

ZONE CHANGE AND VARIANCE STAFF REPORT

City-County Planning Commission
1141 State Street
Bowling Green, Kentucky 42101
(270) 842-1953

Summary: The applicants are proposing to rezone 0.774 acres of property from **HB** (Highway Business) to **RM-4** (Multi-family Residential) in order to create a multi-family townhouse development. The applicants are also requesting a five (5) foot variance from the required twenty-five (25) foot rear setback requirement for a townhouse development. The applicants have also agreed to certain site restrictions as outlined in the Binding Elements.

Docket Number: 2011-19-Z-BG
2011-V-15

Public Hearing Date: July 21, 2011

Pre-application Conference: June 16, 2011

Property Owner(s):
Charles and Barbara English

Address:
P.O. Box 770
Bowling Green, KY 42101

Development Plan:
This zoning map amendment request was filed with a general development plan (Binding Elements).

Zone Map Amendment Request:
FROM: HB (Highway Business)
TO: RM-4 (Multi-family Residential)

Location of Proposed Zone Change:

300 Seymour Drive
Acreage or Square Footage of Tract:
0.774 acres (33,693.66 sq. ft.)

PVA Parcel number:
040-A27-001

Site District: Urban Density Development District
Focal Point: 110-4 Jennings Creek
Development Status: Growth
Infra Status: S (Sanitary Sewer is Available)
Characteristics: Residential. Medium density apartments, attached and detached single family housing. Substantial undeveloped land with much potential. Weak market must be overcome.

Existing Land Use: Vacant

Zoning History: **AG** (Agriculture) is the original zoning. This portion of property was re-zoned from **RM-4** (Multi-Family Residential) to **HB** (Highway Business) in 1996.

Surrounding Zoning, Land Use, and Subdivisions:
See attached maps.

Soil Analysis: Soil Analysis:
100% FnC2: Fredonia-Vertrees-Urban land complex, 6-12% slopes, eroded, rocky
Flood Plain: The property is not located within a 100 year flood plain as located by flood insurance rate map NO. 21227C0301 E.

Traffic Considerations: The property is located on the corner of Seymour Drive and Audley Avenue. Both are city-maintained local roadways with sixty (60) feet of right-of-way and thirty (30) feet of pavement width.

Additional Documentation Required:
N/A Traffic Impact Study
N/A Environmental Assessment
N/A Fire Protection Requirement Threshold Waiver.

Water: A 10" waterline providing 600 GPM with more than 20 PSI is available along Audley Avenue. This meets the fire control standards for Bowling Green.

Sewer: There is an 8" sewer line available along both Seymour Drive and Audley Avenue.

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 building(s), and the bulk of the building(s).</p>	<p>The applicants intend to rezone a portion of this property from HB (Highway Business) to RM-4 (Multi-Family Residential) in order to create a multi-family townhouse development. The applicants have stated that the buildings on the development will be three (3) stories having a maximum height of thirty five (35) feet.</p>
<p>General location of internal streets and travelways, average daily trips (ADT) generated by the proposed use, access points to existing streets and parking.</p>	<p>The subject property is located on the corner of Seymour Drive and Audley Avenue. The applicants are proposing access to the development from Audley Avenue as generally shown on the Exhibit. There will be a maximum of 8 access points to Audley Avenue and 1 access point to Seymour Drive, which will be consistent with the Traffic access Management Manual of the City of Bowling Green (Binding Element 3).</p>
<p>Design elements (facade treatment, signs, drainage, utilities, sidewalks, gutter and curb, etc).</p>	<p>The applicants propose that the exterior of all buildings located on the property will be constructed of at least fifty percent (50%) brick, stone or other cementitious or modern masonry material (Binding Element 8).</p>
<p>Maximum density level, intensity of use, or maximum number of lots.</p>	<p>The property will be developed with a maximum of 16 residential units (Binding Element 5).</p>
<p>Landscape, screening and/or buffering plan.</p>	<p>The Property will be developed in compliance with the current landscape zoning ordinance (Binding Element 4).</p>
<p>Lighting plans.</p>	<p>Property outside lighting will be designed in a “downward and inward” manner and appropriately shielded to limit light trespass onto adjoining residential properties (Binding element 7).</p>
<p>Provisions for sewage disposal.</p>	<p>All improvements on the Property will be connected to sanitary sewer (Binding Element 2).</p>
<p>Provisions for fire protection.</p>	<p>The Property will be developed with sufficient water supply and fire hydrants to meet the fire control standards of the City of Bowling Green, Kentucky (Binding Element 1).</p>

Items of Concern:

