

<h2 style="text-align: center;">ZONE CHANGE & VARIANCE STAFF REPORT</h2>	<p style="text-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 from HI (Heavy Industrial) to PUD (Planned Unit Development) for a mix of commercial and light industrial activities to serve the area. The applicants are requesting a 165 foot variance from the required 250 foot setback from a residential district in order to have a drive-thru/pick-up window as well as a 100 foot variance from the required 500 foot setback from a residential district in order to locate a fueling station for medium and heavy trucks on the property. The applicants have agreed to certain restrictions as outlined in the Binding Elements.</p>	
<p>Docket Number: 2011-04-Z-BG 2011-V-03</p> <p>Public Hearing Date: February 17, 2011</p> <p>Pre-application Conference: November 17, 2010</p>	<p>Owner(s): Leon Tarter & Reeves Family, LLC 504 US 31-W Bypass Bowling Green, KY 42101</p> <p>Kanubhai Patel (Contract Vendee) 2350 Bowling Green Road Morgantown, KY 42261</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: HI (Heavy Industrial) TO: PUD (Planned Unit Development)</p>
<p>Location of Proposed Zone Change: Located at the intersection of Nashville Road (US -31W) and Memphis Junction Road.</p> <p>Acreage or Square Footage of Tract: 9.0239 Acres</p> <p>PVA Parcel Numbers: 041B-77A</p>	<p>Site District: Urban Density Development District Focal Point: 108-3B Industrial Park Development Status: Growth Infra Status: Sewer available Characteristics: Dominant Use Area. Heavy industry, warehousing and distribution.</p>
<p>Existing Land Use: Vacant.</p> <p>Zoning History: AG (Agriculture) is the original zoning for the property. AG (Agriculture) to LI (Light Industrial) in 1974. LI (Light Industrial) to HI (Heavy Industrial) with Binding Elements in 1989.</p> <p>Surrounding Zoning, Land Use, and Subdivisions: See attached maps.</p> <p>Flood Plain: The property is not located in the 100 year flood area according to FEMA map # 21227C0303 E effective May 2, 2007.</p>	<p>Soil Analysis: Approx. 57% CrB: Crider silt loam, 2-6% slopes Approx. 21% Ud: Urban land-Udorthents complex, clayey substratum, hard bedrock > 5 feet, 0-12% slopes Approx. 17% CrC: Crider silt loam, 6-12% slopes Approx. 5% FnC2: Fredonia-Vertrees-Urban land complex, 6-12% slopes, eroded, rocky</p>
<p>Traffic Considerations: The property has frontage on Nashville Road (U.S. Hwy 31-W), a state maintained major collector roadway with varying right-of-way and varying pavement width. The property also has frontage along Memphis Junction Road, a City Maintained roadway with varying right-of-way and twenty-two (22) feet of pavement width.</p>	<p>Additional Documentation Required: <u> X </u> Traffic Impact Study <u> N/A </u> Environmental Assessment <u> X </u> Concept Plan</p>
<p>Water: A 12" waterline providing 600 GPM at over 20 PSI is available along 31-W (Nashville Road). An additional 6" waterline providing 600 GPM at over 20 PSI is available along Memphis Junction Road.</p>	<p>Sewer: A 12" sewer line is available along the rear of the property. An additional 8" sewer line is available along Nashville Road (US 31-W) across the roadway from the property.</p>

DEVELOPMENT PLAN REVIEW

Comprehensive Plan Element:	Application:
<p>Intended use of the property and building(s).</p>	<p>The applicants have proposed to allow mixed and multiple uses of the Property including the uses currently contemplated by the Developer. During the first phase of the Development, the front portion of the Property adjacent to Nashville Road will be developed; the Developer proposes to construct a convenience-type store with gas pumps and a fast food-type restaurant located within the same structure as the convenience store. Provision will be made for fueling for all vehicle types. Phase I may also include additional uses, particularly retail uses, including a Bank. Eventually, the entire Property may include additional uses such as office, professional, and overnight accommodation. The Property will also remain available for development for warehousing or light manufacturing. (Concept Plan Narrative)</p>
<p>Design elements (facade treatment, signs, drainage, utilities, sidewalks, gutter and curb, etc).</p>	<p>Buildings constructed on the property within 250 feet of Nashville Road shall be constructed with each façade being at least eighty percent (80%) glass or modern masonry material, including brick, stone, or split-faced block, EFIS, or glass. Buildings constructed farther than 250 feet from Nashville Road shall be constructed with at least 50% of the total façade area of each building being at least 50% modern masonry material, including brick, stone, or split-faced block, EFIS, or glass. No plain-faced block or vinyl siding shall be used. (Binding Element I) No commercial structure shall be taller than fifty feet; provided, however, no commercial structure which is located within 250 feet of U.S. 31W shall be taller than 35 feet. (Binding Element II)</p>
<p>Maximum density level, intensity of use, or maximum number of lots.</p>	<p>The total developed improvements shall not exceed 80,000 square feet and the total lot coverage for commercial development will not exceed eighty percent (80%). (Binding Element II)</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>Access to the Property will be limited to two access points from U.S. 31W (Nashville Road) and two access points from Memphis Junction Road. At least one access point from Nashville Road shall provide for a dedicated left and right turn out of the site as generally shown on Exhibit "B". (Binding Element IV)</p>

