

ORDINANCE NO. 2020 - 011

AN ORDINANCE REZONING 47.7378 ACRES WEST OF 31-W NORTH FROM A-1 (AGRICULTURE) TO R1-S (SINGLE FAMILY RESIDENTIAL) BY LEWIS MEMORIAL, INC.

WHEREAS, Lewis Memorial, Inc., a Kentucky corporation, 2905 Bowling Green Road, Franklin, Kentucky 42134, filed a petition to rezone 47.7378 acres west of 31-W North, immediately adjacent to and west of Windsor Park Subdivision, in Franklin, Simpson County, Kentucky from A-1 (Agriculture) to R1-S (Single Family Residential); and

WHEREAS, Lewis Memorial, Inc. desires to rezone the aforementioned property from A-1 to R1-S to make the property more productive for the community, and this change is appropriate and consistent with the use of this property and surrounding properties; and

WHEREAS, a public hearing was held on August 4, 2020, after due public notice, in the manner provided by law; and

WHEREAS, the Planning & Zoning Commission recommended the granting of said zone change as it is in agreement with the community's comprehensive plan;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the City of Franklin, Kentucky as follows:

The 47.7378 acres west of 31-W North, immediately adjacent to and west of Windsor Park Subdivision in Franklin, Simpson County, Kentucky, of record in Deed Book 145, Page 297 in the Simpson County Clerk's Office as described below is granted a zone change from A-1 (Agriculture) to R1-S (Single Family Residential);

This property is located along the rear, or North West end of the Windsor Park Subdivision – Phase 2 in Franklin, Kentucky. Windsor Park is located along the North East side of US 31W direct across 31W from Franklin Country Club and the intersection of KY Hwy 1788 (Broadway). The property is more particularly described as follows:

Beginning at a ½-inch iron pin stamped "KY4147", said point is in the line of Lot 64 of the aforementioned Windsor Park Subdivision, thence along the rear of lots 64-66 of the aforementioned Windsor Park Subdivision, N 64°57'35" W a distance of 195.09' to a 5/8-inch iron pin stamped "KY3922", thence continuing along the North West end of the Windsor Park Subdivision S 25°02'38" W a distance of 688.67' crossing a witness monument stamped "KY3922 Wit. Mon.", said point is 5 feet from the corner, said corner is located in the line of the Leslie and Connie Farmer Property (Deed Book 333, P. 484), thence with the Farmer's line N 64°40'14" W a distance of 443.95' to a set 5/8 inch iron pin with a yellow plastic cap stamped "L SLAVEY KY 3922" (all set iron pins called out in this description meet the aforementioned description), said point is corner common to the Bobbette Warren Property (Will Book 12, P. 503), thence leaving Farmer and with the line of Warren N 22°23'22" W a

distance of 1614.04' to a ½-inch iron pin stamped "KY4147", thence leaving Warrens line, and with a new line across the Parent tract (Deed Book 145, P. 297), N 67°36'38" E a distance of 701.22' to a ½-inch iron pin stamped "KY4147", thence S 73°36'50" E a distance of 1199.24' to a set iron pin, thence S 16°23'10" W a distance of 1115.01' to the point of beginning, having an area of 47.7378 acres, 2,079,457 square feet.

Being the same property conveyed to Lewis Memorial, Inc. by Methodist Retirement Homes of Kentucky, Inc. by deed dated December 13, 1983, of record in Deed Book 145, Page 297, Simpson County Clerk's Office.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions of Ordinance.

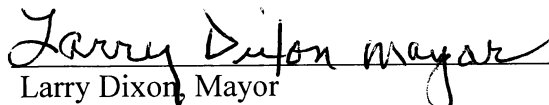
All ordinances or parts of ordinances in conflict herewith, are, to the extent of such conflict, hereby repealed.

<u>August 24, 2020</u>	FIRST READING
<u>September 14, 2020</u>	SECOND READING

At a meeting of the City Commission of the City of Franklin, Kentucky, held on September 14, 2020, on motion made by Commissioner Powell and seconded by Commissioner Williams the foregoing ordinance was adopted, after full discussion, by the following vote:

<u>YES</u>	LARRY DIXON, MAYOR
<u>YES</u>	JAMIE POWELL
<u>YES</u>	BROWNIE BENNETT
<u>YES</u>	WENDELL STEWART
<u>YES</u>	HERBERT WILLIAMS

APPROVED BY:


Larry Dixon, Mayor

ATTEST:

Cathy Dillard, City Clerk

FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION

In Re the Petition for Zone Change from A-1 (Agricultural) to R1-S (Single Family Residential)

**FINDINGS OF FACT, CONCLUSIONS OF LAW,
AND RECOMMENDATION FOR ZONE CHANGE**

A public hearing was held before this Commission on August 4, 2020, at the hour of 6:30 p.m. on the petition of Lewis Memorial, Inc. ("Petitioner") that 47.7378 acres west of 31-W North ("Property"), immediately adjacent to and west of Windsor Park Subdivision, in Franklin, Simpson County, Kentucky, be re-zoned from A-1 to R1-S. The Chairman of the Commission, Debbie Thornton, presided. A quorum of the Commission was present. The petitioner was represented by G. William Leach, Jr.. The hearing was stenographically recorded by the firm of James Dale, licensed court reporter.

The Commission then proceeded to hear an opening argument from attorney Leach as well as testimony in favor of the zone change on behalf of the petitioner and the developer, Simpson County Developing Partners, LLC ("Developer"). There was an opportunity for cross-examination. Questions were asked and answered. No one appeared in opposition to the request.