- *Adequate Open Space;*
- *Access to the site;*
- *Adequate drainage.*

COMPREHENSIVE PLAN COMPLIANCE

Comprehensive Plan Policy:	Application:
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<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 to the Planning Commission.</p>	<p>The Staff recommends to all applicants that they contact adjacent neighbors prior to the public hearing or have a neighborhood meeting. No information regarding a neighborhood meeting has been forwarded to Planning Commission Staff.</p>
<p><u>LU-4B-3</u> All multi-family and single family attached urban density residential development must be served by a public water supply capable of 600 GPM at 20 PSI residual pressure. Fire hydrants must be provided to meet the fire protection standards of the applicable jurisdiction.</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>The Property will be developed with sufficient water supply and fire hydrants to meet the fire control standards of the City of Bowling Green, Kentucky (Binding Element 1).</p> <p>All improvements on the Property will be connected to sanitary sewer (Binding Element 2).</p>
<p><u>LU-4B-7</u> Urban density residential development shall have street lights, sidewalks, curbs, and gutters installed at the time of development.</p>	<p>The applicants did not submit details on the Concept Plan that suggests the proposed development is in compliance with this Comprehensive Plan Policy. The applicant will be required to install sidewalks, curb, gutter, and streetlights as required by the Subdivision Regulations.</p>
<p><u>LU-4B-1</u> Urban density residential development is permitted only in the Committed to Urban Density Development areas as defined in Policy LU-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>The proposed development is adjacent RM-4 (Multi-Family Residential) and HB (Highway Business). The adjacent HB zoned properties are currently vacant.</p> <p>The property will be developed with a maximum of 16 residential units (Binding Element 5).</p> <p>The buildings are to be three stories with a maximum height of 35' (Binding Element 6).</p> <p>The proposed property for Multi-Family Residential zoning is located in an area that is comprised of multiple zoning districts and land uses. As can be seen from the zoning map, there are Multi-Family Residential, Single Family Residential, and Commercial zoning districts in the immediate area. According to the eighteen (18) foot front yard setback shown on the Concept Plan, the proposed units will be developed as townhomes with garages.</p>

Comprehensive Plan Policy:	Application:
<p><u>LU-4A-1</u> New residential areas should provide for a mix of housing densities.</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-4B-9</u> High density residential development should provide buffering (e.g. landscaping, fencing, etc.) from incompatible uses or lower density residential developments.</p>	<p>The density analysis for this proposed development is just over twenty units per acre (20.66 units/acre). The proposed development must have density that does not exceed fifty (50) percent of the density for surrounding developments. Cedar Grove is 8.8 units per acre, Rock Creek is 12.45 units per acre and Stonehenge is 9.4 units per acre. Park Hills is 2.5 units per acre and Waterford is 5.6 units per acre.</p> <p>If the maximum number of units, sixteen (16) as noted in the Binding Elements, are constructed, the development would not meet this density policy. The applicant has shown fourteen (14) units on the Concept Plan, which would bring the development would be in compliance with this policy.</p> <p>The Property will be developed in compliance with the current landscape zoning ordinance (Binding Element 4).</p>
<p><u>LU-4B-10</u> All urban density multi-family residential development shall maintain an overall minimum of 25 percent open space, excluding paved areas, and individual lots. Provision of additional open space is encouraged.</p>	<p>As can be seen on the Concept Plan, the proposed development will have fifty (50) percent open space and fifty (50) percent lot coverage. The required lot coverage for the RM-4 (Multi-Family Residential) is seventy-five (75) percent.</p>
<p><u>LU-4E-1</u> Growth focal points represent unique opportunities to introduce new residential ideas and design concepts.</p> <p><u>LU-4E-2</u> Innovation in design and variety in size, style, and cost of housing is encouraged.</p>	<p>The applicants have proposed in a Statement of Binding Elements that the facades of the building structures shall be constructed of at least fifty (50) percent brick, stone or other cementitious or modern masonry material. (Binding Element 8).</p>
<p><u>LU-4B-8</u> High density residential development should have direct access to at least a minor collector street.</p> <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><u>TR-2I</u> Within urban areas, private access to existing state, county or city streets should be as restrictive as possible, of few as necessary, and align with other existing entrances.</p>	<p>The property is located on the corner of Seymour Drive and Audley Avenue. Both are city-maintained local roadways with sixty (60) feet of right-of-way and thirty (30) feet of pavement width.</p> <p>The applicants are proposing access to the development from Audley Avenue as generally shown on the Exhibit. There will be a maximum of 8 access points to Audley Avenue and 1 access point to Seymour Drive, which will be consistent with the Traffic access Management Manual of the City of Bowling Green (Binding Element 3).</p>

COMPREHENSIVE PLAN COMPLIANCE SUMMARY (Continued)

The staff evaluated the following **sixteen (18)** policies for compliance:

POLICIES IN COMPLIANCE

- LU-4A-1, 3, 4 & 9;
- LU-4B-1, 3, 4, 5, 7, 9 & 10;
- LU-4E 1 & 2
- TR-2, 2H & 2I

POLICIES NOT IN COMPLIANCE

- LU-1A-2
- LU-4A-9
- LU-4B-8

MOTIONS

I make the motion to **approve** the proposed zoning map amendment, together with and conditioned upon the General Development Plan, docket number, **2011-19-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 & 9;

LU-4B-1, 3, 4, 5, 7, 9 & 10;

LU-4E 1 & 2

TR-2, 2H & 2I.

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 **2011-19-Z-BG**. My motion is based on the findings of fact as presented in the staff report and the testimony as 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-9

LU-4B-8

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 applicants are requesting a five (5) foot variance from the twenty-five (25) foot rear yard setback required for townhomes in the **RM-4** (Multi-Family Residential) zone classification.

ZONING ORDINANCE REFERENCE

Article 4.5.5

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.5.5

Property Development Standards

4.5.5.B.3 Townhome development shall have a front yard setback of 18 feet and a rear yard setback of 25 feet.

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 five (5) foot variance from the twenty-five (25) foot rear yard setback required for townhomes, at the intersection of Seymour Drive and Audley Avenue and Fifth Avenue, Docket number 2011-V-15.

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 five (5) foot variance from the twenty-five (25) foot rear yard setback required for townhomes, at the intersection of Seymour Drive and Audley Avenue and Fifth Avenue, Docket number 2011-V-15.

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.