

<p align="center">ZONE CHANGE AND VARIANCE STAFF REPORT</p>	<p align="center">City-County Planning Commission 1141 State Street Bowling Green, Kentucky 42101 (270) 842-1953</p>
<p>Summary: The applicants are proposing to rezone a tract of land containing a total of 0.2958 acres (12,885.3 square feet) from RM-2 (Two-Family Residential) to RS-1D (Single Family Residential) in order to subdivide an existing residential lot. The applicants have also agreed to certain site restrictions as outlined in the Binding Elements.</p>	
<p>Docket Number(s): 2011-32-Z-BG & 2011-V-23</p> <p>Public Hearing Date: October 20, 2011</p> <p>Pre-application Conference: September 16, 2011</p>	<p>Owner: Chad and Wendy Moseley</p> <p>Address: 3425 Montgomery Way Bowling Green, KY 42104</p>
<p>Development Plan: This zoning map amendment request was filed with a general development plan (Binding Elements).</p>	<p>Zone Map Amendment Request: FROM: RM-2 (Two-Family Residential) TO: RS-1D (Single Family Residential)</p>
<p>Location of Proposed Zone Change: 1715 Smallhouse Road</p> <p>Acreage or Square Footage of Tract: 0.2958 Acres (12,885.3 Square Feet)</p> <p>PVA Parcel Number: 040B-36-067</p>	<p>Site District: Urban Density Development District</p> <p>Focal Point: 109 ½ T.C. Cherry/Glendale</p> <p>Development Status: Stable</p> <p>Infra Status: S (Sanitary Sewer is Available)</p> <p>Characteristics: Residential. Traditional moderate cost single family residential neighborhood.</p>
<p>Existing Land Use: Residential</p> <p>Zoning History: R-2 (Two Family Residential) is the original zoning for this property. The zoning was later converted to RM-2 (Two Family Residential)</p> <p>Surrounding Zoning, Land Use, and Subdivisions: See attached maps.</p>	<p>Soil Analysis: 100% CuB: Crider-Urban land complex, 2-6% slopes</p> <p>Flood Plain: The property is not located in the 100 year flood area according to FEMA FIRM maps #21227 C0302 E.</p>
<p>Traffic Considerations: The property has frontage on Smallhouse Road, a City maintained urban collector with fifty feet (50') of right-of-way and twenty-two feet (22') of pavement width. The subject property also has frontage on McElroy Way, a City maintained local roadway with forty feet (40') of right-of-way and twenty (20') feet of pavement width.</p>	<p>Additional Documentation Required: <u>N/A</u> Traffic Impact Analysis <u>N/A</u> Environmental Assessment <u>N/A</u> Other</p>
<p>Water: A 12" waterline providing 979 GPM at 64 PSI is available along Smallhouse Road. There is also a 6" waterline available along McElroy Way providing 1,309 GPM at 67 PSI. Both are adequate for domestic uses, and meet the fire control standards of Bowling Green.</p>	<p>Sewer: An 8" sewer line is available along Smallhouse Road. An 18" sewer line is also available along McElroy Way.</p>

DEVELOPMENT PLAN REVIEW

Comprehensive Plan Element:	Application:
<p>Intended use of the property and building(s).</p> <p>General Placement of the building(s), maximum height of the buildings(s), and bulk of the building(s).</p>	<p>The applicants are proposing to rezone approximately .30 acres (+/- 13,000 square feet) in order to create two (2) single-family residential lots. The property has an existing residential structure of approximately 1,800 square feet according to the records from the Property Valuation Administrator (PVA) office. A second residence is proposed to be constructed on the other portion of the lot. The applicants have agreed that the use of the property shall meet the single family definition as outlined in the Warren County Zoning Ordinance (Binding Element 6)</p> <p>The existing residence is located on a corner lot approximately forty-five (45) feet from Smallhouse Road and eleven (11) feet from McElroy Way. The proposed residence appears to be about sixty (60) feet from Smallhouse Road and would sit in line with the current structure. Applicants have limited the height of the proposed residence to one and a half 1 ½ stories.</p>
<p>Design elements (facade treatments, signs, drainage, utilities, sidewalks, gutter and curb, etc).</p>	<p>The newly proposed residence will use split face block or brick for the foundation and vinyl siding for the exterior.</p> <p>All driveways shall be constructed of bituminous asphalt or concrete (Binding Element 4).</p>
<p>Maximum density level, intensity of use, or maximum number of lots.</p>	<p>The applicants are proposing that the existing single family residential structure will be located on an approximate 6,228 square foot lot. The remainder of the original lot – approximately 6,656 square feet – will be used for the development of the additional residence.</p>
<p>General location of internal streets and travelways, average daily trips (ADT) generated by the proposed use, acces points to existing streets and parking.</p>	<p>There is an existing driveway with access to both McElroy Way and Smallhouse Road. The access point on Smallhouse Road will be widened to accommodate an additional driveway for the proposed residence.</p>
<p>Provisions for sewage disposal.</p>	<p>The proposed residence will be served by public utilities, including sewer.</p>
<p>Provisions for fire protection.</p>	<p>The property will meet the fire protection standards of Warren County.</p>