Having heard testimony, having reviewed the petition for zone change, the exhibits presented, and having reviewed the Comprehensive Plan, for Simpson County, Kentucky, Gary Sliger moved, George Weissinger seconded, with Craig Mylor abstaining, the Commission unanimously voted to recommend the zone change. In connection with the zone change, the Commission finds, concludes, and recommends the following:

FINDINGS OF FACT

I

The 47.7378 acres under consideration for re-zoning has been owned by the petitioner for over 50 years. During that time it has been used primarily for agricultural purposes, but has always been held for the opportunity of selling for a higher and better use.

II

Land on the east side of 31-W North, across from the balance of the petitioner's property was previously owned by the petitioner and over the past 30 years has been sold for industrial development, and the land is now occupied by Franklin Precision Industry, the Harman building, and Carauster, Inc. The proceeds from those sales have been used by the petitioner for operation of its nursing home facility, Lewis Memorial Home.

III

Within the past 3 years the petitioner has constructed a very nice assisted living facility on land located on the west side of 31-W, adjacent to the older Lewis Memorial Home. Proceeds from the sale of a 40.00 acre tract adjacent to Country Club Estates were used in the construction of the new assisted living facility.

IV

The petitioner seeks a sale of the Property to obtain proceeds for construction of a significantly large addition to the existing assisted living facility.

V

At a public hearing before this Board on September 5, 2017, the Board recommended that at a 40.00 acre tract owned by the petitioner to the south of and adjacent to Country Club Estates be re-zoned from A-1 to R1-S, and that Property was developed by Jody Allen of the Developer which now seeks to enlarge the development to the west of the previous 40.00 acre tract, creating an extension of Windsor Park Subdivision (“Windsor”).

VI

Windsor has seen phenomenal demand and is almost completely full of single family residences, leaving a demand for additional building lots for single family residence development.

VII

With the development of Windsor and construction by Lewis of the assisted living facility, the City of Franklin, which actively supported the original zone change of the 40.00 acre site, was able to upgrade utilities in the area, benefitting not only the Petitioner and Windsor, but also other area owners.

VIII

Petitioner has the Property under contract for sale to the Developer, subject to a condition that it be re-zoned from A-1 to R1-S, hence the zone change request by Petitioner.

IX

Developer intends to use the Property for the development of single family residences very consistent with the development in Windsor, with restrictions and protective covenants. The planned lots will be approximately 75 feet wide and 150 feet deep, as allowed by an R1-S

development.

X

The opportunities for growth in Franklin and Simpson County are enormous, and many job opportunities are currently available, with more and more regularly available through community recruitment efforts. Adequate and suitable housing for the workforce is necessary and desirable. As demonstrated by the very fast build out of Windsor, there is already significant demand for moderately priced single family residences.

XI

The location of the Property on the north side of Franklin towards the Wilkey Industrial Park, particularly the new Fritz Winter development, makes its location potentially very attractive to new residents. Moreover, its location is close to Broadway leading to the east connector road which allows for easy access to east Franklin and its industrial and commercial establishments in that area.

XII

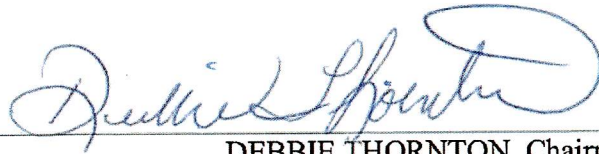
The Simpson County Comprehensive Plan which was adopted in the fall of 1994 recognized the importance of residential development to community growth. At page 108, the Comprehensive Plan specifically points out that residential development has occurred along the Franklin urban fringe strongly associated with 31-W. The 2010 Comprehensive Plan Update encourages development locations serviced by existing infrastructure and notes that moderate density of housing is acceptable but high density is not. An average of eight dwelling units per acre is appropriate for moderate density. R1-S permits no more than 5.5 dwelling units per acre, and Developer proposes a density of no more than 4 dwelling units per acre.

CONCLUSIONS OF LAW

A public hearing was held in accordance with KRS 100.209 after due public notice was given as required by statute. A re-zoning of the Property to R1-S is in agreement with the adopted Comprehensive Plan. A zone change is in order. The zone change request meets the criteria of KRS 100.213 § 10.7 of the Franklin-Simpson Zoning Regulations, in that the map amendment is in agreement with the adopted Comprehensive Plan.

RECOMMENDATION

The Commission having adopted the foregoing Findings of Fact and Conclusions of Law, does now hereby recommend to the Franklin City Commission that the zone change request be approved and that the Property, described in the attached Appendix, be re-zoned from A-1 to R1-S.



DEBBIE THORNTON, Chairperson

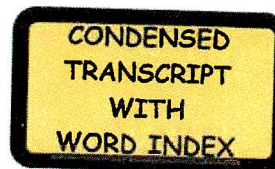
FRANKLIN/SIMPSON COUNTY
PLANNING AND ZONING MEETING

**** **** **** ****

Public Hearing Requesting Zone Change
Of 47.7 acres from Ag-1 to R-1-S
(Single Family Residential District)

DATE: August 4, 2020

**** **** **** ****



JULIE P. RITTER
COURT REPORTER
397 RED BIRD TRAIL
BOWLING GREEN, KY 42101
270.843.3015

FRANKLIN/SIMPSON COUNTY PLANNING & ZONING COMMISSION AUGUST 4, 2020

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2

**** **** **** ****

The Meeting of the Franklin/Simpson Planning and Zoning Commission, taken in the Fiscal Court Meeting Room, Second Floor, Historical Courthouse, 100 Courthouse Square, Franklin, Simpson County, Kentucky, on Tuesday, August 4, 2020, beginning at 6:47 p.m. and ending at 7:18 p.m.