Items of Concern:

- *Limitation of signage;*
- *Limited access to US 31-W;*
- *Proposed building materials;*
- *Parking of large vehicles;*
- *Proposed Uses;*
- *Landscaping between incompatible uses.*

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 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, if possible. The applicants did have a neighborhood meeting on January 11, 2011.</p>
<p><u>LU-5A-9</u> All new commercial uses shall be served by public sanitary sewer, when sewer is available.</p> <p><u>LU-6A-6</u> New industrial uses shall be served by public sanitary sewer, when sewer is available.</p>	<p>A 12" sewer line is available along the rear of the property. An additional 8" sewer line is available along Nashville Road (US 31-W) across the roadway from the property.</p> <p>The Property will be developed in compliance with all local ordinances and regulations relating to sanitary sewer, water supply and the installation of any necessary fire hydrants. (Binding Element XIII)</p>
<p><u>LU-5A-11</u> All commercial developments must be served with public water adequate for urban fire flow of 600 GPM and 20 PSI and be protected with fire hydrants per the applicable ordinance.</p> <p><u>LU-6A-7</u> All industrial uses must be served with public water providing a minimum fire flow of 600 GPM at 20 PSI or meet the standards of the applicable jurisdiction, and have fire protection service in accordance with the ISO standards for the use and location.</p>	<p>A 12" waterline providing 600 GPM at over 20 PSI is available along 31-W (Nashville Road). An additional 6" waterline providing 600 GPM at over 20 PSI is available along Memphis Junction Road.</p> <p>The Property will be developed in compliance with all local ordinances and regulations relating to sanitary sewer, water supply and the installation of any necessary fire hydrants. (Binding Element XIII)</p>
<p><u>LU-5A-4</u> Commercial uses are appropriate only with direct accessibility to at least a minor collector street. Vehicular access to commercial development should be oriented away from residential neighborhoods.</p> <p><u>LU-5A-7</u> Commercial uses which are high traffic generators are appropriate only with direct accessibility to at least a collector street.</p> <p><u>LU-5C-2</u> Where the focal point is adjacent to residential developments or residential districts, new commercial development must not have its primary ingress or egress into the residential development or district.</p> <p><u>LU-6A-9</u> All industrial uses shall be located with access to at least a collector street. There shall be no ingress or egress into any residential neighborhood.</p>	<p>Access to the Property will be limited to two access points from U.S. 31W (Nashville Road) and two access points from Memphis Junction Road. Trees and shrubs along Memphis Junction Road will be removed to the extent necessary to insure adequate site distance. At least one access point from Nashville Road shall provide for a dedicated left and right turn out of the site as generally shown on Exhibit "B". (Binding Element IV)</p>

COMPREHENSIVE PLAN COMPLIANCE (Continued)

