

V. ZONING ITEMS

A. FULL PUBLIC HEARINGS ON ZONE MAP AMENDMENTS - Following abbreviated hearings, the remaining petitions will be considered.

2. THE CLIFTON, LLC ZONING MAP AMENDMENT & SAUNIER LIVERY ZONING DEVELOPMENT PLAN

- a. PLN-MAR-19-00012: THE CLIFTON, LLC (9/29/19)*- a petition for a zone map amendment from a High Density Apartment (R-4) zone to a Downtown Frame Business (B-2A) zone, for 0.119 net (0.135 gross) acres, for property located at 171 Saunier Street.

COMPREHENSIVE PLAN AND PROPOSED USE

The 2018 Comprehensive Plan, Imagine Lexington, seeks to provide flexible yet focused planning guidance to ensure equitable development of our community's resources and infrastructure that enhances our quality of life, and fosters regional planning and economic development. 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 zone change from a High Density Apartment (R-4) zone to a Downtown Frame Business (B-2A) zone for 0.119 net (0.135 gross) acres for the property located at 171 Saunier Street. The proposed development seeks to retain the current structure and adapt it for special event space.

The Zoning Committee Recommended: Approval to the full Commission.

The Staff Recommends: Approval, for the following reasons:

1. The requested Downtown Business Frame (B-2A) zone is in agreement with the 2018 Comprehensive Plan's Goals and Objectives, for the following reasons:
 - a. The proposed rezoning supports infill and redevelopment (Theme A, Goal #2), by identifying areas of opportunity for adaptive reuse (Theme A, Goal #2.a), while also respecting the context and design features of surrounding development projects to ensure compatibility with the existing urban form (Theme A, Goal #2.b).
 - b. The proposal seeks to support & showcase local assets to allow for the creation of a variety of jobs (Theme C, Goal #1), while also adding services that promote and enhance tourism in the area (Theme C, Goal #1.d).
 - c. The applicant states that through the inclusion of the use, event space or banquet facility, that they will provide entertainment and other quality of life opportunities that attract young, and culturally diverse professionals, and a work force of all ages and talents to Lexington (Theme C, Goal #2.d).
 - d. The proposed development of the subject property seeks to protect and enhance the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image (Theme D, Goal #3), by protecting historic resources (Theme D, Goal #3.a), including the renovation, restoration and maintenance of a historic commercial structure (Theme D, Goal #3.c).
 2. The justification and corollary development plan are in agreement with the policies and development criteria of the 2018 Comprehensive Plan:
 - a. The proposed rezoning meets the criteria for Site Design, Building Form and Location as the site adaptively reuses an older structure that is located within a highly walkable area. Additionally, the proposed rezoning seeks to add new job opportunities, while increasing potential entertainment and quality of life opportunities that can draw more people into our downtown commercial areas.
 - b. The proposed rezoning meets the criteria for Transportation and Pedestrian Connectivity, as the applicant is working with the surrounding property owners to provide shared parking arrangements that will reduce the proliferation of parking lots in the downtown area.
 - c. The proposed rezoning meets the criteria for Greenspace and Environmental Health as it works with the current landscape, limits the impacts on the surrounding environment, and does not impact the current tree lines and canopy.
 3. This recommendation is made subject to approval and certification of PLN-MJDP-19-00046: Saunier Livery, prior to forwarding a recommendation to the Urban County Council. This certification must be accomplished within two weeks of the Planning Commission's approval.
- b. PLN-MJDP-19-00046: SAUNIER LIVERY (9/29/19)* - located at 171 SAUNIER STREET, LEXINGTON, KY.
Project Contact: Barrett Partners

The Subdivision Committee Recommended: Approval, for the following reasons:

1. Provided the Urban County Council rezones the property **B-2A**; otherwise, any Commission action of approval is null and void.
2. Urban County Engineer's acceptance of drainage, and storm and sanitary sewers.
3. Urban County Traffic Engineer's approval of street cross-sections and access.
4. Landscape Examiner's approval of landscaping and landscape buffers.

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5. Addressing Office's approval of street names and addresses.
6. Urban Forester's approval of tree preservation plan.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.

Subsequent to the Technical Committee meeting, Planning Staff completed an evaluation of the Placebuilder development criteria.

10. Resolve the following Placebuilder criteria:
 - I. B-SU11-1: Green infrastructure should be implemented in new development. (E-GR3).