**** **** **** ****

APPEARANCES

Debbie Thornton	Gary Sliger
Chad Konow	Craig Myler
Roy Tyler	George Weissinger
John Mayeur	Kent Wilson
Bob Link, P&Z Attorney	
Carter Munday	
Julie Freeman, Administrative Assistant	
Witnesses	

Appearing for the Petitioners: G. William Leach, Jr
200 North Main Street
P. O. Box 425
Franklin, KY 42135-0425

3

1

FRANKLIN-SIMPSON JOINT PLANNING & ZONING COMMISSION

2

In Re: The Petition for Zone Change
From A-1 (Agriculture)
To R-1-S (Single Family Residential District)

3

4

5

MS. THORNTON: I think we all know Mr. Leach.

6

MR. LEACH: If I may, I'd like to make an opening statement and then call a couple of witnesses.

7

MS. THORNTON: Yes, sir.

8

OPENING STATEMENT OF G. WILLIAM LEACH

9

MR. LEACH: So we are before you on the Petition of

10

11

12

13

Lewis Memorial to rezone 47.7378 acres from A-1-Ag to

14

R-1-S, which is the single-family residences, but on a

15

smaller lot.

16

For about three years, it's been the law that

17

R-1-S exists, and it allows for a 75-foot wide lot

18

rather than 100-foot wide lot for residential. If you

19

have a feeling of déjà vu, we were here 35 months ago

20

for the approval of what's Windsor Park now, the

21

property just to the east of this. This property -- and

22

in order to get you acclimated, I'd like to submit

23

Petitioner's Exhibit 1. (Passes documents.)

24

(Petitioner's Exhibit 1 was duly received,

25

marked, and is filed herewith.)

BY MR. LEACH:

Q. This probably looks familiar to everyone. To

4

1

the top of the page is north; to the bottom of the page

2

is south. And the property's actually located right at

3

the left margin, a new 47-acre site.

4

Like I say, just to the east of it, you have a

5

40-acre site that was zoned R-1-S in 2017, on which

6

Simpson County Developing Partners has developed a

7

subdivision that's almost full.

8

And if you look at this area -- this was amazing

9

to me -- but this snapshot of the area, there are

10

actually ten different zone changes -- ten -- I'm

11

sorry -- ten different zone classifications in this

12

area. So it's a pretty mixed area. I think it's been

13

popular because it's north of town, it's close to

14

Bowling Green, it's close to industry on the north side,

15

you can get on Broadway and head east. I think the

16

houses that have been built in there are attractive, and

17

everything about it, apparently, has just been very well

18

received.

19

The Simpson County Developing Partners is owned

20

by Jody Allen, who, again, developed the previous

21

40 acres, and it's being a huge success. One of the

22

things Lewis Memorial has required and Simpson County

23

Developing Partners has done is put restrictions on the

24

development. And I'd like to make Petitioner's

25

Exhibit 2 a copy of those land-use restrictions and

5

FRANKLIN/SIMPSON COUNTY PLANNING & ZONING COMMISSION AUGUST 4, 2020

1 protective covenants. (Passes documents.) And this is
2 nothing new, because this was adhered to with Windsor
3 Park as well.
4 (Petitioner's Exhibit 2 was duly received,
5 marked, and is filed herewith.)
6 MR. LEACH: The property is currently owned by
7 Lewis Memorial. And for those of you who've been around
8 a long time, you know that originally Lewis Memorial had
9 lots of land in the area on both sides of the road. And
10 beginning about 30 years ago, they sold off some east
11 side where, as you can see on here, F-P-I, Harman,
12 Carauster are located. That used to be Lewis Memorial
13 property.
14 Three years ago, they sold a 40-acre site to
15 Simpson County Developing Partners where Windsor Park's
16 been built. And the purpose was to raise money to build
17 an assisted living, which they have done. The assisted
18 living has also been very popular and is full and has a
19 waiting list. And so they intend to use the proceeds
20 from the sale of the 47 acres to expand the assisted
21 living. So that's their purpose for this sale. The
22 property's under contract. But the contract closing is
23 conditioned upon rezoning to R-1-S, and that's why we're
24 here.
25 Access to this 47-acres is through Windsor Park

6

1 from 31-W north. If you've been out that way, if you
2 come from the north towards Franklin, there's a turning
3 lane into Windsor Park. When you're in Windsor Park and
4 you exit, there's a wide exit area; there's a turning
5 lane to the left, a turning lane to the right. So the
6 traffic has worked well there.

7 This would be -- so there have been two phases
8 of Windsor Park. This would actually be a Phase 3, just
9 extend the roads, same kind of houses, same size lots.
10 All the utilities are available, there's good road
11 access, it's a good location, and it's been great land
12 to develop.

13 At this time, I'd like to call Scott Hall as a
14 witness. He is, I believe, the chairman of the Lewis
15 Memorial Board.

16
17 **SCOTT HALL**, called on behalf of the Petitioner,
18 being first duly sworn, was examined and testified as
19 follows:

20 **EXAMINATION OF SCOTT HALL** 21 **QUESTIONS BY MR. LEACH:**

22 **Q.** So you can sit there, Scott. So you're the
23 chairman of the Lewis Memorial Board?
24 **A.** Correct.

