

JUNE 9, 2005

**3542, 3554 KY 54, 3630, 3636, 3700, 3710,
3714, 3726 RALPH AV**

ZONE CHANGE

From: R-1A Single-Family Residential		
To: B-4 General Business		
Acreage: 4.109 acres		
Applicant: Woodlands Investments, LLC (0505.1597)		
Property Zone Existing Use	to North B-4 Restaurant, Hardware Store, Undeveloped	
	Subject R-1A ⇌ B-4 Residential, Vacant	to East R-1A Residential & Church
to West B-4 Woodlands Plaza	to South A-U Residential, Splash Swim Club	

GENERAL LAND USE CRITERIA Apply, if marked below:

Described in Comprehensive Plan on pages 445-448

Environmental ☒

- E1** Flood Plains
- E2** Steep Slope
- E3** Historical & Archaeological Sites
- E4** Soils
- E5** Plant & Animal Life

Urban Services ⌘

- ⌘ **U1** Roadway Capacity
- ⌘ **U2** Electricity Supply
- ⌘ **U3** Water Supply
- ⌘ **U4** Stormwater Disposal
- ⌘ **U5** Sanitary Sewage Disposal

Development Patterns ♦

- D1** Land-Use Intensity, Clusters and Buffers
- ♦ **D2** Land Use versus Street Function
- ♦ **D3** Intersection & Driveway Spacing
- D4** Roadway Buffer Standards
- D5** Lot Sizes & Proportions
- D6** Residential Development
- ♦ **D7** Non-Residential Development
- D8** Building Quality

Proposed Zone & Land Use Plan

The applicant is seeking a B-4 General Business zone. The subject property is located in an Urban Residential Plan Area, where general business uses are appropriate in very limited locations.

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns; outdoor storage yards - Building and lot patterns should conform to the criteria for “Nonresidential Development” and outdoor storage yards, with “Buffers for Outdoor Storage Yards.”

(b) Logical zoning expansions of proportional scope - Existing General Business zones may be expanded onto contiguous land that generally abuts the same street. The expansion of a General Business zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

Applicant's Findings

The subject property is located in an Urban Residential Plan Area where General Business uses are appropriate in very limited locations. The property consists of eight (8) residential lots fronting on KY 54 and Ralph Avenue, containing a total of 4.109 acres. The applicant proposes to expand the Woodlands Plaza commercial development currently under construction. Submitted herewith is a conceptual plan showing a tentative layout of the site including the extension of Villa Point to Ralph Avenue.

Specific land use criteria that applies to this application are as follows:

(a) Building lot patterns: Should conform with the criteria for “Non-residential Development”

The proposed rezoning is a limited expansion of non-residential (commercial) development and is a logical expansion of contiguous property situated between the east limits of Woodlands Plaza and Ralph Avenue. The proposed rezoning conforms with the criteria for “Redevelopment of Residential Areas.”

As shown on the conceptual plan, access to the subject property shall be limited to Villa Point and Commonwealth Court. No entrances will be located on Ralph Avenue. Perimeter landscaping will be provided along Ralph Avenue and a 10 foot landscape buffer will be provided where the subject property adjoins existing residential development.

(b) Logical zoning expansion of proportional scope:

Proposed rezoning is a logical expansion onto contiguous land abutting on Villa Point, Commonwealth Court, and KY 54. All services are immediately available from Woodlands Plaza. The expanded development will be served by existing street access points on KY 54 and Fairview Drive, each of which included provision for turn lanes as previously approved for Woodlands Plaza. Future extension of Villa Point to Ralph Avenue was anticipated at the time of approval of the Preliminary Subdivision Plan of Woodlands Plaza.

The proposed rezoning meets all applicable criteria as set forth in the Comprehensive Land Use Plan.

Planning Staff Review

The subject property is located in the 3500 block of KY 54 and the 3600 and 3700 blocks of Ralph Avenue. Land use criteria applicable to this proposal are reviewed below.

GENERAL LAND USE CRITERIA

Environment

According to a study prepared by the US Department of Agriculture Soil Conservation Service dated March 6, 1990, it appears that the subject property is not located in a wetlands area. The subject property does not appear to be in a special flood hazard area per FIRM Map 21059CO145 C and Map 21059CO285 C. It appears that the subject property is not designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980. The developer is responsible for obtaining permits as may be required by the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

It appears that the subject property is outside the Owensboro Wellhead Protection area according to a map created by the GRADD office dated March 1999.

Urban Services

All urban services are available to the site. Sanitary sewer is proposed to be extended to serve the subject property.

Development Patterns

Currently, the two properties along KY 54 that make up a portion of the subject property have direct access to KY

54. As the lots are developed as part of the overall Woodlands Plaza development, access shall be limited to Villa Point only. A 10 foot landscape easement with one tree every 40 linear feet with a 6 foot high planting, hedge, fence, wall or earth mound shall be installed as a buffer along adjoining residentially zoned properties.

