

**APRIL 12, 2007**

**2402, 2412 E PARRISH AV**

## ZONE CHANGE

<b>From:</b>	A-U Urban Agriculture R-1A Single-Family Residential	
<b>To:</b>	<b>B-4 General Business</b>	
<b>Proposed Use:</b>	Commercial Development	
<b>Acreage:</b>	65.327	
<b>Applicant:</b>	54 Property Management, LLC; Kathleen Nelson Revocable Trust (0704.1681)	
<b>Property Zone Existing Use</b>	<b>to North</b> I-1, R-1A Vacant lot, Residential	
<b>to West</b> P-1, R-1C, R-3MF Medical Complex, Senior Housing, Residential	<b>Subject</b> A-U, R-1A → B-4 Residential, Farmland	<b>to East</b> B-4, R-1A Commercial Development, Residential
	<b>to South</b> R-1C 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 partially located in a Business Plan Area, where general business uses are appropriate in limited locations and partially located in an Urban Residential Plan Area where general business uses are appropriate in very-limited locations.

## SPECIFIC LAND USE CRITERIA

### In Business Plan Areas & Urban Residential Plan Areas:

**(a) Building and lot patterns; outdoor storage yards** - 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. 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.

### In Urban Residential Plan Areas:

**(c) Expansions across intervening streets** - In Urban Residential plan areas, the expansion of an existing General Business zone across an intervening street should be at least **one-and-one-half (1.5)** acres in size, but should not occur if this would significantly increase the extent of the zone in the vicinity.

### In Business Plan Areas:

**(e) New locations in Business plan areas** - New locations of General Business zones should be established only in those Business plan areas that are generally bounded by Central Residential Plan areas. Such new zones should be sited at corners of intersecting streets if located in close proximity to existing dwellings. In Business plan areas outside the vicinity of Central Residential plan areas, new locations of business uses should conform to criteria for Neighborhood Business uses (9) or Highway Business uses (10).

Criteria for Highway Business require that new locations should be “**arterial street oriented**” and at least **fifteen (15) acres** in size.

## Applicant's Findings

Subject property is located primarily in a Business Plan Area where General Business uses are appropriate in limited locations. The southern most part of the property is located in an Urban Residential Plan Area where General Business uses are appropriate in very limited locations. The property consists of 65.327 acres fronting

on East Parrish Avenue (KY 54), the Wendell Ford Expressway (US60 Bypass), and East Byers Avenue. The applicant proposes to develop the property as a retail shopping complex with potential uses including restaurants, bank, professional office space, specialty retail, hotel, supermarket, discount superstore, and other general business uses. Submitted herewith is a Preliminary Development Plan (PDP) including conceptual site layout with proposed streets and access points as shown thereon.

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

(a) Building and lot patterns.

The subject property is situated at the west limits of a large Business Plan Area extending along the south side of KY 54 from Byers Avenue across the US 60 Bypass and continuing eastwardly to a point approximately 200 feet past Ralph Avenue. Proposed building and lot patterns are consistent with other developments within the KY 54 business corridor. The proposed rezoning is a logical expansion of non-residential (commercial) development in Highland Pointe, a 75-acre commercial development presently under construction directly across the US 60 Bypass.

(b) Logical zoning expansions of proportional scope.

The proposed rezoning is a logical expansion of existing B-4 General Business zoning and land use abutting KY 54. All services are available to the property. Submitted herewith is a Traffic Impact Study (TIS) prepared by William B. Hayes, Jr., PE, PTOE, of Barge, Waggoner, Sumner & Cannon, Inc. addressing existing conditions, projected traffic impact based on anticipated land uses, and recommended highway improvements to mitigate the impact of the development as well as improve on existing traffic flow in the area. The TIS is incorporated into the applicant's finding of fact by reference, with the following summary of proposed improvements.

Primary access to the development will be provided by a proposed entrance on KY 54 aligning with the southbound on/off ramps to the US 60 Bypass. The proposed entrance will consist of three (3) exit lanes: a dedicated left-turn lane onto westbound Parrish Avenue, a dedicated thru lane for the southbound on-ramp traffic to the Bypass, and a dedicated right-turn lane onto eastbound KY 54. Incoming traffic will be accommodated via two (2) lanes as shown. A right-turn storage lane and taper will be constructed for right-turn movements from

eastbound Parrish Avenue. A dedicated left-turn lane will be provided to accommodate left-turn movements from westbound KY 54 into the development.

The applicant proposes to widen Parrish Avenue between the primary entrance described above and the intersection with East Byers Avenue in order to provide for dedicated opposing left-turn lanes thereby eliminating conflict between east and westbound left-turn movements onto Byers Avenue and the southbound on-ramp to the Bypass, respectively. The roadway will be widened six (6) feet on each side with addition of curb and gutter matching that on Parrish Avenue to the west. Improvements to Parrish Avenue include signalization of the new entrance as well as upgrading the existing signal at Byers Avenue to allow for the new turn lane and permit synchronizing the two signals to improve traffic flow.