7

1 MS. THORNTON: And your last name is Hall?
2 WITNESS: Hall. Yes.
3 MS. THORNTON: Did you say Scott Hall?
4 WITNESS: Scott Hall.
5 MS. THORNTON: Thank you.
6 BY MR. LEACH:
7 **Q.** Which means, you have to come down here for
8 this, right?
9 **A.** Yes.
10 **Q.** Okay. So you've heard what I stated to the
11 board. Is there any of that that is incorrect, or do
12 you want to embellish on it?
13 **A.** No. Everything was correct. We are intending
14 to double the size of our new assisted living. We've
15 been filled for the past year and a half. We have 16
16 beds; we want to add another 16 beds. And this will
17 give us seed money and the process to do that.
18 **Q.** Will this raise enough money to build the
19 whole facility?
20 **A.** It will not.
21 **Q.** But without it, you won't build it?
22 **A.** Without, we will not build. No.
23 **Q.** Okay. Were you on the Board when the 40-acres
24 were sold three years ago?
25 **A.** Correct.

8

1 **Q.** Has it worked out as you anticipated?
2 **A.** Yes, sir.
3 **Q.** Has there been any displeasure with Windsor
4 Park or the development that's there?

5 **A.** Not to my knowledge, no, sir.

6 **Q.** And I passed out land-use restrictions.
7 You're aware that it's restricted in terms of size of
8 the houses and those kinds of things?

9 **A.** Yes.

10 MR. LEACH: I believe that's all the questions I
11 have.

12 WITNESS: Any other questions for me?

13 MS. THORNTON: It sounds as if Lewis Memorial, it's
14 your land, so you're very much on board with it?

15 WITNESS: Correct.

16 MS. THORNTON: Thank you.

17 WITNESS: Okay.

18 MR. LEACH: Next, I'll call Jody Allen.

19
20 **JODY ALLEN**, called on behalf of the Petitioner,
21 being first duly sworn, was examined and testified as
22 follows:

23 **EXAMINATION OF JODY ALLEN** 24 **QUESTIONS BY MR. LEACH:**

9

FRANKLIN/SIMPSON COUNTY PLANNING & ZONING COMMISSION AUGUST 4, 2020

1 Q. Jody, are you Simpson County Developing
2 Partners?
3 A. I am a -- I'm the managing member --
4 Q. Okay.
5 A. -- of that company, yes, sir.
6 Q. And is that the company that developed Windsor
7 Park?
8 A. Yes, sir.
9 Q. Phases 1 and 2?
10 A. Yes, sir.
11 Q. And that was only three years ago, maybe a
12 little less, when we were here for that.
13 A. It didn't take long.
14 Q. And has it surprised you how fast it went up?
15 A. You know what? We felt like there was some
16 pent-up demand in Simpson County for that particular
17 product. And, quite honestly, we're -- we've been very
18 well pleased and surprised at the rate at which those
19 houses have sold.
20 We -- we are sold out of lots as of last week.
21 So that's 121 lots, roughly. And from the time we
22 started to the time we finished will probably be less
23 than 24 months. And if we had 60 more lots, we'd sell
24 them all to the same guys who are building out there.
25 They've -- they've been tickled to death with the --

10

1 with the reception that they're getting from the
2 community and the -- and the demands and the need for
3 that product. So it's -- it seems to be a win/win for
4 everybody right now.
5 Q. What's the average size of the homes there?
6 A. Between 1350 and 1450 sqee -- square feet.
7 I've built a few in there myself that were four bedroom,
8 two bath, and they were 1500 feet. So the majority of
9 those homes are four-bedroom homes. I'd say, probably,
10 70/30 four bedrooms to three bedrooms.
11 Q. And you intend the same type development into
12 the new 47-acre tract?
13 A. We -- we -- we will match the restric -- when
14 we come back with the development plan, the restrictions
15 will be exactly the same. And, then, we set up the
16 H-O-A that's currently there to enable it to expand any
17 contiguous properties that join this -- the Windsor
18 Park.
19 So -- so that development section will be
20 brought into the H-O-A and fall under the same rules and
21 regulations that's existing now.
22 Q. When we were here before, the City was
23 actually here and was a proponent of the R-1-S and the
24 rezoning there. Has everything worked out in terms of
25 utilities that they promised to provide?

11

1 A. Yes, sir. And that's, again, the City of
2 Franklin and Simpson County, for that fact, have been
3 wonderful to work with.
4 You know, a big part of us getting that product
5 there and helping Lewis Memorial get their product done
6 was getting the pump station out a little bit further
7 to -- to accept the capacity that's there. And I think
8 with the rate at which we have been able to build those
9 houses, it's probably accelerated their ability to --
10 to -- to pay that debt off short-term. So...
11 Q. And, then, you have this property under
12 contract. Was it conditioned upon rezoning to R-1-S?
13 A. Yes, sir.
14 Q. All right. Has anyone voiced any concerns
15 about traffic? I know that's 31-W north.
16 A. I'm not -- not that I'm aware of. As part of
17 the original conditions, we did a traffic study. And
18 the State Highway Department asked us to put a
19 right-hand turn lane in coming north into -- into the
20 development, which I thought was a good idea. And we
21 were required to.
22 But on the way out, we made the drive lane wide
23 enough to where we have a right-turn and a left-turn
24 lane coming out of the development. 'Cause, you know,
25 sometimes, if you want to turn left there, if you only

