

JULY 13, 2006

3175 FAIRVIEW DR

ZONE CHANGE

From: B-4 General Business with conditions		
To: B-4 General Business		
Proposed Use: Wyndall's Fuel Center		
Acreeage: 0.610		
Applicant: B.C.E. Properties, LLC (0607.1649)		
Property Zone Existing Use	to North B-4 Commercial Building	
to West B-4 Commercial Building	Subject B-4 ⇌ B-4 Vacant	to East B-4 Wyndall's Foodland
	to South A-U Residential	

**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; outdoor storage yards -** Building and lot patterns should conform to the criteria for “**Nonresidential Development**” and outdoor storage yards to “**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(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, 3175 Fairview Drive, is currently zoned B-4 General Business. The Owensboro Metropolitan Planning Commission approved a rezoning application for the subject property at the November 12, 1998 meeting. The subject property was rezoned from A-U Urban Agriculture and B-4 General Business to B-4 General Business. At the time of the rezoning application, the subject property was an undivided portion of the 3200 Block of KY 54, 11.833 acres. As per the minutes of the November 12, 1998 meeting, the rezoning application was found to be in compliance with the Comprehensive Plan and the rezoning was approved by the Planning Commission with the following conditions:

1. Submission of final development plans prior to development construction activities;
2. There shall be no direct access to KY 54 (condition amended by motion to allow for right-turn only as proposed);
3. Access to Fairview Drive shall be limited to a single access point located a minimum of 500 feet from KY 54 (condition amended by motion to allow for an access point at four hundred thirteen (413) feet instead of the five hundred (500) feet spacing on Fairview Drive);
4. Installation of an eastbound right-turn deceleration/storage lane on KY 54 for turning movements onto Fairview Drive;
5. Installation of a southbound right-turn deceleration/storage lane on Fairview Drive for

- turning movements into the proposed development;
6. Installation of a northbound left-turn deceleration/storage lane on Fairview Drive for left-turn movements into the proposed development;
 7. Extension of the Villa Point local street into and through the subject property, as appropriate, to provide a vehicular connection between Villa Point Shopping Center and Fairview Drive;
 8. All deceleration/storage lanes for turning movements shall be designed with 180 feet of taper length and 100 feet of storage length; and,
 9. Prior to the issuance of a building permit, surety shall be posted with the OMPC for all turning deceleration/storage lanes, store water retention, drainage improvements, and landscaping materials.

The applicant is seeking re-approval of the zoning classification with the access restriction to Fairview Drive as noted in condition three (3) eliminated to allow for an additional access point onto Fairview Drive from the subject property.

The applicant currently operates a fuel center on the subject property and the access point is critical to maintaining proper traffic flow at this facility. In addition to the rezoning application, the applicant shall submit an amended final development plan and a revised final plat to obtain OMPC approval of the said access point location.

Planning Staff Review

The subject property is located in the 3101 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 located in a special flood hazard area and partially located in a floodway per FIRM Map 21059CO145C. 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 primarily located in a commercial area with B-4 zoning classifications to the north, east and west. The property to the south is zoned A-U and is occupied by a residence.

The subject property is currently zoned B-4. This 0.610 acre tract was rezoned in conjunction with additional property totaling approximately 11.8 acres in November 1998, from A-U Urban Agriculture and B-4 General Business to B-4 General Business. At the time of the rezoning, several conditions were placed on the property which were addressed in the applicant's findings.

One of the conditions prohibited any additional access to Fairview Drive except for the Villa Point street intersection. The applicant submitted a final development plan to the planning commission in November 2003 for the Wyndall's Fuel Center that did not include an access to Fairview Drive in compliance with the rezoning conditions. However, an application was resubmitted for planning commission review in February 2004 that included an access to Fairview Drive. At the meeting, planning staff recommended against the installation of the new access point based on access management manual spacing standards. The planning commission did approve access location in light of testimony from the application relating to improved traffic flow and safety for the motoring public. As part of the approval, the applicant also provided an access easement to the property located immediately south to provide future interconnection.

Due to a court appeal of the development plan approval, the applicant has submitted this rezoning application to allow the existing curb cut on Fairview Drive to remain open. The applicant has also submitted an amended final development plan and final plat for consideration by the planning commission. If approved, the condition limiting access to Fairview Drive for the subject property would be eliminated and the existing drive could remain.

SPECIFIC LAND USE CRITERIA

Since the subject property is currently zoned B-4, and occupied by a nonresidential use, it meets the prescribed criteria of the Comprehensive Plan for the proposed B-4 zoning classification with the elimination of a previously conditioned access requirement. Although not in compliance with the Access Management Manual, the Planning Commission voted in favor of the access point on

Fairview Drive in conjunction with the development plan approval in February 2004. The Planning Commission supported the access point based on the testimony and information presented at the meeting. Some of the reasons that contributed to the Planning Commission decision are that after having constructed the facility in compliance with the access conditions, the applicant stated that the site did not allow for efficient movement of vehicles to and from the site which could have created a safety hazard; the applicant provided an access easement to the property to the south for future interconnection; and the applicant committed to extension of the sidewalk, curb and gutter. The transcript of the OMPC meeting dated February 12, 2004, approving the final development plan with the access point as constructed, is attached as a part of this staff report.

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. Maintain the existing driveway on Fairview Drive to the Fuel Center with no additional access to Fairview Drive permitted;
2. Provide a public access easement to the south property line; and,
3. Submission and approval of a final development plan and final plat for the subject property.

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 existing zoning for the subject property is B-4 General Business with conditions; and,
3. After weighing testimony at the February 12, 2004, OMPC meeting, with the minutes attached hereto as part of this staff report, the Planning Commission unanimously voted to approve the access point for the subject property as part of a development plan based on the potentially unsafe and inefficient flow of traffic on the site, the willingness of the applicant to provide an access easement to the property to the south for future interconnection and the commitment to extend the pedestrian sidewalk, curb and gutter as part of the new access point.