Items of Concern:

- *Compatibility with existing neighborhood;*
- *Access Location;*
- *Lot Coverage.*

COMPREHENSIVE PLAN COMPLIANCE

Comprehensive Plan Policy:	Application:
<p><u>LU-1A-2</u> In preparing a general development plan, surrounding property owners must be consulted prior to submitting a zone change request.</p>	<p>The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting, if possible. No information regarding a neighborhood meeting has been forwarded to Planning Commission Staff.</p>
<p><u>LU-4B-2</u> Urban density single family detached residential development must be served by a public water supply capable of 250 GPM at 20 PSI residual pressure (600 GPM within the city limits of Bowling Green).</p>	<p>A 12" waterline providing 979 GPM at 64 PSI is available along Smallhouse Road. There is also a 6" waterline available along McElroy Way providing 1,309 GPM at 67 PSI. Both are adequate for domestic uses, and meet the fire control standards of Bowling Green.</p> <p>The applicants have committed that the property will meet the current fire protection standards of Bowling Green, Kentucky, including installation of any necessary fire hydrants. (Binding Element 1).</p>
<p><u>LU-4B-4</u> All urban density residential development shall be served by public sanitary sewer.</p> <p><u>LU-4B-5</u> Electric, telephone and CATV utilities should be placed underground in urban density residential developments.</p>	<p>An 8" sewer line is available along Smallhouse Road. An 18" sewer line is also available along McElroy Way. The 1990 Comprehensive Plan defines Committed to Urban Density Development Areas as those areas within the corporate limits of Bowling Green, areas within the corporate limits of any 5th or 6th class city, or areas within 1,500 feet of public sanitary sewer. The subject property is located within the corporate limits of Bowling Green, classifying it as an Urban Density Development Area.</p> <p>The applicants have also agreed that the property shall be served by public sanitary sewer (Binding Element 2).</p>
<p><u>LU-4A-3</u> Residential neighborhoods are viewed as personal, economic and lifestyle necessities. Measures must be instituted for the protection of both existing and newly created residential neighborhoods.</p> <p><u>LU-4A-4</u> Future growth and development must not jeopardize existing neighborhoods. Therefore, future growth and development shall be compatible with adjacent properties and neighborhoods with respect to (but not limited to) scale, identity, bulk, and site planning.</p> <p><u>LU-4A-8</u> Infill residential uses should reflect the overall density and style of the neighborhood.</p> <p><u>LU-4B-10</u> All urban density single family residential development shall maintain at least 6.5 percent common open space, as defined by the Subdivision Regulations for Warren County.</p>	<p>The proposed residential structure shall have a split faced block foundation or brick foundation with a vinyl sided exterior (Binding Element 3).</p> <p>All driveways shall be constructed of bituminous asphalt or concrete (Binding Element 4).</p> <p>All residential structures shall not exceed one and a half (1 ½) stories and shall be a minimum of 2,000 square feet (Binding Element 5). The applicants have also agreed to all developing all lots in the development with a minimum lot size of 6,000 square feet, and not to exceed two (2) lots (Binding Element 7)</p>

COMPREHENSIVE PLAN COMPLIANCE (Cont'd)

Comprehensive Plan Policy:	Application:
<p><u>TR-2</u> Measures must be taken to ensure that all private and public development is undertaken in a manner which minimizes increased traffic congestion on existing streets, roads and intersections.</p> <p><u>TR-2H</u> Development within the City limits of Bowling Green shall comply with the City's adopted Traffic Access Management Manual.</p>	<p>As can be seen on the proposed development plan, there is an existing driveway with access to both McElroy Way and Smallhouse road, which is an urban collector street. The access point on Smallhouse Road will be widened to accommodate an additional driveway for the proposed residence.</p>
<p><u>LU-4A-9</u> Residential development should not exceed density of surrounding developments by more than 50 percent.</p> <p><u>LU-4A-1</u> New residential areas should provide for a mix of housing densities.</p>	<p>There are lots of similar sizes in the general vicinity of the proposed zone change request. (Please see attached Zoning Map)</p>

COMPREHENSIVE PLAN COMPLIANCE SUMMARY

The staff evaluated the following twelve (12) policies for compliance:

POLICIES IN COMPLIANCE

- *LU-4A-1, 3, 4, 8 & 9;*
- *LU-4B- 2, 4, 5 & 10;*
- *TR-2 & 2H*

POLICIES NOT IN COMPLIANCE

- *LU-1A-2;*
- *LU-4A-3 & 4*

MOTIONS

I make the motion to **approve** the proposed zoning map amendment, together with and conditioned upon the General Development Plan, docket number, **2011-32-Z-BG**. My motion is based on the findings of fact as presented in the staff report, and the testimony presented in this public hearing, that the zoning map amendment is in agreement with the adopted Comprehensive Plan as demonstrated by its compliance with the Comprehensive Plan's following Policies:

LU-4A-1, 3, 4, 8 & 9;

LU-4B- 2, 4, 5 & 10;

and

TR-2 & 2H

Further, I request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment.