12

1 had one lane, it could stack up a little bit, depending
2 on the time of day when the industrial park lets out.
3 But being able to go right and left at the same time,
4 I've -- I've never seem more than a couple of cars there
5 at any given time.
6 Q. And what's the approximate size of the lots?
7 A. There -- the base -- the base size of those
8 lots are 75-feet by 150-foot deep. So it exceeds a
9 minimum square footage by a couple thousand square feet.
10 But that's -- that's the base size of the lots.
11 And it's a comfortable size, still gives a nice
12 backyard to mow, reasonable distance between the houses.
13 So it's -- it's -- it's been a real good product.
14 MR. LEACH: That's all the questions I have.
15 MS. THORNTON: Gentleman, do you have questions?
16 MR. SLIGER: Are you planning another entrance?
17 WITNESS: No, sir. The way that deve -- the way
18 that the -- the way this 45-acre lays out, it's -- it
19 will, basically, run through the back of what existing
20 Country Club Estates is. And, then, it's surrounded on
21 all parts by agriculture exce --
22 I think Lewis Memorial still owns some property
23 that adjoins this. And we're more than glad to put some
24 stub accesses in when we design it to -- there --
25 there's some already there for future expansion of what

13

FRANKLIN/SIMPSON COUNTY PLANNING & ZONING COMMISSION AUGUST 4, 2020

1 was -- what was some of their property, that it could
2 come all the way around and kind of make a horseshoe
3 around Lewis Memorial, if it ever got to that point or
4 somebody else develops from that side. There's
5 accommodations there to -- to kind of wrap around the --
6 the assisting living facility at some point in time.
7 MR. WILSON: That was kind of my question, too.
8 How many -- how many more lots -- I mean, what -- how
9 many total lots will there be in this whole development
10 once they're all full?
11 WITNESS: Roughly, there's a -- roughly a hundred
12 and -- we haven't done the final engineering. But it's
13 about the same size as the -- as the first section.
14 There's 40 acres in that section. There's 45 or 46 in
15 this section.
16 MS. THORNTON: 47 it says on here.
17 WITNESS: So there's 120 to 130 lots, so 250 lots
18 all together.
19 MR. WILSON: So, potentially, you'll have 500
20 people coming out of that one entrance?
21 WITNESS: Yes, sir, you could.
22 Now, again, I've done this a long time. When a
23 right- and left-turn lane, it makes a huge difference.
24 But there -- there's -- there's no development with --
25 within any distance, as you -- even if you went to --

14

1 behind Country Clue Estates, any development that goes
2 out further, there's just -- there's just no access to
3 any roads. Now, again, at some point in development, it
4 will -- we could get back around there.
5 MR. MAYEUR: You could come behind Country Club; is
6 that what you're saying?
7 WITNESS: Well, there's a -- there's a --
8 MS. THORNTON: Country Club Estates.
9 WITNESS: It -- it -- I mean, it could, eventually.
10 But -- but we don't have -- this -- this --
11 MR. MAYEUR: This tract isn't --
12 WITNESS: This tract does not have any con --
13 contiguous lines now to Country Club Estates. And I
14 think they do have a couple of stubs in back of -- of
15 that subdivision as well.
16 MR. MYLER: So this entire tract behind the
17 existing --
18 MS. THORNTON: Yeah. So it's not --
19 WITNESS: Yes, sir. Yeah. There's -- there is --
20 MS. THORNTON: It's not going to be --
21 WITNESS: There is -- there is no frontage anywhere
2 close to any or existing subdivision street or county
23 road.
24 (Off-the-record discussion for clarification.)
25 UNKNOWN: It's even further west than Country Club

15

1 Estates, isn't it?
2 WITNESS: Yes. I think the first phase of
3 Windsor -- or excuse me -- the second phase of Windsor
4 would -- took us to about the back of what the existing
5 Country Club Estates is now. So when this development
6 extends, we'll be even further west of that, I believe.
7 MS. THORNTON: It's pushing west toward Morgantown
8 Road, although we're not going to Morgantown. We know
9 what road --
10 WITNESS: Yes, ma'am.
11 MS. THORNTON: We know Morgantown Road.
12 WITNESS: Okay.
13 MS. THORNTON: Any more discussion, gentlemen?
14 MR. SLIGER: Did you ever have any complaints from
15 Country Club Estates for water problems? I know some
16 have come in here before approval.
17 WITNESS: Not that I'm aware of. Ultimately, what
18 has happened is, the bulk of this property that we
19 developed is kind of downhill from Country Club Estates.
20 There -- there is a -- I want to say, about the --
21 probably the back six or eight lots of this development,
22 there is a swell that catches some water that will be
23 lea -- that will be diverted and handled in this phase
24 of that development. But, basically, Country Club is
25 almost at the higher point --

16

1 MS. THORNTON: Uh-huh.
2 WITNESS: -- of anything that -- of what we did.
3 MS. THORNTON: Uh-huh.
4 MR. LEACH: Some of you were on the Board three
5 years ago. There were about a dozen people from Country
6 Club Estates at the meeting.
7 UNKNOWN: There was. That's right.
8 MR. LEACH: And they didn't really voice any
9 opposition; they just wanted to know what was going on
10 and --
11 MS. THORNTON: Right.
12 MR. LEACH: -- there's -- there's no one here
13 today. And it's been advertised, it's been on the
14 radio; so, apparently, there -- they have no concern
15 about this.
16 MR. MYLER: I'm really concerned about traffic,
17 'cause traffic has picked up immensely since the new
18 neighborhood has gone in. And then we double that, and
19 somebody eventually's going to buy Harman, and we add
20 that many more people. And with that little hump in the
21 road coming right past Lewis Memorial, it's getting a
22 little -- it would get, possibly, dangerous, I think.
23 Have traffic counts been done and it's approved
24 and all that for that many more people?
25 WITNESS: Well, a tra -- a traffic study was done

17

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1 on the original development. And at the time we did the
2 original development, we had an option and always have
3 had an option since we purchased the first phase to do
4 the -- to do what we're here tonight to do.