The subject properties located along Ralph Avenue are existing single-family residential dwellings that are part of an established residential street. Potential conflicts with neighboring areas can best be avoided by respecting the pattern of lots along existing blockfronts. With this proposal, commercial traffic from the existing Woodlands Plaza will be able to access Ralph Avenue, an existing residential street. Due to the nature of Ralph Avenue, the need for some roadway improvements are necessary to mitigate the overall impact of the development. However, without a development plan showing the proposed development, it is difficult to anticipate what improvements would be necessary. Typically, streets that serve commercial development are constructed with a 34 foot cross section. The need to upgrade Ralph Avenue from the KY 54 intersection to the proposed intersection with Villa Point is very likely once plans are finalized for the development to accommodate the commercial traffic generated by this development.

In lieu of a development plan submittal in conjunction with this rezoning, conditions have been developed through conversations with the mayor, city manager's office, and the city engineer. Although a development plan is not proposed at this time, a final development plan must still be approved prior to the issuance of any building permits. Two alternatives have been proposed to address the potential need to upgrade Ralph Avenue.

Option 1: The Ralph Avenue right-of-way is permanently closed from the existing intersection with KY 54 to the south property line of the Immanuel Baptist Church with all expenses the responsibility of the applicant. The applicant shall reconstruct the curb and gutter along KY 54 and remove the entire existing pavement of Ralph Avenue that falls within the KY 54 right-of-way. Finally, the applicant shall improve Ralph Avenue to a 34 foot wide commercial street with curb and gutter and sidewalks from the same south property line of the church, south through the intersection of Villa Point Drive. Improvements "through" Villa Point Drive include widening the southern end of radii at the intersection and tapering from a 34 foot cross-section to the existing cross-section at a speed limit: 1 taper.

Option 2: If negotiations with property owners on Ralph Avenue are not successful, and the closing of Ralph Avenue is not a possibility, the applicant shall improve

Ralph Avenue from KY 54 through the intersection of Villa Point Drive. This improvement includes widening to the southern end of the radii at the intersection and tapering from the 34 foot cross-section to the existing cross-section at a speed limit:1 taper.

The applicant will be responsible for posting a bond for the entire cost of Option 2 at the time of the final subdivision plat. A grace period of five years from the date of the rezoning hearing before the Planning Commission shall be granted to complete one of the two options. At that time, if neither of the two options has been completed, the City of Owensboro will cash in said bond and perform the work.

If in the future, additional commercial development takes place long Ralph Avenue, the remaining portion of the street shall be upgraded to commercial standards with the responsibility of that improvement resting with future developers of those additional tracts. The provision to extend Villa Point Drive to the east should be part of any future development.

A final development plan must be submitted and approved by the OMPC prior to the issuance of any building permits. A preliminary and final subdivision plat must be submitted for the subject property due to the extension of public services.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is in compliance with the adopted Comprehensive Plan. The proposed development will be non-residential in use and it is a logical expansion of an existing B-4 General Business zone immediately west of the subject property. The expansions of the B-4 zone should not significantly increase the extent of the zone in the vicinity of the expansion and should not overburden streets and other necessary urban services that are available in the affected area provided that improvements for Ralph Avenue are bonded at the time of the final subdivision plat.

However, when specific criteria will allow expansion of nonresidential land uses in built up neighborhoods, due consideration should be given to the concerns of neighboring residents with respect to the established lot patterns in their neighborhoods.

Planning Staff Recommendations

Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan. The conditions and finding of fact that support this recommendation include the following:

Conditions:

1. Access to the subject property shall be limited to Villa Point only;
2. A 10 foot landscape buffer with one tree every 40 linear feet and a 6 foot high planting, hedge, fence, wall or earth mound shall be installed as a buffer along adjoining residentially zoned properties;
3. Villa Point Drive shall be extended to Ralph Avenue;
4. The developer should pursue permanent closure of Ralph Avenue or improve Ralph Avenue according to the options listed below:

Option 1: The Ralph Avenue right-of-way shall be permanently closed from the existing intersection with KY 54 to the south property line of the Immanuel Baptist Church with all expenses the responsibility of the applicant. The applicant shall reconstruct the curb and gutter along KY 54 and remove the entire existing pavement of Ralph Avenue that falls within the KY 54 right-of-way. Finally, the applicant shall improve Ralph Avenue to a 34 foot wide commercial street with curb and gutter and sidewalks from the same south property line of the church, south through the intersection of Villa Point Drive. Improvements "through" Villa Point Drive include widening the southern end of radii at the intersection and tapering from a 34 foot cross-section to the existing cross-section at a speed limit:1 taper.

Option 2: The applicant shall improve Ralph Avenue from KY 54 through the intersection of Villa Point Drive. This improvement includes widening to the southern end of the radii at the intersection and tapering from the 34 foot cross-section to the existing cross-section at a speed limit:1 taper;

5. Surety shall be posted for Option 2 with the final plat submittal;
6. If the closure of Ralph Avenue or the improvements for which surety is posted have not been completed within 5 years of the date of the rezoning public hearing, the surety will be forfeited and the local governing body will complete the improvements;
7. No building permits shall be issued until a final development plan is submitted and approved by the OMPC; and,
8. A preliminary and final subdivision plat must be submitted for the subject property due to the extension of public services.

Findings of Fact:

1. The subject property is located in an Urban Residential Plan Area, where general business uses are appropriate in very limited locations;
2. The proposal is a logical expansion of existing B-4 General Business zone immediately west of the subject property; and,
3. If commitments are made by the developer to bond improvements to Ralph Avenue expansion of the contiguous B-4 General Business zone should not significantly increase the extent of the zone within the vicinity and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.