

## Comment from Councilman Brett Withers

### Agenda Item 26 - Five Points Rezoning Plan

**From:** Withers, Brett (Council Member) <Brett.Withers@nashville.gov>

**Sent:** Monday, November 9, 2020 2:06 PM

**To:** Planning Commissioners <Planning.Commissioners@nashville.gov>

**Subject:** Agenda Item 26 - Five Points Rezoning Plan

Commissioners:

Thank you for your service to our county. I appreciate the staff recommendation of approval for the Five Points rezoning plan that primarily is designed to continue the work of the MDHA Five Points Redevelopment District Design Guidelines and Land Use Plan once that redevelopment district expires on December 31st of this year. I request your recommendation of approval of this rezoning plan and will provide some background that you may find to be helpful in considering this complex case.

The East Nashville neighborhood groups and Metro Council representatives began working with MDHA in the mid-1980s to remove blight and to create a viable and vibrant business district in the Five Points area where one had not existed previously. In 1985 the Lockeland Springs-East End Conservation Zoning Overlay District was enacted as what I believe was the first Conservation Overlay in Nashville, which was meant to provide a less-restrictive historic preservation tool than the Edgefield Historic Preservation Zoning District which had been enacted about 1979. When the initial Lockeland Springs-East End Conservation Overlay District was enacted in 1985 it did not include the heart of Five Points proper, anything on 10th Street, or anything south of the Fatherland-facing parcels.

When the MDHA Five Points Area Plan was converted in 1990 to the MDHA Five Points Redevelopment District, the boundaries were drawn in such a manner as to capture that central Five Points intersection area that was left out of the Conservation Overlay and also to extend eastward into the Lockeland Springs area to include commercial corner pockets at 17th/Fatherland, 16th/Woodland and 16th/Ordway. A main purpose for the Redevelopment District boundaries being drawn they way that they were at that time circa 1990 was to enable removal of blight through acquisition or eminent domain as well as to prevent adverse uses such as pawn shops, liquor stores and used car lots through land use restrictions placed over those commercial parcels.

This MDHA Redevelopment District tool was in place, sometimes but not always overlapping with the Lockeland Springs-East End Conservation Overlay, when the 1998 tornado struck. A R/UDAT process followed in 1999 convened by the AIA. The R/UDAT identified a specific community goal of creating viable business districts at the interior neighborhood commercial corners as well as particularly in the main Five Points intersection and vicinity. In 2000 work began on the MDHA Five Points Redevelopment District Design Guidelines document and the separate Land Use Plan.

The MDHA Five Points Redevelopment District documents are available online <http://www.nashville-mdha.org/redevelopment-districts/> on MDHA's website. They can be summarized as promoting building designs that favored pedestrian-oriented placement and massing rather than being auto-centric as the existing base zoning, often CS, dictated.

The MDHA Five Points Redevelopment District Design Guidelines document [http://www.nashville-mdha.org/wp-content/uploads/2015/02/Five\\_Points.pdf](http://www.nashville-mdha.org/wp-content/uploads/2015/02/Five_Points.pdf) superseded base zoning bulk regulations in calling for buildings of three or four stories with a priority for ground-floor commercial uses with multifamily residential above, with the buildings constructed and connected to the sidewalk and with parking accessed off of the alley where those were present. Notably, the Design Guidelines document called for buildings that were often larger than base zoning allowed, with design elements such as minimum floor height requirements for commercial buildings or ground floor spaces and with generous minimum glazing requirements to activate and address the sidewalk and the street.

The MDHA Five Points Redevelopment District Land Use Plan <http://www.nashville-mdha.org/wp-content/uploads/2015/03/2015-3-16-Fivepoints.pdf> also superseded base zoning by excluding some uses such as car sales, pawn shops and liquor stores entirely, by limiting some OR20 parcels to residential uses only, and by granting mixed-use entitlements to other parcels that otherwise had residential base zoning. But those use entitlements expire on December 31st of this year when the Redevelopment District expires. This is an important point that I will touch on again later. Please bear this point in mind as it directly relates to some of the base zone change proposals for parcels that do not lie within a neighborhood center policy area.