5 And so ever -- as far as I can -- as far as I
6 know, everybody has been aware that -- that -- that the
7 plans would be to continue this development. And I
8 think that's really why the right turn lane was
9 warranted coming north.

10 And, again, we -- we have a left-turn lane going
11 out as to not stack traffic up by wa -- you know,
12 somebody wanting to turn left and you've got a lot of
13 people wanted to go into town. So we have hel -- we --
14 we felt like we anticipated that need, knowing that we
15 weren't going to be able to get another entrance, just
16 because the land that we were -- we were basically
17 landlocked. So we -- we felt like we -- we did that in
18 anticipation of some additional lots going in the back.

19 MS. THORNTON: Gentleman, do we have a motion?

20 MR. LEACH: I have one more short witness, if I
21 may.

22 MS. THORNTON: Please.

23 MR. LEACH: Okay.

24 MS. THORNTON: Thank you.

25 WITNESS: Thank you.

18

1 MS. THORNTON: Thank you, sir.

2 MR. LEACH: I call Brent Rushing.

3 MS. THORNTON: Can you repeat his name, Mr. Leach?

4 MR. LEACH: Brent Rushing.

5 MS. THORNTON: Thank you. Hi, Brent.

6 MR. RUSHING: Hi.

7
8 **BRENT RUSHING**, called on behalf of the
9 Petitioner, being first duly sworn, was examined and
10 testified as follows:

11 EXAMINATION OF BRENT RUSHING

12 QUESTIONS BY MR. LEACH:

14 Q. Mr. Rushing, are you a builder and a
15 developer?

16 A. A builder, yes.

17 Q. Okay. Have you built homes in Windsor Park?

18 A. Yes.

19 Q. Have you built very many in Windsor Park?

20 A. I've -- twelve there completed and sold and
21 four under construction now.

22 Q. Okay. And have you witnessed any traffic
23 issues out there?

24 A. No. Kind of like what Jody talked about, the
25 la -- the turning lane coming in and the two turning

19

1 lanes going out make it -- make it fine. I also build
2 across town at The Willows over on 1008 next to
3 Westwoods. And, actually, that's a lot smaller; it's a
4 50-lot, roughly, subdivision. And that's actually --
5 it's not bad turning in there. That, actually, is a lot
6 worse turning out there than it is out at Windsor.

7 Q. Is it because of the turning lanes that makes
8 Windsor more --

9 A. Yeah. And the visibility's a lot better at
10 Windsor versus at Willows. At Willows, you're right
11 there in the curve either way. There's storage
12 buildings on your left and a curve. And if you look to
13 your right toward Springfield Road, there's a, you know,
14 curve the other way. Either way, going out left or
15 right, you better be paying attention.

16 But at -- good visibility and -- and turning
17 lanes out at Windsor versus Willow.

18 Q. And so you've built in Windsor, you've built
19 in The Willows, you've built other places, too, I
20 assume.

21 A. Sure. Fox Chase, Williamsburg. Yeah.

22 Q. Warren County, as well?

23 A. Bennington. A lot -- quite a bit in -- in
24 Bowling Green, yes.

25 Q. Rating the traffic here and the ingress and

20

1 egress, how does it stack up with some of your other
2 experiences?

3 A. It -- no -- again, no real problem versus the
4 handful of subdivisions we've built in Bowling Green.
5 It's -- it's as good as any of those or better than --
6 better than most, I would say.

