on South Limestone ten years ago, but this and other Mixed-Use Projects have experienced stronger demand for residential use than for non-residential occupancy. The applicant cites that this is true for the nearby CentreCourt and The Lex developments – not just for the Kimball House Square project. The reality is that in the South Hill area that residential uses, for students, graduate students, professionals and retirees is strong, and the demand for office and retail uses is stronger in the core of downtown and in other locations, such as Hamburg, Fayette Mall or Beaumont.

The petitioner has recently provided written permission from the property owner of 275 South Limestone (which is the condominium association that technically owns the physical land on which the buildings and condo units stand). Also, the petitioner has submitted a legal description of the area being re-zoned (or amended). For these reasons, the staff favorably recommends the alteration of the conditional zoning restrictions as requested.

The Staff Recommends: **Approval**, for the following reasons:

1. In accordance with Article 6-7(c) of the Zoning Ordinance, there have been unanticipated changes of an economic, physical, and social nature in the immediate area, since the time the current conditional zoning restrictions were imposed in 2007, which have substantially changed the basic character of the subject property. In particular:
 - a. There has been stronger demand for residential housing over the past decade in the South Hill residential district, as evidenced by the fact that mixed-use projects in the area such as The Lex and CentreCourt (in addition to the Kimball House) have experienced very little vacancy for residential spaces but more notable vacancy for non-residential spaces over this period.
 - b. Kimball House Square has 100% occupancy of the existing 22 on-site dwelling units. This is in spite of the fact that several financial institutions foreclosed on multiple units in the development less than five years ago, which is a testament to the strong demand for residential use and less demand for non-residential space.
 - c. The demand for office and retail uses over the past decade has been stronger in the core of downtown and in other locations throughout the community, judging by new and approved developments, than in the South Hill and South Limestone areas.
2. This recommendation is made subject to approval and certification of DP 2016-71: Kimball House Square (AMD), 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 subject property's MU-2 zone shall now be restricted in the following manner, via conditional zoning:
 - a. The density shall not exceed 25 dwelling units in the MU-2 zone on South Limestone Street, and five units in the MU-2 zone on South Upper Street.

These restrictions are necessary and appropriate for the subject property in that the residential use of the subject property remains compatible with the density and uses in the surrounding neighborhood.