In the year 2003 the Lockeland Springs-East End Conservation Overlay District was expanded from Fatherland south to Shelby between 10th and 14th Street and up 10th to Main Street and folding in what is today the prime Five Points intersection and surroundings. Notably, this expansion of the Lockeland Springs-East End Conservation Overlay District means that since 2003 the entire Five Points Redevelopment District east of 10th Street has been included in the Conservation Overlay District where the Metro Historic Zoning Commission will continue to have final authority over approvals of designs and massing for new infill construction of commercial or residential structures or even major additions.

Out of the entire Five Points Redevelopment District area, there are only about 20 parcels along Woodland Street west of 10th that will not be covered by the Lockeland Springs-East End Conservation Overlay District or the remaining MDHA East Bank Redevelopment District design guidelines. Planning Department staff and I agree that the proposed MUL-A zoning for that portion of Woodland Street will further the goals of the expiring Five Points Redevelopment District, which calls for buildings of 3-4 stories that are constructed to the street with parking in the rear and where fairly intense mixed uses are appropriate. Several of those property owners have written to me expressing support of the proposed MUL-A base zoning change for their properties on Woodland Street.

Returning to the Five Points Redevelopment District Land Use Plan, that document which granted mixed-use entitlements to certain parcels that in some cases supersede base zoning was updated in 2014 through a public process including community meetings facilitated by MDHA and the District 6 Council Member at the time. This Land Use Plan that was vetted and had a public hearing before the Planning Commission and the Metro Council was approved in Council Bill 2014-948 [https://www.nashville.gov/mc/ordinances/term\\_2011\\_2015/bl2014\\_948.htm](https://www.nashville.gov/mc/ordinances/term_2011_2015/bl2014_948.htm) with an attached land use map [https://www.nashville.gov/mc/pdfs/miscellaneous/bl2014\\_948.pdf](https://www.nashville.gov/mc/pdfs/miscellaneous/bl2014_948.pdf).

This brings us to the issue of a handful of parcels that are proposed to move to OR20-A zoning but that do not lie within a Neighborhood Center policy area. I have described these parcels below:

- 1104 Ordway Place: adjacent to a Gallatin Ave MUG-A District, presently has OR20 base zoning with a business operating there, moving to OR20-A preserves office use entitlements while bringing the base zoning district more into compliance with the community character manual.
- 1105 and 1107 Gartland: same as above.
- 1103 and 1105 Holly: adjacent to existing MUL zoning and T4 Neighborhood Center policy at 1101 Holly Street, presently have OR20 base zoning, moving to OR20-A preserves present office use entitlements while bringing the base zoning district more into compliance with the community character manual.
- 0 Fatherland: adjacent to present CN zoning being proposed to move to MUL-A for the former Bill Martin's grocery store. That corner parcel already has MUL surrounding it on three sides. This OR20-A proposal is for a gravel parking lot and loading dock area behind the former grocery store building that is undergoing an adaptive reuse proposal. The MDHA Five Points Redevelopment District Land Use Plan as most recently updated through Council Bill BL2014-948 granted mixed-use entitlements to this parcel. The OR20-A limits those uses and would support the formalization of a parking lot for the former Bill Martin's grocery store that will include doctor's offices and other uses even within the current zoning entitlements. I have held a community meeting with the adjacent residential neighbors who have expressed general support for the parking lot site plan including lighting and landscape buffer requirements. Moving this parcel to OR20-A retains limited uses such as a parking lot for this parcel which is attached to a former grocery store while providing design and access guidance that brings the parcel closer into compliance with the community character manual. The underlying Neighborhood Maintenance policy for this parking lot would prevent further or more intense

commercial encroachment into the residential block as a community plan amendment and further base zoning change would be required for any more intense use requests.

