

**APRIL 9, 2009**

**3441 FAIRVIEW DR**

**ZONE CHANGE**

**From:** A-U Urban Agriculture

**To:** B-4 General Business

**Proposed Use:** Commercial Development

**Acreage:** 6.461

**Applicant:** Vincent Hayden; Paradise Landing, LLC (0904.1743)

<b>Property Zone Existing Use</b>	<b>to North</b> R-1A, A-U Residential	
<b>to West</b> B-4 Wal-Mart	<b>Subject</b> A-U → B-4 Vacant	<b>to East</b> R-1C, B-4 Residential, Vacant Lot
	<b>to South</b> B-4 Retail Sales, Car Wash	

**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 a Business Plan Area, where general business uses are appropriate in limited locations.

**SPECIFIC LAND USE CRITERIA**

**(a) Building and lot patterns** - 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 expansions 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.

**Applicant's Findings**

The subject property is located in eastern Daviess County and is bounded to the west by Wal-Mart, to the south by a strip mall development on Mount Moriah Avenue, to the east by Fairview Drive and to the north by a single family residence. The applicant desires to develop the subject property via a public road which will subdivide the property into a northern and southern tract with a dedicated right-of-way running east/west between said tracts. At this time the applicant has designated the northern half for future commercial development. The southern half will be subdivided into six (6) commercial lots with frontage on the proposed street. An owner’s association will have to be established along with a parking lot agreement to address access, required parking and maintenance. The applicant anticipates constructing the infrastructure and establishing building envelopes for individual developers. A preliminary development plan has been submitted under a separate application to more fully illustrate the applicant’s development plan. Following approval of the preliminary development plan and zoning application, the applicant will prepare and submit a final development/preliminary subdivision plat addressing zoning requirements. The subject property is currently zoned A-U Urban Agriculture and the applicant is seeking a B-4 General Business zoning.

The subject property is located in a business plan area where general business uses are appropriate in limited locations.

Specific land use criteria applicable to the B-4 rezoning are as follows:

(a) Building and lot patterns should conform to the criteria for nonresidential development and outdoor storage yards with buffers. The applicant does not propose any outdoor storage areas and the lot patterns in the general vicinity have been commercial with the exception of the Downs, a residential subdivision located to the east of the subject property.

(b) Existing General Business zones may be expanded onto contiguous land that generally abuts the same street(s). The expansion 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. The subject property adjoins B-4 zoning to the west, to the south and to the east. Residential zoning can be found to the east and north of the subject property. The proposed expansion is a logical B-4 expansion in the area. The applicant has prepared a traffic impact study which will be made available to the planning and engineering staff illustrating that the development will not overburden roadways in the vicinity. In addition, the applicant has proposed a parking lot connection to Wal-Mart which will lessen the impact of traffic on KY 54 and Fairview Drive.

(e) The new location criteria is not applicable to the proposed rezoning.

## Planning Staff Review

The subject property is located in the 3401 block of Fairview Drive. 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 21059CO145 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 21059CO143 D. 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, including sanitary sewers, are available to the site.

#### Development Patterns

The subject property is located in an area of commercial and residential uses. The property to the south, east and west is zoned commercial with various commercial and retail uses. The property to the north is zoned residential.

The applicant is requesting a B-4 General Business zone on the subject property. The applicant submitted a preliminary development plan with the rezoning application that shows half of the property designed with six individual lots for commercial purposes with the other half slated for future commercial development. A public street dissects the property. The public street is the only access from the subject property to Fairview. The location of the street was established by a minor subdivision plat approved by the OMPC in August 2008. A private extension of the public street will connect with the Wal-Mart property.

As the applicant has developed plans for the property over the past several months, access to Fairview Drive has been a concern. The location established by minor subdivision plat in August 2008, was chosen due to optimal sight distance at that location. Another concern was the amount of traffic that may utilize the new public street to access the Wal-Mart site, especially in light of the street connection through the Downs Subdivision to Pleasant Valley Road. The need for a potential right-turn lane on Fairview Drive at the new street location was the key issue in discussions. There is a center turn lane on Fairview in this area which will serve as a safe place for left-turn movements into the site. In order to evaluate the need for a right-turn improvement on Fairview Drive, the applicant had a Traffic Impact Study (TIS) prepared that estimates the traffic generated by the site, traffic volumes on the various roadways, turning movements and other traffic related issues. The study projected traffic on the remaining tract of the subject property as a high traffic generator such as a fast food restaurant.

Based on all the information contained in the traffic impact study, warrants for a right-turn lane are not met. With a very steady increase in traffic on Fairview Drive, 2020 average annual daily traffic count of 19,500 vehicles, the warrants for a right-turn taper may be met considering the potential development in the area. The traffic engineer recommends that sufficient room be reserved to accommodate a future right-turn taper.

Sidewalks shall be installed along both sides of all public rights-of-way. All parking and drive areas shall be paved with vehicular use area landscaping installed where adjoining road right-of-way. Due to the proximity of residential development to the north, all lighting on the site shall be directed away from the residential structures. A ten foot landscape buffer with one tree every 40 linear feet shall be installed along the north boundary where adjoining residential zoning.

### **SPECIFIC LAND USE CRITERIA**

The applicant's proposal is in compliance with the Comprehensive Plan. The proposed use is a logical expansion of existing B-4 zoning located to the east, south and west. The use of the property for separate commercial uses meets the criteria for nonresidential development. At just under 6.5 acres, the expansion of B-4 zoning should not significantly increase the extent of B-4 zoning in the vicinity. The TIS submitted in conjunction with the rezoning requests indicates that the proposed site should not overburden the roadways in the vicinity of the subject property.

### **Planning Staff Recommendations**

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

#### **Conditions:**

1. Access to Fairview Drive shall be limited to the proposed public street only;
2. Connection shall be made to the Wal-Mart property via a private extension of the public road; and,
3. Sidewalks shall be installed along all public rights-of-way.

#### **Findings of Fact:**

1. The subject property is located in a Business Plan Area, where general business uses are appropriate in limited locations;
2. The use of the property for commercial development is consistent with nonresidential uses;
3. The proposal is a logical expansion of existing B-4 General Business zoning to the east, south and west;
4. The expansion should not significantly increase the extent of commercial uses that are located in the vicinity;

5. The expansion should not overburden the capacity of roadways based on the Traffic Impact Study submitted in conjunction with the rezoning; and,
6. The expansion should not overburden other necessary urban services that are available in the affected area.