

STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT

MARV 2016-19: CITY VIEW INVESTMENTS, LLC

DESCRIPTION

Zone Change: From a Mixed Use 2: Neighborhood Corridor (MU-2) with Conditional Zoning Restrictions
To a Mixed Use 2: Neighborhood Corridor (MU-2) zone with Modified Conditional Zoning Restrictions

Acreage: 0.94 Net (1.10 Gross) Acre

Location: 275 S. Limestone

EXISTING ZONING & LAND USE

<u>Properties</u>	<u>Zoning</u>	<u>Existing Land Use</u>
Subject Property	MU-2	Mixed Use (Residential & Office)
To North	R-2	Residential
To East	B-1	Professional Office
To South	B-1 & P-1	Professional Office & Retail
To West	B-1	Restaurants & Commercial

URBAN SERVICES REPORT

Roads – The subject property is bordered by South Limestone, which is a major thoroughfare into downtown from the southwest. South Limestone is a two-lane, one-way street, which is paired with South Upper. Together, they allow major north-south traffic to flow through downtown, and both serve the University of Kentucky campus, just to the south of this location. West Maxwell Street, another two-lane, one-way street, is located about 70 feet to the south of the subject property. No modifications to area streets are anticipated by the requested change to the conditional zoning restrictions.

Curb/Gutter/Sidewalks – Along the subject property’s frontage, South Limestone was improved within the last decade to include wider sidewalks, underground utilities, re-constructed curbs and gutters, and on-street parking areas. No modifications are anticipated by the requested change to the conditional zoning restrictions.

Storm Sewers – The subject property is located within the Town Branch watershed and no FEMA Special Flood Hazard Area exists within this immediate area. The existing storm sewer system will continue to be utilized to serve the development. The proposed land use change from commercial to residential will not impact the physical development of the site.

Sanitary Sewers – This area is served by sanitary sewer lines to the Town Branch Wastewater Treatment Facility, located well to the northwest of the subject property on Lisle Industrial Avenue. The existing sanitary sewer capacity will need to be reviewed by the Division of Water Quality, prior to any permitted change in land use of the building.

Refuse – The Urban County Government serves the downtown area daily, but nearby neighborhoods receive collection once per week, in this case, on Mondays. Some mixed-use projects also contract for additional private collections, as necessary.

Police – The nearest police station is located at the Main Street Headquarters, approximately ¼ mile to the east of the subject property.

Fire/Ambulance – Fire Station #6 is about ½ mile from the subject property, at the corner of Scott Street and South Limestone, near the main entrance to the University of Kentucky campus.

Utilities – Electric, gas, cable television, water, and phone service, as well as street lights, all exist to serve the property at this time.

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. In addition, the Plan encourages a mixture of uses, housing types and/or residential densities; development in a compatible, compact and contiguous manner; and provision of land for a diverse workforce.

The petitioner proposes to modify the existing conditional zoning restrictions for property within the Kimball House Square mixed-use project in order to fit out the remaining first floor and basement space, which they own, as residential rather than commercial or office space. The petitioner proposes amending the maximum dwelling unit restriction for the MU-2 zone from 22 residential units to 30 residential units. A dimensional variance has also been requested to reduce the minimum percentage of non-residential square footage for the MU-2 zone.

CASE REVIEW

City View Investments, LLC, owner of six condominium units within the Kimball House Square mixed-use project, requests an amendment to the existing conditional zoning restrictions for their property located at 275 South Limestone. The petitioner proposes to increase the maximum number of residential dwelling units from 22 to 30 units, thereby allowing the vacant first floor and basement spaces to be finished for residential dwelling units rather than commercial or office space.

South Limestone is a mixed-use corridor that provides a direct connection between the University of Kentucky and downtown. In this vicinity, South Limestone is home to a number of bars and restaurants, retail establishments, professional offices, and the UK Good Samaritan Hospital, as well new UK dormitories and multi-family dwelling units (typically located above commercial establishments located on the first floor). The corridor is primarily zoned for neighborhood business (B-1) uses south of the downtown core.

The Kimball House Square mixed-use project was originally rezoned to a combination of the High Density Apartment (R-4) zone and the MU-2 zone, a little over a decade ago. At that time, conditional zoning restrictions were established by the Urban County Council, following a lengthy public hearing. The restrictions, in part, limit the allowable residential density of the property. For the MU-2 zone, a total of 22 dwelling units were permitted (the same number proposed by the applicant at that time). An additional 14 dwelling units were permitted in the R-4 zoned area of the development. The development has been successful to a degree - all of the residential condominium units have been sold and are occupied. However, the petitioner contends that the non-residential element of the mixed-use development has floundered, even in a very successful mixed-use corridor. Article 28 of the Zoning Ordinance requires that a MU-2 development maintain a minimum level of non-residential to residential split (85/15) or 10,000 square feet of non-residential space, whichever is less.

The applicant contends that the proposed conditional zoning restriction change is in agreement with the 2013 Comprehensive Plan and its Goals and Objectives; however, when requesting that the Planning Commission and Urban County Council consider a modification to conditional zoning restrictions, the Comprehensive Plan is not nearly as relevant as in most zone change requests. 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 not fully addressed this required finding for Planning

Commission action with their justification for the amendment. Instead, they have claimed that higher densities are supported by several of the Goals and Objectives of the 2013 Comprehensive Plan.

Two additional technical issues have not been resolved associated with the requested zone change application since it was filed in early June, 2016. The petitioner has not 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. Both the Division of Planning and the Department of Law have notified the petitioner that written permission of the property owner is required in order for the Commission to consider a zone change. In this case, the condominium association must provide such permission as soon as possible in order for the application to be considered by the Planning Commission.

The petitioner has also not submitted an accurate legal description of the area being re-zoned or amended in terms of a parcel of land. The petitioner has provided a description of their six condominium units that would be affected, but the staff does not believe it is possible to rezone or amend zoning restrictions for a portion of a building. As there has been no subdivision of the land, the entire parcel is subject to the original zone change restrictions or their amendment, not simply the six units owned by the petitioner, and the legal description should reflect this. Associated with this is an incorrect gross acreage listed on the application summary.

For these reasons, the staff recommends postponement until the technical issues and an appropriate justification have been submitted for the request.

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

1. The petitioner has not provided written permission of the property owner in order to file a zone change or an amendment to this conditional zoning restriction request. This is required by KRS 100.211(1) and Article 6-1 of the LFUCG Zoning Ordinance.
2. The petitioner has not provided the required legal description of the subject property, as required by Article 6-5 of the LFUCG Zoning Ordinance.
3. The justification for the requested conditional zoning restriction amendment does not address the required findings, as set forth in Article 6-7(c) of the LFUCG Zoning Ordinance.

TLW/WLS

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