-1101 and 1103 Shelby: these two parcels situated at the intersection of two Collector Streets are developed as houses but have OR20 base zoning in place currently. Moving these parcels to OR20-A would retain office use possibilities for these homeowners while moving the existing base zoning district closer into compliance with the community character manual.

I cannot speak to why the NashvilleNext community plan was not updated to T4-Neighborhood Center underneath these parcels while NashvilleNext adoption and the MDHA Five Points Redevelopment District Land Use Plan update were proceeding nearly simultaneously in 2014-2015. But what I would submit to the Commission is that all of these parcels are being proposed for OR20-A base zoning to retain existing entitlements for the property owners that are limited to OR20-A uses as a transition between a Neighborhood Center policy and a Neighborhood Maintenance policy. This move protects both the property owners and the adjoining residential neighborhoods. If the land use policy were changed to T4-Neighborhood Center under these parcels, then a property owner could come back in the future with a more intense mixed-use zoning district request. But under this transitional approach, the neighborhoods can rest assured that any uses not allowed under OR20-A would need a major community plan change and corresponding base zone change in order to be permitted. Therefore, under these unique circumstances I believe that this OR20-A transitional buffer solution is in the best interests of both the affected property owners and the adjacent neighbors. I request the Commission's approval of this compromise solution to resolving past inconsistent land use entitlement decisions in a thoughtful manner that protects the neighborhoods against commercial encroachment and provides them with a great deal of control about permitted uses going forward which would require public hearing and notice requirements.

Returning to the overall Five Points rezoning proposal, last year I had initially inquired of Planning Staff about the possibility of converting the existing MDHA Five Points Redevelopment District Design Guidelines document into an Urban Design Overlay. Staff recommended instead that I work toward a base zone change to the new -A district tools that implement many of the Redevelopment District's building height, placement and bulk standards automatically rather than through a UDO that would require staff reviews for each individual application.

Since that time last fall I have been working with staff from the Planning Department, Codes, Metro Historic Zoning and MDHA to vet appropriate base zoning district choices that most closely mirror the MDHA Five Points Redevelopment District Design Guidelines, the Land Use Plan, and existing site conditions.

For Woodland Street west of 10th, I have looked at both sides of the block faces from about 8th eastward since the MDHA Five Points and East Bank Redevelopment District boundaries jump around in mid-block locations in ways that are not easily identifiable. Looking at Woodland Street holistically is beneficial to setting consistent expectations and standards across the length of the block faces and also mirrors the similar effort in 2013 to rezone all of Main and Gallatin to a consistent MUG-A. The Woodland Street area shares the same Mixed Use Corridor policy with Main Street and is also located within the same Tier 1 Center zone. There is also already MUG zoning present in places on this portion of Woodland. But I believe that consolidating existing CS, CL and MUL zoning on Woodland to a consistent MUL-A brings consistency along the Woodland Street corridor at a step down in intensity from the MUG-A corridor on Main Street. So the pattern would be a MUG-A corridor on Main Street, then a MUL-A corridor on Woodland Street, and then Russell Street in Edgefield contains a fair amount of legally nonconforming multifamily housing in addition to some RM20 parcels with three-story multifamily housing.

Another facet of this approach is that Main Street's MUG-A zoning allows taller buildings but is at the bottom of the hill topographically. Then Woodland would have the MUL-A zoning entitlements but is in a middle-height topographical setting that is higher than Main Street but still mostly down hill from Russell. I believe that this topographical transition will permit a gradual transition in density and intensity from Main Street south into the interior of the neighborhood without creating a canyon effect.

Yet another facet to consider is that the 800 and 900 blocks of Russell have the majority of housing units enjoying off-street parking and the entire blocks have residential permit parking in place. Minimum parking requirements were eliminated on Main Street but remain in place on Woodland Street where this MUL-A proposal is at the lower end of the intensity that could be supported by the Mixed Use Corridor policy in place along this Tier 1 Center area.

