

JUNE 10, 2010

10539 US HIGHWAY 431

ZONE CHANGE

From:	R-1A Single-Family Residential A-U Urban Agriculture
To:	B-4 General Business
Proposed Use:	Dollar General Store
Acreage:	1.305
Applicant:	SC Development, LLC; Robert G. & Nancy Grimsley (1006.1779)
Surrounding Zoning Classifications:	
North: R-1A, A-U	South: R-1A, B-4
East: R-1A, A-U	West: R-1A

Proposed Zone & Land Use Plan

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

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns; outdoor storage areas -

Building and lot patterns should conform to the criteria for "Nonresidential Development" (D7), and outdoor storage yards with "Buffers for Outdoor Storage Yards" (D1).

(b) Logical zoning expansion of proportional scope -

Existing General Business zones may be expanded onto contiguous land that generally abuts the same street(s). 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.

Planning Staff Review

GENERAL LAND USE CRITERIA

Environment

- It appears that the subject property is not located in a wetlands area per the US Department of Agriculture Soil Conservation Service dated March 6, 1990.
- The subject property is not located in a special flood hazard area per FIRM Map 21059CO405 D.
- It appears that the subject property is not within the Owensboro Wellhead Protection area per the GRADD map dated March 1999.
- The developer is responsible for obtaining permits from the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.
- It appears that a portion of the subject property is designated as prime agricultural land according to the "Important Farmlands" map created by the US

Department of Agriculture Soil Conservation Service dated March 1980.

Urban Services

Electricity, water and gas are available to the subject property. Sanitary sewage disposal is accomplished by an on-site septic system.

Development Patterns

The subject property is located in the rural community of Utica. A portion of the subject property was rezoning from R-1A Single-Family Residential and A-U Urban Agriculture to B-4 General Business in April 2008. In the vicinity of the subject property, all surrounding properties are zoned either R-1A Single-Family Residential or A-U Urban Agriculture. There are residences to the north, south and west of the subject property. The property to the west is agricultural in nature.

At the time of rezoning in April 2008, the planning staff recommended denial of the application but the Planning Commission placed 10 conditions on a recommendation for approval. The conditions are as follows:

1. All vehicular use areas shall be paved and appropriate vehicular use area screening shall be installed where adjacent to road right-of-way;
2. A site plan or final development plan shall be approved by the OMPC prior to the issuance of any building permits;
3. The size of the rezoned area shall be amended to a 250' deep by 200' wide area beginning at the southwest corner of the property;
4. Install a white vinyl fence a minimum of 6 feet in height along the entire southern and northern property lines of the parent tract and along the east boundary of the zoned area, unless written notice is provided to the OMPC from adjoining property owners that adjoining property owner requests a reduction;
5. The dumpster is to be relocated to the rear of the building;
6. All lighting shall be directed away from residential properties;
7. The freestanding sign shall be relocated to the northern end of the front parking lot;
8. Any cost incurred in relocating the gas line will be borne by the applicant or developer at no cost to the residential property owners;
9. Landscape buffer and trees shall be installed as required by the zoning ordinance; and,
10. Any other agreed to condition as stated in the record are conditions of the zoning change.

The majority of the conditions as stated are still applicable to the current request to expand the B-4 zoning on the subject

property. However, condition three which limited the size of the rezoning to a 200' x 250' area is no longer applicable since the applicant is requesting to expand the size of the B-4 zoning. The requested zoning change is a result of insufficient area on the site to meet the required building setback, roadway buffer and conditions of the rezoning.

Daviess County Fiscal Court added a condition to the rezoning that requires the Kentucky Highway Transportation Cabinet to approve an access point to the subject property. Based on a phone conversation with Kenny Potts with the KYTC, the state has recently reduced the speed limit on US Highway 431 in the vicinity of the subject property and has approved the access as shown on the site plan that has been submitted to the OMPC office for approval.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is in compliance with the Comprehensive Plan. The B-4 General Business zoning is a logical expansion of existing B-4 General Business zoning on the subject property. At 1.305 acres in size, the proposed rezoning expansion is not a significant increase in B-4 zoning and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

Planning Staff Recommendations

The planning staff recommends approval subject to the conditions and findings of fact that follow:

Conditions:

1. All vehicular use areas shall be paved and appropriate vehicular use area screening shall be installed where adjacent to road right-of-way;
2. A site plan or final development plan shall be approved by the OMPC prior to the issuance of any building permits;
3. Install a white vinyl fence a minimum of 6 feet in height along the entire southern and northern property lines of the parent tract and along the east boundary of the zoned area, unless written notice is provided to the OMPC from adjoining property owners that adjoining property owner requests a reduction;
4. The dumpster is to be relocated to the rear of the building;
5. All lighting shall be directed away from residential properties;
6. The freestanding sign shall be relocated to the northern end of the front parking lot;
7. Any cost incurred in relocating the gas line will be borne by the applicant or developer at no cost to the residential property owners; and,

8. Landscape buffer and trees shall be installed as required by the zoning ordinance.

Findings of Fact:

1. Staff recommends approval because the proposal is in compliance with the community's adopted Comprehensive Plan;
2. The subject property is located in a Rural Community Plan Area, where general business uses are appropriate in limited locations;
3. The use as a Dollar General store is nonresidential in nature and use;
4. The proposal is a logical expansion of existing B-4 General Business zoning on the subject property; and,
5. At 1.305 acres, the proposal is not a significant expansion of B-4 zoning and should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.