7 Q. Would you buy lots in Phase 3 of the new
8 section and build in those --

9 A. Sure.

10 Q. -- without reservation?

11 A. Sure. Yeah.

12 MR. LEACH: That's all the questions I have.

13 MS. THORNTON: Okay.

14 MR. MAYEUR: Is this directly behind the current
15 development --

16 UNKNOWN: Yes.

17 MS. THORNTON: Yes.

18 MR. MAYEUR: -- Windsor -- straight back?

19 UNKNOWN: Yes.

20 MS. THORNTON: Right.

21 MR. MAYEUR: So it's all going to come --

22 MR. LEACH: Straight out --

23 MR. MAYEUR: -- to the road? It's -- it doesn't go
24 over any more towards -- north towards Lewis --

25 MS. THORNTON: No.

21

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<p>1 MR. MAYEUR: Okay.</p> <p>2 (Multiple speakers.)</p> <p>3 MS. THORNTON: It goes behind Lewis --</p> <p>4 UNKNOWN: One at a time.</p> <p>5 MR. HALL: It lays out -- it lays down that fence</p> <p>6 line and to the right and kind of loops back around.</p> <p>7 Okay? So it's all right there connected. It stays in</p> <p>8 that line. And then it's kind -- has like a P, comes</p> <p>9 right aro -- back around on itself. So...</p> <p>10 MR. MAYEUR: No additional frontage on 31, though?</p> <p>11 MR. HALL: That's all in the back. And as he</p> <p>12 was -- as Jody was saying, we have a 30-acre tract that</p> <p>13 Lewis Memorial still holds 50 acres that connects back</p> <p>14 to the -- to our -- our campus and to the road that we</p> <p>15 have still for future development.</p> <p>16 MR. MAYEUR: That's all I have.</p> <p>17 MS. THORNTON: Okay. Has everybody got their</p> <p>18 questions answered?</p> <p>19 MR. WILSON: So -- so you still own the 50 acres</p> <p>20 that adjoins this new development in the back, and it</p> <p>21 comes over to Lewis Memorial?</p> <p>22 MR. HALL: Uh-huh.</p> <p>23 MR. WILSON: So my question would be, I guess, is</p> <p>24 there no way to sell -- have another entrance up that</p> <p>25 way --</p>	<p>1 like a lot of traffic going to be coming out of that one</p> <p>2 entrance right there on 31-W with -- 'cause people</p> <p>3 are -- I mean, there's a lot of people coming out of</p> <p>4 those factories and...</p> <p>5 MR. LEACH: That -- that wouldn't reduce the</p> <p>6 traffic. It would just have it coming out at another</p> <p>7 location and up there closer to the assisted living</p> <p>8 here, actually a little bit more under the hill there,</p> <p>9 too. So, you know...</p> <p>10 MR. WILSON: Well, if you were on the top side of</p> <p>11 the hill, around the backside of it if you're going --</p> <p>12 MR. LEACH: If you're on -- if you're on the north</p> <p>13 side of Lewis Memorial, I guess you would.</p> <p>14 MR. HALL: Yeah. Where it would come out is not an</p> <p>15 ideal spot, just because it is right behind those</p> <p>16 apartments and there's no vision coming from the south</p> <p>17 side. If you come out and go north, you have no vision.</p> <p>18 And that's why the Lewis Memorial, when we built</p> <p>19 the expansion, we came straight out, and we were on the</p> <p>20 south side of that hill, and it -- we built the road out</p> <p>21 there to it and saw that it was going to be a pattern.</p> <p>22 And we tore that up and went back and built a little S</p> <p>23 curve in to where it come out further north where it</p> <p>24 comes out on the rise and makes it safer there.</p> <p>25 But -- but on the north side where it would come</p>
<p>22</p> <p>1 MR. HALL: We did --</p> <p>2 MR. WILSON: -- and still have a right-of-way or</p> <p>3 something?</p> <p>4 MR. HALL: We did sell a 13-acre tract right next</p> <p>5 to them. We've liquidated, basically, the farm to put</p> <p>6 into this new facility, okay, so we could pay it off and</p> <p>7 be better liquidated, you know, on the new facility. So</p> <p>8 we did sell off the land that comes around. We're just</p> <p>9 shotgunning straight back from that facility. Okay.</p> <p>10 MR. WILSON: But I thought you still owned the back</p> <p>11 part.</p> <p>12 MR. HALL: We do. So --</p> <p>13 MR. WILSON: I'm just saying, maybe they could have</p> <p>14 an entrance back across the 50 acres and then back up</p> <p>15 to -- close to Lewis Memorial, is what I was wondering.</p> <p>16 MR. HALL: We have an easement that comes back up</p> <p>17 through, yes. I don't know if that will -- will help</p> <p>18 the development any.</p> <p>19 UNKNOWN: It won't.</p> <p>20 MR. WILSON: Well, I mean, just create another</p> <p>21 entrance -- exit and entrance --</p> <p>MR. HALL: Uh-huh.</p> <p>23 MR. WILSON: -- to where everybody wouldn't have to</p> <p>24 come out at the same place, is what I was wondering.</p> <p>25 Because I'm like Craig, it's a lot of -- seems</p>	<p>24</p> <p>1 out, it would be blindsided -- people coming from the --</p> <p>2 coming from the south going north, it would be</p> <p>3 blindsided there.</p> <p>4 MR. MYLER: From the south, it would be blindsided</p> <p>5 there. The north --</p> <p>6 MR. HALL: 'Cause we don't -- we don't own all the</p> <p>7 way to the -- there where it's gonna -- we sold those</p> <p>8 tracts up there. So we don't own all the way to the...</p> <p>9 MR. WILSON: Yeah. Yeah. Maybe so. I don't...</p> <p>10 MR. HALL: Yeah.</p> <p>11 MR. SLIGER: So what's your zone change request?</p> <p>12 MR. LEACH: From Ag to R-1-S.</p> <p>13 MR. MAYEUR: And that's what Windsor --</p> <p>14 MR. LEACH: That's where Windsor is now. Uh-huh.</p> <p>15 Like I say, it would be just a Phase 3, just be an</p> <p>16 extension of what's there.</p> <p>17 MS. THORNTON: Of what's there, but further back.</p> <p>18 MR. LEACH: Yeah.</p> <p>19 I have Findings if you're ready for those. I</p> <p>20 don't have any other witnesses.</p> <p>21 MS. THORNTON: That would be fine, Mr. Leach.</p> <p>22 Thank you.</p> <p>23 (Petitioner's Exhibit 3 was duly received,</p> <p>24 marked, and is filed herewith.)</p> <p>25 (Inaudible conversation between</p>
<p>23</p>	<p>25</p>

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1 Ms. Thornton and Mr. Link.)
 2 MS. THORNTON: I am asking a question to our
 3 lawyer, for I know that as far as speaking aloud, we can
 4 ask him questions amongst one another.
 5 Down the pike, if this should be a traffic
 6 issue, can a light be placed there?
 7 MR. LINK: That would be up to the state.
 8 MS. THORNTON: Up to the state. I see. If down
 9 the pike, there was an issue, I mean, that sort of --
 10 put a light, a stop sign.
 11 MR. MYLER: Looking at the way it is, where do you
 12 put the light?
 13 MS. THORNTON: I'm not sure. They're smarter than
 14 I. I'll ask them.
 15 MR. MYLER: That's been asked -- (Inaudible.
 16 Talked over.)
 17 MR. MAYEUR: Do we have any other developments --
 18 MS. THORNTON: Oh, really?
 19 MR. MAYEUR: -- that have --
 20 (Multiple speakers speaking inaudibly.)
 21 COURT REPORTER: Wait a minute.
 22 MR. MAYEUR: -- two hundred and --
 23 (Multiple speakers speaking inaudibly.)
 24 MR. MAYEUR: Do we have other developments that
 25 have 250 units in them that have only a single entry and