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-2A</u> Adjacent developments shall provide for internal circulation between them in accordance with the subdivision regulations.</p> <p><u>TR-2E</u> Use of properly designed and located frontage roads and reverse frontage roads on newly constructed arterials and collectors shall be required.</p> <p><u>TR-2F</u> Increased building setbacks and more stringent sign controls on arterial and collector streets should be required.</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-3C</u> New development and redevelopment which is expected to have a significant impact, either by meeting an established trip generation or by Planning Commission determination should conduct a traffic impact study (TIS) to identify design criteria for the site, as well as, off site improvements to existing roadway facilities to mitigate any adverse impacts.</p> <p><u>TR-3D</u> When private development prompts the need for public roadway improvement, developers should participate in the funding of the cost of the needed improvement. Coordination with appropriate governments on need for capital improvement projects is encouraged.</p>	<p>The applicants did provide a Traffic Impact Study (TIS) for the proposed zone change. A copy of the TIS was distributed to the City of Bowling Green's Public Works Department and the Kentucky Transportation Cabinet for review. The TIS did make three (3) specific recommendations that can be found on pages 11 and 12 of the TIS. (See Attached Copy of the TIS)</p> <p>The applicants have agreed to several Binding Elements to address those recommendations and other concerns expressed by the City of Bowling Green's Public Works Department, Kentucky Transportation Cabinet and the Planning Commission's Engineer. They are as follows:</p> <ul style="list-style-type: none"> ▪ Trees and shrubs along Memphis Junction Road will be removed to the extent necessary to insure adequate site distance. (Binding Element IV) ▪ The property will be developed with a right hand turn lane taper on U.S. 31W Southbound beginning at the northern property line of the Property and continuing to the entrance from Nashville Road to the Property. (Binding Element V) ▪ Prior to the issuance of a Certificate of Occupancy for more than 40,000 square feet of improvements on the Property, Memphis Junction Road will be improved to twenty-four (24) feet in width for the entire length of the property. Also prior to the issuance of a Certificate of Occupancy for more than 40,000 square feet of improvements on the Property, a traffic light warrant study shall be conducted and any traffic signal required by such warrant study shall be installed. (Binding Element VI) ▪ All roadway improvements, traffic signals and access points to the Property shall be coordinated with the Kentucky Transportation Cabinet and the City of Bowling Green Public Works Department. (Binding Element XII)

COMPREHENSIVE PLAN COMPLIANCE (Continued)

Comprehensive Plan Policy:	Application:
<p><u>LU-5A-5</u> Commercial uses may be located adjacent to land zoned for residential uses if buffered from the residential uses by landscaping, lighting, and noise controls.</p> <p><u>LU-6A-5</u> Industrial sites should be properly served, accessible, and protected from encroachment by incompatible uses. New industries should be strongly directed toward the industrial parks.</p> <p><u>LU-6A-11</u> Provisions must be made for proper control of industrial uses which have or make products which could be hazardous to human life and property.</p> <p><u>LU-5A-12</u> New commercial development should follow sound design principles for buildings, parking, landscaping, signage, and setbacks.</p> <p><u>LU-5A-13</u> Commercial developments, including loading docks, vehicle use areas, public use areas, and outside storage areas should be screened from adjacent residential developments or districts.</p> <p><u>LU-5A-14</u> Parking areas are discouraged within the building setback areas to allow for street landscaping.</p> <p><u>LU-6A-13</u> Parking areas are discouraged within the building setback areas to allow for street landscaping.</p> <p><u>LU-5A-15</u> Free standing signs should be in proper scale, style and bulk with the surrounding area. In general, signs should not be taller than the tallest structure on the site.</p> <p><u>LU-6A-14</u> Free standing signs should be in proper scale, style and bulk with the surrounding area. In general, all signs should not be taller than the tallest structure on the site.</p> <p><u>LU-5A-16</u> All lighting should be directed downward and away from adjacent residential uses and should be shielded to prevent light trespass or reflection onto adjoining properties.</p>	<p>Buildings constructed on the property within 250 feet of Nashville Road shall be constructed with each façade being at least eighty percent (80%) glass or modern masonry material, including brick, stone, or split-faced block, EFIS, or glass. Buildings constructed farther than 250 feet from Nashville Road shall be constructed with at least 50% of the total façade area of each building being at least 50% modern masonry material, including brick, stone, or split-faced block, EFIS, or glass. No plain-faced block or vinyl siding shall be used. (Binding Element I)</p> <p>The Property will be developed to meet the landscape provisions of the Warren County/Bowling Green Zoning Ordinance as generally shown on Exhibit "B". (Binding Element VII)</p> <p>Signage on the Property will be limited to one free standing monument type sign on the Property and on each parcel which may be created by subdivision of the Property, which sign or signs shall not exceed a height of 25 feet with a maximum total sign face area of 150 square feet per side. (Binding Element XI)</p> <p>Outside trash collection areas shall be screened on all sides with a visual barrier. (Binding Element IX)</p> <p>All utilities service lines shall be located underground. (Binding Element X)</p> <p>Lighting for parking areas and travel ways on the Property shall be shoebox-style lighting focused downward to minimize light trespass onto adjacent residential areas. (Binding Element VIII)</p> <p>The applicants have also committed that the Property will be developed with 25 foot building setbacks from Memphis Junction Road and Nashville Road. Otherwise, the Property will be developed with rear and side setbacks (including "interior" setbacks in the event that the Property is subdivided) as required under the HB zoning classification. (Concept Plan Narrative)</p>