The TIS recommends that two (2) access points be constructed directly on Byers Avenue. The Access Control Manual recommends that access be limited to 1,000 feet, restricting access to Friendship Drive. The study states that this restriction in effect restricts access to this development to a single access point on Parrish Avenue with less than 10 percent utilization of Byers Avenue. The 1,000-foot spacing requirement is reduced to 500 feet for existing arterials such as KY 54 and Fairview Drive. The TIS also takes issue with classification of East Byers Avenue as a minor arterial and suggests that the proper classification should be major collector.

An additional dedicated left-turn lane is recommended for the northbound off ramp from the Bypass onto KY 54. This improvement would be constructed by KYDOT with the developer sharing in the cost of the additional left-turn lane similar to the previous agreement for Highland Pointe participation for the proposed right-turn lane. The cost share percentage is projected to be twenty (20) percent of the additional lane cost based on projected impact of this development. The additional cost to add a lane shall be determined by KYDOT at a later date. A bond will be posted with the first final plat.

The PDP includes provision for an internal street connection to The Heartlands Subdivision to match the proposed street alignment for Summer Walk as shown on the Preliminary Subdivision Plat for Heartland, Phase 3. This street

connection will be provided if mandated by the OMPC. The applicant proposes to eliminate the requirement to construct the street connection subject to mutual agreement by Jagoe Development, LLC. The applicant feels that three (3) access points are needed to serve this development, however, the third access point should be on Byers Avenue, as shown.

Other off-site improvements needed to serve this project are as follows:

1. Construction of approximately 380 feet of 8" PVC sanitary sewer line from the existing sewer manhole located north of the cul-de-sac on Avenue of the Parks in Heartland as shown on the PDP.
2. Construct approximately 1,200 feet of water main crossing East Parrish Avenue and extending along the west access control fence of the Bypass to an existing 10" water main (Southeast Daviess County Water District).

- (e) New locations in business plan areas.

While the proposed development constitutes an expansion of General Business zoning, the proposed rezoning also meets all applicable criteria for new locations in Business Plan areas. The site exceeds 15 acres in area and is major street oriented.

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

In addition, the subject property is located on a major state highway (Kentucky Highway 54) which is currently experiencing significant commercial growth including Highland Pointe, WalMart, Villa Point, Ibok Development, and Woodland Plaza.

There have been major changes of economic, physical or social nature within the area involved which were not anticipated in the adopted Comprehensive Plan and those changes have substantially altered the basic character of the subject property, as well as all properties along KY 54 from the U.S. 60 By-pass to Thruston-Dermont Road. These changes include the following:

- (a) Rezoning by Mt. Mariah Holdings on October 17, 2000 of 6.361 acres to B-4 General Business located to the northeast at 3251 KY Highway 54.

- (b) Rezoning by Marathon Fuels on July 24, 1996, of 2 acres to B-4 General Business located to the northeast at 3311 Highway 54.

- (c) Rezoning by IBOK on December 23, 1998, of 11.33 acres to B-4 General Business located to the southeast at 3200 block Highway 54.
- (d) Rezoning by Woodlands Plaza, LLC on February 20, 2003 of 32.62 acres to B-4 General Business located to the east at 3400 KY Highway 54, and recent expansion of this development to Ralph Avenue.
- (e) Rezoning by Site Inc. (Walmart) on February 12, 2004 of 34.0 + acres to B-4 General Business located to the northeast at 3123, 3151, 3175, 3211 KY Highway 54 and portions of 3441 & 3509 Fairview Drive.
- (f) Rezoning by B & K Development on October 13, 2005 75.6 acres to B-4 General Business located in the 2800 block of KY 54, directly east across the Bypass from the subject property.

## Planning Staff Review

The subject property is located in the 2400 block of E Parrish 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 is not located in a special flood hazard area per FIRM Map 21059CO140C. 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 not in the vicinity of the Owensboro Wellhead Protection area according to a map created by the GRADD office dated March 1999.

### Urban Services

Gas and electric services are available to the site. Sanitary sewer and water will be made available to the site with a proposed 380' sanitary sewer extension and a 1200' water main extension that will be constructed by the developer.

### Development Patterns

The subject property is located on the south side of E Parrish Avenue between Byers Avenue and the Wendell

Ford Expressway. The zonings and land uses surround this large tract are varied and include a medical office complex, senior housing, single-family residences, commercial development and a vacant industrial parcel.

