

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MAR 2015-21: JOURNEY'S END, LLC

DESCRIPTION

Zone Change: From a Single Family Residential (R-1D) zone
To a Neighborhood Business (B-1) zone

Acreage: 0.6439 net (0.8714 gross) acre

Location: 3092 & 3094 Leestown Road

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	R-1D	Non-conforming commercial use
To North	A-R	Masterson Station Park
To East	R-1D	Single Family Residential and Vacant
To South	R-ID	Vacant and Church
To West	R-1C & R-1D	Vacant and Single Family Residential

URBAN SERVICES REPORT

Roads – Leestown Road (US 421), which provides some of the subject property's lot frontage, extends from downtown to the Fayette/Scott County line. Along the property's frontage, the roadway transitions from a three-lane cross-section to a two-lane cross-section as it approaches the Federal Correction Facility to the northwest. Closer to New Circle Road, Leestown Road is currently undergoing a major widening and improvement project. Bracktown Road, the former US 421 route, provides the remainder of the frontage for the subject property. The entrance to the site is from Leestown Road, but a future access to Bracktown Road is possible for this location. The access point to Leestown Road will be constructed by the Kentucky Transportation Cabinet. Any modifications will require approval of both the KYTC and the LFUCG Division of Traffic Engineering.

Curb/Gutter/Sidewalks – Curbs, gutters and sidewalks do not exist along Leestown Road or along most of Bracktown Road. However, a pedestrian and bicycle trail does access two residential lots immediately to the southeast of the subject property.

Storm Sewers – Storm sewers and a storm water basin exist to serve the nearby Marshall Property subdivision; however, the subject property, located within the same watershed, is not currently served. There is no FEMA flood hazard area, nor are there any known flooding problems, in the immediate vicinity. The Division of Engineering will evaluate the applicant's plan to determine whether any further modifications are necessary due to the proposed increase to building coverage now proposed on the subject site.

Sanitary Sewers – The subject property, as well as the entire surrounding area, is within the Town Branch sewershed. The Town Branch Wastewater Treatment Plant is located approximately two miles to the southeast of the site (off of Lisle Industrial Road along the Town Branch Creek). The subject property has been served by a septic system, rather than by sanitary sewers, for decades.

Refuse – Refuse collection is provided by the Urban County Government on Thursdays in this part of the Urban Service Area. Oftentimes, commercial properties contract with private companies for more frequent service.

Police – The subject property is within Police Sector 1 and is served by the West Sector Roll Call Center, which is located on Old Frankfort Pike, approximately three miles to the south.

Fire/Ambulance – The nearest fire station/emergency provider (Station #13) is located on Leestown Road, about two miles southeast of the property.

Utilities – Natural gas, telephone service, electric, water, streetlights, and cable service are all available to surrounding properties, and should be able to be easily extended to serve the subject site, if not already providing such service.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2013 Comprehensive Plan's mission statement is to "provide flexible planning guidance to ensure that development of our community's resources and infrastructure preserves our quality of life, and fosters regional planning and economic development." The mission statement notes that this will be accomplished while protecting

the environment, promoting successful, accessible neighborhoods, and preserving the unique Bluegrass landscape that has made Lexington-Fayette County the Horse Capital of the World.

The petitioner has requested a Neighborhood Business (B-1) zone for the subject property in order to expand the existing commercial building on the site for a new sit-down restaurant.

CASE REVIEW

The petitioner has requested a zone change from a Single Family Residential (R-1D) zone to a Neighborhood Business (B-1) zone for just under one acre of property, located on the southwest corner of the intersection of Leestown Road and Bracktown Road.

The subject site is comprised of the remainder of six original lots in the Leestown Heights Subdivision, created decades before merger of the Urban County and Lexington City governments, which together encompass the area of this zone change. The subject property is across from Masterson Station Park, and adjacent to homes in the Marshall Property subdivision. Bracktown Baptist Church is located across Bracktown Road from the site, and owns a vacant lot adjacent to the subject property immediately to the northwest of this location. Another small, vacant lot "wraps" the site to the southeast and southwest.