COMPREHENSIVE PLAN COMPLIANCE (Continued)

Comprehensive Plan Policy:	Application:
<p><u>LU-5C-1</u> Commercial development or redevelopment is permitted where the existing dominant use of the focal point is commercial and must not adversely impact the existing scale and architecture within the focal point.</p> <p><u>LU-5E-1</u> Commercial development in high growth corridors should take place in larger planned shopping areas rather than in smaller individual commercial sites.</p> <p><u>LU-5E-2</u> Where strip commercial development is allowed, such development shall conform to an approved general development plan. Ingress and egress points should be minimized and efficiently spaced to provide for traffic circulation.</p>	<p>Lot coverage for commercial development will not exceed eighty percent (80%). Total developed improvements shall not exceed 80,000 square feet. No commercial structure shall be taller than fifty feet; provided, however, no commercial structure which is located within 250 feet of U.S. 31W shall be taller than 35 feet. (Binding Element II)</p> <p>The following uses shall be prohibited on the property: Heavy vehicle and manufactured home sales; a bar, lounge or other facility serving alcoholic beverages by the drink, except in connection with a restaurant; bingo parlor; pawn shop; any sale, rental or display of pornography, adult books, adult entertainment; detention facility; off premise advertising sign, commercial parking; waste-related uses; or mining. (Binding Element III)</p>

COMPREHENSIVE PLAN COMPLIANCE SUMMARY

The Staff finds that the proposed **zoning** is generally in agreement with the adopted Comprehensive Plan. The staff evaluated the following twenty-nine **(29)** policies for compliance:

POLICIES **GENERALLY** IN COMPLIANCE

- LU-1A-2;
- LU-5A-4, 5, 7, 9, 11, 12, 13, 14, 15 & 16;
- LU-6A-5, 6, 7, 9, 11, 13 & 14;
- LU-5C-1& 2;
- LU-5E-1& 2;
- TR-2, 2A, 2E, 2F, 2H, 3C & 3D.

POLICIES **GENERALLY NOT** IN COMPLIANCE

MOTIONS

I make the **motion to approve** the proposed zoning map amendment, together with and conditioned upon the General Development Plan, docket number, **2011-04-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-1A-2;
LU-5A-4, 5, 7, 9, 11, 12, 13, 14, 15 & 16;
LU-6A-5, 6, 7, 9, 11, 13 & 14;
LU-5C-1& 2;
LU-5E-1& 2;
and TR-2, 2A, 2E, 2F, 2H, 3C & 3D.

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 **2011-04-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)

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.

Article: 5.2.4 & 5.2.5

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Sections 5.2.4.F.5.b., 5.2.4.A.5.b and 5.2.5.A.5.a

Specific Use Standards

5.2.4.A.5.b. – Drive-thru Window – Must be located at least 250 feet from any residential district.

5.2.4.F.5.b. – Retail Drive-thru or Pick-Up Window – Any establishment with a drive-through or pick-up window must be located at least 250 feet from any residential district.

5.2.5.A.5.a. - Fuel Stations for Medium and Heavy Trucks - Located a minimum 500 feet from any residential use or district.

ZONING ORDINANCE REFERENCE

VARIANCE REQUEST

The applicants are requesting a 165 foot variance from the required 250 foot setback from a residential district in order to have a drive-thru/pick-up window. The applicants also request a 100 foot variance from the required 500 foot setback from a residential district in order to locate a fueling station for medium and heavy trucks on the property.

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 variance at the intersection of Nashville Road and Memphis Junction Road, docket number 20110-V-03, a 165 foot variance from the required 250 foot setback from a residential district in order to have a drive-thru/pick-up window and a 100 foot variance from the required 500 foot setback from a residential district in order to locate a fueling station for medium and heavy trucks on the property.

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 variance at the intersection of Nashville Road and Memphis Junction Road, docket number 20110-V-03, a 165 foot variance from the required 250 foot setback from a residential district in order to have a drive-thru/pick-up window and a 100 foot variance from the required 500 foot setback from a residential district in order to locate a fueling station for medium and heavy trucks on the property.

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.
-
- 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.