Staff Zoning Presentation – Mr. Baillie said that the staff has received three letters of opposition, which he distributed to the Planning Commission. He presented the staff report and recommendations for the amended zone change. He displayed photographs of the subject property and aerial photographs of the general area. He said that the applicant is proposing this zone change to adaptively reuse the current structure for special event space or as a banquet facility. He said that the proposed B-2A zone allows for such activities and provides for a reduction in the required parking, due to the high level of walkability downtown and availability of on-street parking, as well as private lots and structured parking. He said that Saunier Street is categorized as a street, but it performs more like an alley by providing access to and from parking for the businesses, churches, and schools in the area. He added that the cross-section of the street doesn't meet current local street standards.

Mr. Baillie said that the subject property is located within a mixed-use neighborhood that currently includes various residential, business, and office land uses. The zoning surrounding the property includes the High Density Apartment (R-4), Downtown Frame Business (B-2A), and Downtown Center Business (B-2B) zones. The B-2A and B-2B zones offer a wide variety of potential uses and the fewest site restrictions, which are meant to allow for the greatest utilization of the downtown environment. The subject property was previously within the General Business District (B-4) zone, which was changed to Wholesale and Warehouse Business (B-4) zone with the 1975 update to the LFUCG Zoning Ordinance. The subject property was rezoned from the B-4 zone to the High Density Apartment (R-4) zone in 1969, during the comprehensive modification of the county wide zoning. This change was made to allow greater continuity with the multi-family residential uses located along Second Street and Short Street.

Mr. Baillie said that the subject property borders the eastern edge of the Historic Western Suburb Neighborhood and the eastern edge of Historic Northside Neighborhood. The Western Suburb neighborhood achieved its Historic District (H-1) Overlay zone in 1975 and expanded the overlay in 2014. The Northside neighborhood achieved its H-1 Overlay zone in two different sections in 1986. While this property does not fall under either of the H-1 overlay zones, the property does have a historic background. The property was originally constructed between 1890 and 1896 as a horse and carriage stable. Use as a livery continued until recently. The LFUCG mounted police utilized the site to stable their horses, before moving their facilities to Coolivan Park.

Mr. Baillie said that one of the concerns of this zone change is the parking. He said that the B-2A zone allows for a reduction down to 25% of the required parking for any use. He said that this proposal only requires 6 parking spaces. He said that the applicant is proposing two separate lots; one of them would provide the necessary 6 spaces, within 300-foot area of the property, and the other providing an additional 84 spaces. He added that there are various different lot and structured parking through-out the area. He said that this is also located within the downtown area and that there is the connection to the walkability of downtown Lexington, as well as access to multi-modal transportation.

Mr. Baillie said that the applicant opines that the proposed development is in agreement with the Goals and Objectives of the 2018 Comprehensive Plan and states that the proposed rezoning supports infill and redevelopment by identifying areas of opportunity for adaptive reuse, while also respecting the context and design features of surrounding development projects to ensure compatibility with the existing urban form. He said the petitioner indicates that their plan seeks to support and showcase local assets to allow for the creation of a variety of jobs, while also adding services that promote and enhance tourism in the area. The applicant states that through the inclusion of the use, event space or banquet facility, that they will provide entertainment and other quality of life opportunities that attract young, and culturally diverse professionals, and a work force of all ages and talents to Lexington. He added that the applicant opines that their proposed rezoning will protect and enhance the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image by protecting historic resources, including the renovation, restoration and maintenance of a historic commercial structure.

Mr. Baillie said that staff agrees with these aspects of the applicant's proposal and that these specific goals and objectives can be met. He said that applicant's justification states that meets the development criteria for this subject property regarding transportation and pedestrian connections, and greenspace and environmental health. Despite compliance for the majority of the criteria for site design, building form, and location, there is one area of concern that the applicant should expand upon at today's hearing. In response to Development Criterion B-SU11-1: Green infrastructure should be implemented in new development, the applicant stated that they would further contemplate the inclusion of green infrastructure, to the extent possible. He said that during the

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Zoning Committee meeting, the applicant discussed the inclusion of pavers or other type of green infrastructure in the rear of the property. Mr. Baillie said that the staff and the Zoning Committee recommended approval of this proposed zone change.

Development Plan Presentation – Mr. Martin presented a rendering of the final development plan associated with this zone change. He said that it is a final development because the applicant is proposing to use the existing structure, which is approximately 4,000 square feet. He pointed to the main entrance off of Saunier Street. He said that the applicant is proposing a covered walkway. He added that they are proposing a new, 900 square foot building that will have restroom facilities and preparation areas for the activities that will be taking place on the site. He also pointed to a large open space in the rear of the property.