For South 10th Street from Fatherland to Woodland, the Five Points Redevelopment District covers some parcels but not others, and so I am approaching both sides of 10th holistically since both sides of the street on those blocks are included in the T4-Neighborhood Center policy area. A previous downzoning of the west side of 10th to R8 years ago did not account for the fact that a parcel containing eight multifamily units and owned by a nonprofit housing and support services provider became a legally nonconforming use. I have proposed moving that parcel from R8 to RM20-A to match the existing site conditions and relieve a nonconforming use without upzoning the number of units that could be constructed there.

Similarly, a parcel at 210 South 10th Street has an underlying Neighborhood Center policy and is an assemblage of former 10th Street lots that were consolidated into a church facility in 1964. The trustees of that church had been interested in selling it and I held a community meeting about that proposal a while back. While the behavior of some individuals at that community meeting was vocal, I did collect comment cards from attendees and many neighbors were understanding of the likely need to repurpose that property. The proposed MUN-A zoning is an appropriately light mixed-use district that protects the adjacent residential neighbors from larger office users or other adverse uses. Most concerns from neighbors focused on the parking lot access point, not the uses, and that parking lot access point would be determined by Public Works under guidance from the proposed MUN-A zoning district. Any new-construction project on that parcel would have to meet the Edgefield Historic Preservation Zoning District design guidelines through a public hearing at the Metro Historic Zoning Commission. Therefore, I feel that this proposed MUN-A zoning district provides adaptive reuse flexibility for the owners of that former church property in a T4-Neighborhood Center policy area. And any new infill project would have to meet parking minimums, not exceed the MUN-A floor area ratio of 0.6, and would have extensive design guidance through a public process at the Metro Historic Zoning Commission.

Another key point that I would submit to the Commission is that the expiration of the Five Points Redevelopment District on December 31st returns much of this area to the old CS base zoning districts that neighbors worked hard twenty or more years ago to supersede or modify into a more pedestrian-oriented form by way of the Redevelopment District. Today that goal can more easily be accomplished through the -A base zoning districts than through a cumbersome and inconsistently applied Redevelopment District. Therefore, the choice before us is whether the old base zoning districts should be allowed to return wholesale or do we want to take the advice of Planning staff and apply the new -A base zoning districts that continue most of that work of the Redevelopment District anyway and help get Codes, Planning, Historic Zoning and Public Works staff all on the same page for building permit site plan reviews.

With that Planning recommendation in mind, I have collaborated for over a year now with staff from Planning, Codes, Historic Zoning and MDHA to put together this proposal to look at all of those parcels affected by the MDHA Five Points Redevelopment District expiration plus a few adjacent parcels all at one time. I have held this discussion as a standing item with three neighborhood associations. I have vetted the proposal with local land use attorneys, commercial real estate professionals, former Planning Commissioners, not to mention key stakeholders including property and business owners.

This proposal is not intended to be an upzoning or a downzoning, but rather a continuation to the greatest extent possible of the expectations that the community has expressed for this area for more than twenty years. This proposal aims to eliminate a few nonconforming uses, but otherwise is not a corridor planning study to re-evaluate appropriate

density and use mixes. Those more expansive approaches would be best served by a different process similar to the Dickerson Pike and Gallatin Pike corridor studies.

And while some discussions about individual parcels may continue at the Metro Council level, I believe that this rezoning proposal holistically moves the Five Points Redevelopment District area forward in the absence of that tool through base zoning districts that provide consistency, predictability and certainty for the commercial property owners, business owners, and their residential neighbors.

I look forward to discussing this proposed MDHA Five Points Redevelopment District expiration solution with you on Thursday and answering any questions that you may have.

Brett A. Withers  
Metro Council, District 6  
(615) 427-5946