

ZONE CHANGE AND VARIANCE STAFF REPORT

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

Summary: The applicant proposes to rezone a tract of land from **OP-R** (Office Professional-Residential) to **GB** (General Business) in order to establish a professional office development on 2.046 acres. The applicant has applied for a variance and has agreed to certain site restrictions as outlined in the Binding Elements.

Docket Number: 2011-05-Z-BG
Public Hearing Date: February 17, 2011
Pre-application Conference: January 18, 2011

Property Owner(s);
Shelton Investments, LLC
Tony Rhoades, Managing Partner
300 East Promenade
Bowling Green, KY 42103

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

Zone Map Amendment Request:
FROM: OP-R (Office Professional-Residential)
TO: GB (General Business)

Location of Proposed Zone Change:
Dishman Lane Extension – Lots 12, 13 and 14 of Woodland Station Subdivision at the corner of Dishman Lane Extension and Raintree Drive.
Acreeage or Square Footage of Tract:
2.046 Acres (89123.76 Sq. Ft.)
PVA Parcel Number:
041C-12B-012, 013 & 014

Site District: Urban Density Development
Focal Point: 108-2A South Meade
Development Status: Stable
Infra Status: S (Sanitary sewer is available)
Characteristics: Residential. One and two family residential.

Existing Land Use: Vacant
Zoning History: **AG** (Agriculture) is the original zoning. The property was rezoned from **AG** (Agriculture) to **OP** (Office Professional) in 2001. The property was later converted to **OP-R** (Office Professional-Residential) by way of text amendment.
Surrounding Zoning and Land Use: See attached maps.

Soil Analysis:
100% CrB: Crider silt loam, 2-6% slopes
Flood Plain: The property is not located in the 100-year flood area according to FEMA FIRM map # 21227CO303 E.

Traffic Considerations: The property has frontage on the Dishman Lane Extension, a City maintained major collector roadway with seventy-two feet (72') of right-of-way and fifty-two feet (52') of pavement width. The property also has frontage on Raintree Drive, a City maintained local roadway with fifty feet (50') of right-of-way and twenty-four feet (24') of pavement width.

Additional Documentation Required:
N/A Traffic Impact Study
N/A Environmental Assessment
N/A Other

Water: There is an eight inch (8") waterline available along the Dishman Lane Extension providing more than six hundred (600) GPM with more than twenty (20) PSI. This meets the City fire control standards of Bowling Green. There is also an eight inch (8") waterline available along Raintree Drive providing more than six hundred (600) GPM with more than twenty (20) PSI. This also meets the City fire control standards of Bowling Green.

Sewer: There is an eight inch (8") sewer line available along Dishman Lane. There is also an eight inch (8") sewer line available along Raintree Drive.

DEVELOPMENT PLAN REVIEW

Comprehensive Plan Element:	Application:
Intended use of the property and building(s).	<p>The applicant intends to use the property as a professional office development or strip center. According to the Binding Elements submitted, the development proposes uses of retail sales and service, planned shopping center, restaurant, healthcare facility, community services, safety services and offices. (Binding Element VIII). The applicant has also prohibited certain uses that will not be permitted on the property as outlined in the Binding Elements.</p> <p>Buildings constructed on the property shall be constructed with at least ninety percent (90%) modern masonry material on all sides, including brick, stone, EFIS or glass. No split-faced or plain-faced block shall be used. (Binding Element VI)</p>
General placement of the building(s), maximum height of the building(s), and the bulk of the building(s).	<p>The proposed maximum height of any building on the property shall not exceed forty-two (42) feet in height. (Binding Element V) The applicant also proposes a maximum of 30,000 square feet of Gross Leasable Area for the development. (Binding Element VII)</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>The applicant proposes limiting the access to one access point per road frontage. The subject property has road frontage on Raintree Drive and will have one access point to the site. The property also has road frontage on the Dishman Lane Extension and will have one access point to the site. There will be no access from the site to any adjoining residential zoning district. The proposed uses are low traffic generators and did not warrant the need for a Traffic Impact Study (TIS).</p>
Lighting plans.	<p>Lighting for parking areas and travel ways will be shoe-box style lighting focused downward to minimize light trespass onto adjoining properties.</p>
Landscaping.	<p>The property will be developed with a ten (10) foot wide natural vegetative buffer to maintain the existing tree line along the Southern property line.</p>

Staff Items of Concern

- *Compatibility with surrounding properties;*
- *Size of signage;*
- *Total number of signs;*
- *Total square footage of building;*
- *Proposed uses;*
- *Adequate landscaping.*