Mr. Martin said that the Subdivision Committee recommended approval of this development plan, subject to the sign-off conditions. He also said that the type of green infrastructure that will be used on the property needs to be noted on the plan.

Mr. Baillie said that there was a mistake on one of the slides in his presentation. He said that in the findings, located on the slides there was a different zone noted, and that the agenda has the correct findings.

Applicant Presentation – Mr. Nick Nicholson, attorney; Tony Barret, engineer; and Calhoun Clifton, applicant, were present. He believes that this is a great downtown core project that will be able to be inviting to tourism and Lexingtonians alike. He said that this is a recognition of the historic use of this property versus trying to change the spectrum of use that is allowed on this property. He said that in the 134 year history of this structure, there is no indication that any residential use has ever occurred. It has always been a commercial property. He showed a presentation of photos of the existing structure and gave a brief history of it. He said that the exterior shell of the building will be preserved, but the interior does need to be fully renovated, since there are stables inside. He said that the roof's condition will be addressed. He said that the rear of the property will be renovated to add a covered walkway and an accessory type building. He said that in regards to the green infrastructure, they don't know which type of material will be used at this time.

Mr. Nicholson said that the subject property is mostly surrounded by commercial uses, with the exception of a multi-family nearby. There is one single family residence adjacent and there will be landscaping buffer between them, as well as the accessory building. He then displayed an aerial photo of the property and said that due to its size, any type of true multi-family structure would compromise the historic facade and would be very difficult to construct in compliance with Zoning Ordinance. He said that the building is approximately 2,300 square feet. He said that this will be an adaptive reuse project on historic property according to the Comprehensive Plan, which he believes this project is in compliance with.

Mr. Nicholson said that in regards to the development plan, they are proposing to create a covered walkway, which will be made out of pavers to reduce the impervious surface, as well to catch additional stormwater. He pointed to the proposed accessory structure, which is located off of the rear wall and meets the required setback. He added that there will be a fence along the entire property boundary.

Mr. Nicholson said that he has spoken with several of the neighbors and some of their concerns were noise and parking. He said that in regards to the noise, they added a note to the development, which states the time events must end on this property. He said that by adding to the development, if this property ever sells or the use turns into something else, the owner will need to submit an amended development plan. He said those time limits are ending at 10:00 p.m. on Sunday, 11:00 p.m. Monday through Thursday and 12:00 a.m. on Friday and Saturday nights. In regards to the parking concerns, he said that there are over 780 public spaces, within 1,000 feet of this property. He said that he doesn't believe that this use will generate much parking to be an issue. He added that the city is trying to get away from being an auto centric society, especially in the downtown area.

Commission Questions – Wilson asked the applicant if there will be any reserved parking spaces for this property. Mr. Nicholson said that they have the ability to reserve 90 spaces for this use. Mr. Wilson then asked if they can only be reserved when no other event is going on in the area. Mr. Nicholson said that is why they have those spaces reserved.

Ms. Plumlee asked if they had any proposed hours of operation. Mr. Nicholson said that since this will event driven, there are not any set hours but will have ending hours.

Mr. Owens asked if there would be any live outdoor entertainment. Mr. Nicholson said that there will not be any live outdoor entertainment.

Mr. Penn asked if there was any entertainment that it would be indoors. Mr. Nicholson said that it would be.

Citizen in opposition – Mr. Bob Millward, Millward Funeral home, said that he received the staff report and that the statement in the applicant and community engagement section is false. He said that the petitioner states that they have reached out to the surrounding neighborhoods and haven't received any responses. He said that his property is adjacent to the subject property and that he hasn't spoken with anyone. He said that he is opposed to this zone change because there are many undesirable businesses allowed in the B-2A zone and he fears what could go into this property. He said that he also opposed to any use of this

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building because there isn't any parking, not even for their staff. He added that many of the parking lots in the area either belong to the Christian Church, St. Paul Catholic Church or to his funeral home, and that none of them are available as public parking. He also said that the public parking Mr. Nicholson said is available for parking is adjacent to his property and he doesn't want these people cutting through his lots for liability issues. He said that Saunier Street is an alley and that there isn't any parking to unload food or equipment and he is concerned about moving his clients out of the funeral home safely when there is an event happening. He asked the Planning Commission to not approve this zone change.

