

**FEBRUARY 12, 2009**

**PORTION OF 9340, 9378 HIGHWAY 144**

**ZONE CHANGE**

<b>From:</b>	B-4 General Business R-1A Single-Family Residential	
<b>To:</b>	<b>A-U Urban Agriculture</b>	
<b>Proposed Use:</b>	Cemetery	
<b>Acreage:</b>	5.351	
<b>Applicant:</b>	St. Williams Cemetery; Ernest T. Isbill and Diocese of Owensboro (0902.1737)	
<b>Property Zone</b> <i>Existing Use</i>	<b>to North</b> R-1A, B-4 Residential, Farm, Millay's Tavern	
<b>to West</b> B-4, R-1A, A-U Tire Repair, Residential, Farm	<b>Subject</b> B-4, R-1A ➡ A-U Cemetery	<b>to East</b> R-1A, A-U Cemetery, Residential, Fire Department
	<b>to South</b> A-U Farm	

**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 an A-U Urban Agricultural zone. The subject property is located in a Rural Community Plan Area, where agricultural uses are appropriate in general locations.

**SPECIFIC LAND USE CRITERIA**

**(a) Conservation of agricultural topsoil** - Agricultural topsoil should be conserved through appropriate farming practices.

**Applicant's Findings**

During a boundary survey for the St. Williams Cemetery in Knottsville, it was determined that the cemetery had encroached onto an adjoining property along the west boundary line of said cemetery. The adjoining owner has agreed to transfer a 16-foot wide strip of land to said cemetery in order to resolve the boundary issue. The adjoining property, Tom Isbill's tract, is currently undeveloped and zoned B-4 General Business, and said cemetery is zoned R-1A Single-Family Residential. In order to divide the 10-foot wide strip from the parent tract, the Isbill tract, and consolidate it with the cemetery tract both tracts must be rezoned to A-U Urban Agriculture. In compliance with the Schedule of Zones located in Article 9 of the Zoning Ordinance, cemeteries are not an appropriate use in an R-1A or B-4 zoning classification. Cemeteries can however, be conditionally permitted in A-U zoning classifications.

For the purposes of the findings of fact the subject property shall be defined as the existing St. Williams Cemetery along with said 10-foot wide strip. As stated herein above, the applicant proposes to rezoning the subject property from F-1A and B-4 to A-U. Upon approval of the rezoning application, St. Williams Cemetery shall prepare and file a conditional use permit application with the OMPC.

Findings of fact:

The subject property is located in a Rural Community plan area where agriculture uses are appropriate in general locations.

Specific Land Use Criteria applicable to the A-U rezoning are as follows:

(a) Conservation of agricultural topsoil - Agricultural topsoil should be conserved through appropriate farming practices. The state specific land use criterion is not applicable to the applicant's intended use.

(b) Sustain forests - Forested area should be sustained through appropriate forestry practices. The subject property is not currently forested and a stated specific land use criterion is not applicable to the applicant's intended use.

The applicant currently has a pending minor plat with the OMPC to consolidate the subject property. Said plat will be recorded upon zoning approval and approval of a conditional use permit.

## Planning Staff Review

The subject property is located in the 9300 block of Highway 144. 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 is not located in a special flood hazard area per FIRM Map 21059CO170 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is not located in a special flood hazard area per map 21059CO170 D. 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 a portion of the subject property is outside the Owensboro Wellhead Protection area according to a map created by the GRADD office dated March 1999.

#### Urban Services

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

#### Development Patterns

The subject property is located within the rural community of Knottsville. The subject property has B-4 zoning to the west and north, residential zoning to the north and east and agricultural zoning to the south. Land uses in the vicinity include residential, agricultural, tire repair, a fire station and a tavern.

A cemetery currently existing on the subject property and has been in existence for over 100 years and is currently a legal non-conforming use. As the applicant stated in their finding, a boundary error was discovered and the applicant proposes to consolidate approximately 16 feet from the adjoining property to resolve the matter. However, since the properties are not of like zoning, the consolidation cannot take place until the properties are zoned the same. With the increase in area, the cemetery must be brought into conformance with current zoning standards. Since cemeteries are not appropriate land uses within either a B-4 or R-1A zoning classification, the applicant has submitted an application to rezone the cemetery and the 16 foot strip of the adjoining property to A-U Urban Agriculture and will follow the rezoning request with a Conditional Use Permit for the cemetery.

### SPECIFIC LAND USE CRITERIA

The applicant's proposal is in compliance with the Comprehensive Plan. The subject property is located within the rural community of Knottsville. The subject property has been used as a cemetery and encroached onto an adjoining property. The applicant proposes to maintain the use of the property as a cemetery and bring it into compliance with current regulations by filing a conditional use permit after the rezoning is approved.

## Planning Staff Recommendations

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

**Condition:** Submission of a conditional use permit application.

#### Findings of Fact:

1. The subject property is located in a Rural Community Plan Area, where agricultural uses are appropriate in general locations;
2. The subject property has been used as a cemetery for over 100 years;
3. The applicant proposes to eliminate a property encroachment with a consolidation plat and submit a conditional use permit application for the cemetery use; and,
4. The proposed A-U zoning is the appropriate zoning classification for consideration of a conditional use permit for a cemetery.