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 applicant held a neighborhood meeting on January 25, 2011. The meeting was held at the applicant's office.</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-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>Development of land located within 1,500 feet of a public sanitary sewer, measured by way of public rights-of-way or public utility easements shall be served by public sanitary sewer. There is an eight inch (8") sewer line available along Dishman Lane. There is also an eight inch (8") sewer line available along Raintree Drive.</p> <p>Any land development within the City limits of Bowling Green must meet the fire protection standard of six hundred (600) gallons per minute (GPM) and twenty (20) pounds / square inch (PSI). There is an eight inch (8") waterline available along the Dishman Lane Extension providing more than six hundred (600) GPM with more than twenty (20) PSI. There is also an eight inch (8") waterline available along Raintree Drive providing more than six hundred (600) GPM with more than twenty (20) PSI. These water lines meet the City fire control standards of Bowling Green.</p> <p>All utilities service lines for the property shall be located underground. (Binding Element XI)</p>
<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-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-12</u> New commercial development should follow sound design principles for buildings, parking, landscaping, signage, and setbacks.</p> <p><u>LU-5A-14</u> Parking areas are discouraged within the building setback areas to allow for street landscaping.</p>	<p>The subject property is located adjacent to RM-3 (Multi-Family Residential) zoned land to the south, and has RS-1A (Single Family Residential) zoned land to the north on the other side of the Dishman Lane Extension. The property also has a PUD (Planned Unit Development) to the east on the other side of Raintree Drive, which is the Woodland Station Subdivision that has residential uses. The applicant proposes a ten (10) foot wide natural vegetative buffer to be created to maintain the existing tree line along the southern property line as shown on Exhibit "B". (Binding Element II).</p> <p>The applicant has also committed to outside trash collection areas on the property shall be screened on all sides with a visual barrier consisting of modern masonry materials. (Binding Element X)</p> <p>The property and site must comply with the landscaping provisions set forth by the Warren County / Bowling Green Zoning Ordinance for adjacent incompatible land uses such as residential and commercial; including all parking and travel ways.</p>

COMPREHENSIVE PLAN COMPLIANCE (Continued)

Comprehensive Plan Policy:	Application:
<p><u>LU-5A-6</u> Sites for commercial uses located where an adjoining property on two or more boundaries is residential, must maintain at least 50 percent of the site in green space not devoted to parking. Sites larger than one acre should reserve green space of at least 20 percent of the site or one-half acre, which ever is larger.</p>	<p>The applicant has requested a change of 5% from the required 75% lot coverage for a proposed total of 80% lot coverage.</p> <p>The subject property is larger than one acre and shares a property line to the south with land zoned RM-3 (Multi-Family Residential). There is also land zoned RS-1A (Single Family Residential) across Dishman Lane Extension directly to the north of the subject property. This property is larger than one (1) acre, and if the lot coverage for the property is approved at eighty percent (80%), the remaining twenty percent (20%) or 17,824.75 square feet of the property would need to be green space in order to be in compliance of this policy set forth by the Warren County Comprehensive Plan.</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-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>Signs to be located on GB (General Business) zoned land must be in compliance with the sign standards set forth by the Warren County / Bowling Green Zoning Ordinance. The applicant has proposed that the Signage for the subject property shall be monument style and not exceed twenty-five (25) feet in height and one hundred and fifty (150) square feet per sign face area. (Binding Element III) It should be noted that the GB (General Business) zone classification allows for one sign per lot of record.</p> <p>The applicant has also committed to reducing light intrusion for adjacent properties. 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 I)</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>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 proposed uses are considered to be low traffic generating uses that did not warrant the need of a Traffic Impact Study (TIS). The applicant has made commitments to minimizing traffic congestion by offering a statement of Binding Elements that proposes a maximum of two access points to the site. There shall be no access from this tract to any adjoining residential district. Only one access to the Dishman Lane Extension and one access to Rain Tree Drive shall be allowed from the site. These access points shall comply with the City of Bowling Green's Traffic Access Management manual. (Binding Element IV)</p> <p>As can be seen on Exhibit "B", the subject property has two road frontages. The proposed access point to the site from Raintree Drive should be aligned with Denzil Avenue to the east as shown.</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 **fourteen (14)** policies for compliance:

POLICIES **GENERALLY** IN COMPLIANCE

- LU-1A-2
- LU-5A-4, 5, 9, 11, 12, 13, 14, 15 & 16;
- TR-2, 2H & 2I

POLICIES **GENERALLY NOT** IN COMPLIANCE

- LU-5A-6 & 14

MOTIONS

I make the motion to **approve** the proposed zoning map amendment, together with and conditioned upon the General Development Plan, docket number, **2011-05-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, 9, 11, 12, 13, 14, 15 & 16;
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 **2011-05-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-5A-6 & 14

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 has requested a change of 5% from the required 75% lot coverage for a proposed total of 80% lot coverage. The applicant is proposing a commercial development located at the intersection of Raintree Drive and Dishman Lane Extension. (See Attached Variance Plat)

ZONING ORDINANCE REFERENCE

Article 4.6.8

VARIANCE REQUEST REFERENCE

The provision of the Zoning Ordinance from which this variance is requested is referenced in Article 4.6.8

Lot Coverage

4.6.8.B Lot coverage for GB (General Business) zoning districts has a seventy-five (75%) maximum lot coverage standard.

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 to change the lot coverage 5% from the required 75% lot coverage for a proposed total of 80% lot coverage for property zoned **GB** (General Business), at the intersection of Dishman Lane Extension and Raintree Drive, Docket number 2011-V-04.

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 to change the lot coverage 5% from the required 75% lot coverage for a proposed total of 80% lot coverage for property zoned **GB** (General Business), at the intersection of Dishman Lane Extension and Raintree Drive, Docket number 2011-V-04.

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.