OR

I make a motion to **deny** the proposed zoning map amendment, docket number **2010-032-Z-BG**. My motion is based on the findings of fact as presented in the staff report, and the testimony presented in this public hearing, that the zoning map amendment is not in agreement with the adopted Comprehensive Plan as demonstrated by its non-compliance with the Comprehensive Plan's following Policies:

State specific policies, such as:

LU-1A-2;

LU-4A-3 & 4

Further, I request that the findings of fact and recommendation include a summary of the evidence and testimony presented by the proponents and/or opponents of the proposed amendment.

DESCRIPTION OF REQUEST

The applicant is requesting a fifteen (15) foot variance from the twenty-five (25) foot front yard setback required for **RS-1D** (Single-Family Residential) zoned land when located on a corner lot (See Attached Variance Plat). This variance request is to bring the existing residential structure into compliance with the Warren County Zoning Ordinance. The applicant is also requesting a change of nine percent (9%) from the allowed twenty-five percent (25%) parking coverage in the front yard in order to have thirty-four percent (34%) parking coverage on lot three (3) as shown on the variance plat. The last variance requested, is for a change of eighteen percent (18%) from the allowed twenty-five percent (25%) parking coverage in the front yard in order to have forty-three percent (43%) parking coverage on lot two (2) as shown on the variance plat.

ZONING ORDINANCE REFERENCE

Article 4.4.6

VARIANCES REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.4.6.B, 4.4.6.C.1 and 4.4.6.C.9.a.

Corner Lots

- 4.4.6.C.1** Corner lots shall be required to provide a front yard along any lot line abutting a street.
- 4.4.6.B** The Front Yard setback in the RS-1D zoning district is twenty-five (25) feet.
- 4.4.6.C.9 .a** No parking shall be located in excess of 25 percent of the front yard of the housing unit; parking is also allowed, however, in front of a garage or carport.

VARIANCE FINDINGS

KRS 100.243 - Findings necessary for granting a variance:

- (1) Before any variance is granted, the board must find that the granting of the variance will not adversely affect the public health, safety or welfare, will not alter the essential character of the general vicinity, will not cause a hazard or a nuisance to the public, and will not allow an unreasonable circumvention of the requirements of the zoning regulations. In making these findings, the board shall consider whether:
 - (a) The requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - (b) The strict application of the provisions of the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant; and
 - (c) The circumstances are the result of actions of the applicant taken subsequent to the adoption of the zoning regulation from which relief is sought.
- (2) The board shall deny any request for a variance arising from circumstances that are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.

MOTIONS

MOTION TO **APPROVE** THE **VARIANCE** REQUEST:

I make the motion to **approve** the request for a change of nine percent (9%) from the allowed twenty-five percent (25%) parking coverage in the front yard in order to have thirty-four percent (34%) parking coverage, a change of eighteen percent (18%) from the allowed twenty-five percent (25%) parking coverage in the front yard in order to have forty-three percent (43%) parking coverage and a fifteen (15) foot variance from the twenty-five (25) foot front yard setback required for **RS-1D** (Single-Family Residential) zoned land when located on a corner lot, at the intersection McElroy Way and Smallhouse Road, Docket number 2011-V-23.

The testimony presented in this public hearing has shown that the granting of this variance will not adversely affect the public health, safety or welfare; will not alter the essential character of the general vicinity; will not cause a hazard or a nuisance to the public; and will not allow an unreasonable circumvention of the requirements of the zoning regulations.

OR

MOTION TO **DENY VARIANCE**:

I make the motion to **deny** the request for a change of nine percent (9%) from the allowed twenty-five percent (25%) parking coverage in the front yard in order to have thirty-four percent (34%) parking coverage, a change of eighteen percent (18%) from the allowed twenty-five percent (25%) parking coverage in the front yard in order to have forty-three percent (43%) parking coverage and a fifteen (15) foot variance from the twenty-five (25) foot front yard setback required for **RS-1D** (Single-Family Residential) zoned land when located on a corner lot, at the intersection McElroy Way and Smallhouse Road, Docket number 2011-V-23.

Sufficient testimony has **not** been presented in this public hearing that the requested variance meet the criteria set forth in KRS 100.243, "Findings necessary for granting variances," as:

(Choose one or more appropriate finding(s) and specific items)

- **will** adversely affect the public health, safety or welfare.
 - **will** alter the essential character of the general vicinity.
 - **will** cause a hazard or a nuisance to the public
 - **will** allow an unreasonable circumvention of the requirements of the zoning regulations.
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- The proposed development plan does **not** show that the requested variance arises from special circumstances which do not generally apply to land in the general vicinity, or in the same zone;
 - The proposed development plan does **not** show that the regulation would deprive the applicant of the reasonable use of the land or would create an unnecessary hardship on the applicant;
 - The circumstances are the result of willful violations of the zoning regulation by the applicant subsequent to the adoption of the zoning regulation from which relief is sought.