The subject property has extensive frontage along Leestown Road, which transitions from two to four lanes immediately to the southeast of this location. The property has been used for commercial purposes for decades, and is a non-conforming use. It has had numerous requests for land use changes and one previous attempt for a rezoning in 1997 (MAR 97-25: John Brotherton). That staff report gives a good bit of information about the history of this location:

"The 3092 Leestown Road tract is currently occupied by J's Auto Center, which is a non-conforming use. Although zoned single family residential (R-1D) for at least 30 years, the property has been occupied by a gas station for several decades. The existing (gas station) structure is about 1,000 square feet in size, and as a non-conforming use, cannot be expanded. The 3094 Leestown Road tract is vacant, with the exception of concrete or asphalt paving for the non-conforming auto-related use."

In 1998, a sub-committee of the Planning Commission drafted and completed the Bracktown Small Area Plan. Future land use recommendations and a modest expansion of the Urban Service Area were made, where the Marshall Property and the Bracktown neighborhood were taken from the Rural Service Area. That Small Area Plan, which included extensive neighborhood involvement, did not recommend a commercial land use at this location. The applicant does not opine that this current zone is in agreement with the 2013 Comprehensive Plan, with which the staff concurs.

In June of 2000, a request was made to the Division of Building Inspection to allow beer sales and the sale of trees and shrubs at this site. That request was denied by Building Inspection, and an Administrative Appeal of that decision was filed by the property owner to the Board of Adjustment (A-2000-92: John Brotherton), which was not approved by the Board.

This portion of the Urban Service Area is generally devoid of commercial land uses and zoning. Still, a commercial land use has occupied this location for many decades. The applicant now wishes to convert the former repair shop to a sit-down restaurant, and formalize the off-street parking on this lot. They justify their request with the statement that the current R-1D zoning is inappropriate, and the proposed Neighborhood Business (B-1) zoning is appropriate.

Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes. There are residences to the west that also have lot frontage along both Leestown and Bracktown Roads, but those properties are more rectangular in shape, and are bordered by other residences. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a real-estate perspective.

The highway expansion project for US 421 is the proper time to recognize a commercial use that has not gone away since at least 1952, and allow its conversion into a small restaurant or business to serve the nearby residential areas. The requested Neighborhood Business (B-1) zone is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location. Conditional zoning restrictions are necessary in this circumstance, due to the adjacency of a large church and an established neighborhood in close proximity to this property. Of particular concern to the staff are entertainment-type land uses, and package sales of alcohol (but not accessory sales within a restaurant).

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

1. The requested Neighborhood Business (B-1) zone is more appropriate than the existing Single Family Residential (R-1D) zone for this site, for the following reasons:
 - a. The property has continually been used for commercial purposes, as a non-confirming use, for approximately 80 years. During this time, various commercial (mostly-auto related) businesses have operated here.
 - b. Because of the property's odd configuration, and extensive street frontages, it is not suitable or properly situated for residential purposes.
 - c. Unlike other R-1D properties in Bracktown, residences to the west that also have lot frontage along both Leestown and Bracktown Roads are more rectangular in shape, and are bordered by other residences.
 - d. Conversion of this long-standing commercial structure, or its replacement with two or more single family homes, has not happened to date, and would not ordinarily be expected to occur, from a strictly real-estate oriented perspective.
 - e. A restricted Neighborhood Business (B-1) zone, via conditional zoning, is the most restrictive classification that can be given to recognize the long-standing commercial use at this very unique location.
2. This recommendation is made subject to approval and certification of ZDP 2015-82: Leestown Heights Subdivision, Lots 2-7, 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 following uses shall restricted via conditional zoning:

Prohibited Uses

- a. Establishments for the retail sale of alcohol (package sale of beer, wine or liquor).
- b. Carnivals and circuses on a temporary basis.
- c. Repair of household appliances.
- d. Miniature golf or putting courses.
- e. Indoor theaters.
- f. Rental of equipment whose retail sale would otherwise be permitted in the B-1 zone.
- g. Banquet facilities.
- h. Drive-through facilities.
- i. Outdoor live entertainment and/or dancing, cocktail lounges and nightclubs
- j. Extended-stay hotels.

These restrictions are necessary and appropriate in order to restrict the most intense land uses on the subject property and to provide an adequate land use transition to the nearby neighborhood. Such uses could have a negative impact on the neighborhood related to noise, lighting and/or traffic congestion.

WLS//BJR/TLW

9/3/2015

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