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1 exit.
 2 MR. KONOW: (Inaudible.) Blackberry.
 3 MS. THORNTON: Blackberry? Is that right?
 4 MR. KONOW: I'm sure it is. Isn't it?
 5 MR. SLIGER: I don't think it is.
 6 (Multiple speakers speaking inaudibly.)
 7 COURT REPORTER: I can't hear you if you want this
 8 on the record.
 9 MR. LEACH: She can't hear you.
 10 COURT REPORTER: You need to speak up so I can hear
 11 you if you want it on the record.
 12 MR. WEISSINGER: Oh, I was just telling him about
 13 other places. I said (inaudible) Lexington back in
 14 there and there's a place out by the hospital, they've
 15 got a bunch of --
 16 MS. THORNTON: Uh-huh.
 17 MR. WEISSINGER: -- with just one entrance and
 18 exit.
 19 MR. LEACH: Years ago, when Quail Ridge was
 20 developed, I represented those folks, too, for the
 21 rezoning. There aren't near as many lots at Quail
 22 Ridge, but there's only one entrance and exit and it
 23 goes across a railroad track.
 24 MS. THORNTON: Uh-huh.
 25 MR. LEACH: And there was, understandably, a lot of

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1 concern about the railroad track and what if the cars
 2 were backed up and somebody needs to get to the hospital
 3 and all that. But it was approved, and I don't know
 4 that it's been a problem in the last 30 years. So I'll
 5 just add that.
 6 MR. LINK: Somebody can make a motion at any time
 7 to incorporate these Findings of Fact and Conclusions of
 8 Law if we're going to vote to grant the rezone.
 9 MS. THORNTON: Thank you.
 10 MR. HALL: I'll make a -- you know, I -- we'd like
 11 to bring this -- do this home into here and double
 12 that -- that situation there and make that to improve --
 13 improve our service to the community. And I think it's
 14 been a great one. And we won't be able to do that
 15 without this.
 16 And I understand the traffic issues. I've
 17 tra -- I've traveled out to there more than I care to
 18 because I've been out there to the building sites and
 19 been through there. I think the traffic issue, as with
 20 any place, if you get to the south side of town at the
 21 old Hunt Dodge, you know, at that time -- but at certain
 22 periods of time, and it's -- and it's controllable. And
 23 I think they done a good job of providing a traffic lane
 24 to turn.
 25 And I've been back in that subdivision and come

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1 out and never had any problems. But it is a legitimate
 2 concern. But I think it -- it can be taken care of.
 3 MR. SLIGER: I make a motion to approve the zone
 4 change for the 47.7 acres at the west end of St. George
 5 Way and Victoria Way of Windsor Park, reviewing the
 6 Findings of Fact and Conclusions of Law.
 7 MS. THORNTON: Thank you, Mr. Sliger. Mr. Sliger
 8 has made a motion to --
 9 MR. WEISSINGER: Second.
 10 MS. THORNTON: -- zone change. Mr. Weissinger has
 11 seconded. Thank you, Mr. Weissinger.
 12 Do we have any further discussion?
 13 All in favor, say Aye.
 14 (In unison, Aye.)
 15 MS. THORNTON: Any opposition?
 16 MR. MYLER: I'm abstaining.
 17 MS. THORNTON: Okay.
 18 COURT REPORTER: Say what?
 19 MS. THORNTON: We have one abstention.
 20 MR. MYLER: I'm a member of the church.
 21 MS. THORNTON: Yes. Yes.
 22 COURT REPORTER: I can't hear you.
 23 MR. MYLER: I'm abstaining. (Inaudible.)
 24 MS. THORNTON: Oh, because you're a member of the
 25 Methodist Church.

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1 MR. MYLER: Yes.
2 MS. THORNTON: Oh, thank you very much.
3 COURT REPORTER: You're a member of what?
4 MS. THORNTON: He -- he's a member of the Methodist
5 Church. I understand.
6 (Inaudible conversation between
7 Ms. Thornton and Mr. Sliger.)
8 COURT REPORTER: Okay. I'm sorry. I just can't
9 hear.
10 MS. THORNTON: That's very respectful. Thank you.
11 MR. MYLER: I abstain due to being a member of the
12 church which owns the Lewis Memorial.
13 COURT REPORTER: Thank you.
14 MS. THORNTON: Lewis Memorial. Thank you very
15 much.
16 MR. LEACH: Thank you all.
17 (PROCEEDINGS WERE ADJOURNED.)
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1 STATE OF KENTUCKY)
2) SS.
3 COUNTY OF WARREN)
4 I, Julie P. Ritter, a Notary Public, within and
5 for the State of Kentucky, do hereby certify that the
6 foregoing **TRANSCRIPT OF PROCEEDINGS**, was taken before me
7 at the time and place and for the purpose in the caption
8 stated; that the said witnesses were first duly sworn to
9 tell the truth, the whole truth and nothing but the
10 truth; that the Transcript of Proceedings was reduced to
11 shorthand writing by me in the presence of the
12 witnesses; that the foregoing is a full, true and
13 correct transcript of said proceedings so given; and
14 that the appearances were as stated in the caption.
15 I further certify that I am neither of kin nor
16 of counsel to either of the parties to this action, and
17 am in no wise interested in the outcome of said action.
18
19 WITNESS MY SIGNATURE, on this the 17th day of
20 August, 2020.
21
22
23
24 JULIE RITTER, NOTARY PUBLIC
25 Notary Public Cert. ID# 556851
My commission expires: 05/24/20
Kentucky State at Large

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