John Pica, President of Sts. Peter and Paul Regional Catholic School, said that he is opposed to this zone change. He said that the parking lot of the Catholic Church, and the parking lot and play yard of the school abut the subject property. Since the proposed property doesn't have any parking to offer their patrons of a business establishment, he is in agreement with their neighbors to oppose this zone change. He said that the Church will need to expend extra resources in order to ensure that parking is monitored for the availability of parishioners, school families, and guests of both the school and the church. He added that their programs vary throughout the week and weekends. He also said that the proposed establishment will change the areas culture, which is comprised of churches, a funeral home, an opera house, and a school. He is also concerned of the future use of this property.

Windell Reading, 417 W. 2nd Street, said that he representing his immediate neighbors and said that none of them were contacted by the applicant. He said that he had contacted them to inquire of this proposal. He said that this will be disturbing to a residential neighborhood. He said that he is concerned of what could move into this property in the future and added that there is currently a concern with the public parking in the private lots. He said that there could be other adaptive use for this site, but doesn't believe that this is the best choice for those that live in the neighborhood.

Doug Piatt, Executive Pastor of Broadway Christian Church, 187 N. Broadway. He said that he concurs with his neighbors to object to this zone change. He said that that Ms. Clifton had met with him to ask of provisional use of his property. He said that his church is not a one day a week church, there are activities here every day. He said that they were unable to share space with Ms. Clifton. He said that their church shares a border with the subject property and they are also concerned with the future use of this property. He also said that their Church will not offer any parking and is asking the Planning Commission to not approve this plan.

Sister Clara Fehringer, St. Paul Catholic Church, is concerned for the safety of their parishioners because some are elderly and some are children. She said that they also have activities every day and she is concerned about the increased traffic and the parking issues. She said that they would need a fulltime attendant to keep their parking spaces for their parishioners.

Tom Brown, superintendent schools for the Roman Catholic Diocese of Lexington, said that he is opposed to this zone change because of the safety of his students. He said that his school is also not only open during the daytime, that they have night activities almost every night. He said that he has agreements with their neighbors to share parking, which is a major issue and concern. He said that they have small children attending their school and they work very hard to maintain a safe environment for all of their students.

Applicant Rebuttal - Mr. Nicholson said this application was submitted to the staff approximately six weeks ago and that they have had conversations with the neighbors since that time. He said that he spoke with Mr. Millward, the churches, and Mr. Reading. He added that he sent notices to the Northside Neighborhood Association and didn't get any response in return. In regards to this leading to improper uses, he said that those individuals are currently in B-2A or B-2B zoned properties and that that those individuals are acceptable with an adaptive re-use but just not this one. He then said that anything that is not multi-family residential requires a zone change to the B-2A or B-2B zones. He said that the question is should this property remain zoned as R-4 or should it change to recognize the commercial nature of it. He added that all the neighboring B-2A or B-2B zoned properties are eligible to be these toxic uses that they all are fearful of this becoming. He added that this will not be a full time operation and that they are projecting three to four events per week, lasting one to four hours each. He said in regards to the parking, that none of the church lots or the funeral home, were counted. He only counted public parking lots, not street parking.

Staff Rebuttal – Mr. Baillie clarified that what the applicant is proposing does meet the guidelines for parking. He said that for the B-2A zone they are required six parking spaces within 300 feet, which they are providing.

Commission Question – Mr. Wilson asked what else could go in this site. Mr. Baillie said that many activities could occur in the B-2A zone, including the one being proposed today, and all of those principal permitted uses in B-2 and B-1 zones, which there are 17 principal permitted uses exclusive to the B-2 zone, and 47 other uses permitted in the B-1 zone. Mr. Wilson then asked if adult uses or massage parlors. Mr. Baillie said that those would be permitted because of their proximity to residences, schools and churches.

Mr. Owens said that Mr. Nicholson had offered to note on the development plan that if any other use will need to come back to Planning Commission. Mr. Nicholson said that the note on the development plan is related to timing of operation. Mr. Baillie added that there is a concern regarding parking at this time. He added that if there was a change in the use that would necessitate a greater amount of parking, they would need to return to the Planning Commission. Mr. Nicholson reiterated that if there is any change in use, it would return to the Planning Commission.

Ms. Plumlee asked if conditional uses could be added at this time. Mr. Baillie said that they could be added at this time.

Mr. Forester asked the applicant to address the safety concerns near the schools. Mr. Nicholson said that the events happening at the same time as school is in session would be more business-like, which wouldn't cause grave concern to students. He said that this property may operate for a maximum of 16 hours per week.

Mr. Owens asked how many residential units would be allowed in the R-4 zone, the current zoning of the property. Mr. Baillie said that it would be very difficult to do multi-family residential at this location, because of the need for various different waivers, and the required parking.

Ms. Mundy asked that the R-4 zone is inappropriate. Mr. Baillie said that the R-4 uses would be very difficult to meet requirements.

Citizen Comment – Mr. Pica said that since the operating hours of the schools was mentioned, he said there are activities in the evening, many times until 9 pm.

Mr. Nicholson said that this proposed use is allowed in this area at this time.

Ms. Plumlee asked if the staff has any conditional use restrictions to suggest in regards to the future of this property. Mr. Martin said that any change in the use of this property will need to have an amended development plan to address the change in parking. Ms. Plumlee said that she is just trying to accommodate the neighbors so they know that they have been heard.

Mr. Nicol asked for confirmation this property is not included in H-1 Overlay. Mr. Baillie said that it is not located within the overlay. Mr. Nicol then asked if this property remained R-4 zone, could the building be demolished. Mr. Baillie said that they could demolish the current building, however, the parking issue would remain because of the small size of the lot. Mr. Martin said that there are many criteria to meet in order to determine how many units will fit on a lot, such as parking, open space, setbacks, etc.

Commission Comments – Mr. Penn said that the fear of the unknown is driving the opposition to this zone change request. He said that they are in between trying to assure the neighbors that the unknown isn't as fearful as they are thinking and all of the B-1 and B-2 uses that could be used on this property. He then asked one of the Zoning Committee members if they could advise the other Planning Commission members as to why they made their decision to approve this zone change.

Mr. Nicol said that at the Zoning Committee meeting held on August 5, 2019, they were tasked to determine if this proposal is appropriate or inappropriate. He said that no one from the neighborhood was present at that meeting. He said that from strictly from a land use perspective, he recommended approval of this zone change. He continued, and said that now this has become something more than strictly a land use issue.

Mr. Forester said that he concurs with Mr. Nicol regarding the Zoning Committee recommendation and added that there wasn't anyone in opposition.

Mr. Owens said that this is land use issue and as far as infill and redevelopment and adaptive re-use, however the concerns of the neighbors are very valid and he appreciates them. He said that the request is to provide a business in the area, which will have the same type of activities that is currently happening at the neighboring locations. He said that it may add more traffic but is that enough to deny this request.

Note: Mr. Pohl said that he need to abstain from this vote, because he is friends with two of the neighbors. Mr. de Movellan also need to abstain from this vote, because he is related to Mr. Millward. Mr. Forester recused himself because his son attends Sts. Peter and Paul Regional Catholic School.

Ms. Wade asked if the Planning Commission would like for the staff to draft conditional zoning restrictions. Mr. Owens said that they will review them.

Mr. Baillie said that based on the comments made at today's hearing, the staff is recommending a prohibited use list, which is as follows:

4. The subject property shall be restricted via conditional zoning in the following ways.

Prohibited Uses

- a. Automobile service stations, and auto repair.
- b. Amusement enterprises.
- c. Pawnshops.
- d. Community Centers, private clubs and day shelter.
- e. Outdoor live entertainment.

- f. Cocktail lounges and nightclubs.

Other

- a. Operating hours shall end at 10:00 p.m. Sunday, 11:00 p.m. Monday – Thursday, and midnight on Friday and Saturday.

Mr. Nicol asked about the proximity to the school, all of the adult uses are not permitted. Mr. Baillie agreed that the adult entertainment uses are not allowed due to the proximity of the school, residential, and to the churches.

Mr. Owens asked the applicant if they are in agreement with the restrictions recommended by the staff. Mr. Nicholson said that are in agreement with the staff's recommendation.

Zoning Action – A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 6-0 (de Movellan and Pohl abstained; Forester recused; Bell and Brewer absent) to approve PLN-MAR-19-00012: THE CLIFTON, LLC, for the reasons provided by the staff, including the conditional restrictions to protect the adjoining the property owners.

Development Plan Action – A motion was made by Mr. Penn, seconded by Ms. Mundy, and carried 5-1 (de Movellan and Pohl abstained; Forester recused; Plumlee opposed; Bell and Brewer absent) to approve PLN-MJDP-19-00046: SAUNIER LIVERY, as presented by the staff.