The property to the south and east of the subject property is zoned R-1C Single-Family Residential and will require buffering from the proposed development. A ten foot landscape easement with a six foot high element and one tree every 40 feet shall be installed along the property line where abutting residential zoning. The developer has also committed to maintaining an existing treeline between the subject property and the adjoining residential property as well as committing to limiting potential land uses within 100 feet of the Heartland subdivision to professional office only. While the preliminary development plan proposed these buffers, future revisions could eliminate the additional buffering since it is not a zoning ordinance requirement.

The E Parrish Avenue/KY 54 corridor has experienced steady commercial and residential growth over the past several years. Numerous commercial developments including Woodlands Plaza, the new Wal-Mart, and most recently the Highland Point development, along with residential developments like The Downs and Lake Forest have significantly changed the character of the land in the vicinity of the subject property which has been addressed on the recently adopted land use plan. The proposed 65 acre development for the subject property is another addition to the growth along this corridor.

In order to understand the scope of the proposal and to determine what impact the development will have on the transportation network, the applicant has submitted a Traffic Impact Study (TIS) and a preliminary development plan in conjunction with the rezoning request. The study and preliminary development plan outline potential uses for the subject property and estimates the amount of traffic that will be generated based on the types of uses. That information is then used to determine what roadway improvements are necessary to mitigate the development traffic.

Based on the preliminary development plan, the applicant is proposing a single access point on E Parrish Avenue in alignment with the Wendell Ford Expressway ramp access, two access points to E Byers Avenue and a roadway connection with Summer Walk Court in the Heartland subdivision.

Access to Byers Avenue is proposed in two locations based upon the Preliminary Development Plan submitted in conjunction with the rezoning. This portion of Byers Avenue has been constructed and extended as development has occurred over the past several years. At the time of rezoning for the Heartlands subdivision in 1997, access to Byers Avenue was limited to a 1000 foot spacing standard

for street access with no individual drive access permitted. Based on the 1000 foot spacing standards on Byers Avenue, the proposed street connection closest to E Parrish Avenue should not be permitted since it does not meet the spacing standard. The proposed access in alignment with Friendship Drive should be the only access permitted to Byers Avenue for the development.

Copies of the TIS were distributed to the Kentucky Transportation Cabinet, City of Owensboro Engineering Office, Daviess County Engineering Office, and the GRADD Office for review. Coordination of proposed improvements will require approval from the KYTC and local agencies prior to implementation and should conform to the requirements and conditions as established during the rezoning process.

Based on the review from these agencies several comments and suggestions have been raised. Keith Harpole at the GRADD office recommended the removal of the access point closest to E Parrish Avenue on E Byers Avenue. Review from the City Engineering office identified several points of clarification that need to be made to the study that should not alter the overall recommendations of the TIS. However, their review did note that both Access #2 and #3 (the two proposed access points to E Byers Avenue) meet warrants for right turn tapers. Since it is recommended that the access on E Byers Avenue be limited to a single access point, a right turn lane should be installed to help mitigate the impact of the access on the transportation network. The Kentucky Transportation Cabinet also identified several issues within the study that need to be corrected but should not impact the overall validity of the study. They do recommend the installation of an eastbound right turn on E Parrish Avenue at E Byers Avenue. They also note that any costs associated with the modification of existing traffic signals will be the responsibility of the developer. If a new traffic signal is approved on E Parrish Avenue at the Wendell Ford Expressway westbound off-ramp, the KYTC will furnish all items listed in Exhibit 18 of the Traffic Operations Guidance Manual but the plans, labor and other materials required for the installation are the responsibility of the developer.

According to the comments from the reviewing agencies and the proposed recommendations from the TIS, the following roadway improvements are necessary to support approval of the zoning request:

1. The existing center turn lane on E Parrish Avenue shall be striped for 450' of turn lane storage with a 180' taper for westbound traffic approaching the new access point on E Parrish Avenue (Access #1).
2. An eastbound right turn lane shall be constructed on E Parrish Avenue at Access #1.

3. A northbound right turn decel and storage lane should be constructed on E Byers Avenue at the Friendship Drive access point.
4. An eastbound right turn lane should be installed on E Parrish Avenue at the E Byers Avenue intersection.
5. Between Access #1 and E Byers Avenue, the existing two way left turn lane shall be widened and converted to two separate dedicated left turn lanes for eastbound and westbound traffic.
6. The Wendell Ford Expressway ramp in alignment with Access #1 should be remarked to accommodate through traffic.
7. Surety shall be posted for 20% of the cost for northbound Wendell Ford Expressway ramp improvements at KY 54 at the time of final platting

These improvements in conjunction with the other infrastructure improvements proposed by the developer should help mitigate the impact of this development. In addition to sidewalks along E Byers Avenue and E Parrish Avenue, sidewalks are also required to be installed along both sides of all internal streets. Due to the proximity of the Greenbelt Park, a connection to the Greenbelt Park should be part of the development.

### SPECIFIC LAND USE CRITERIA

The applicant's proposal is in compliance with the Comprehensive Plan. The majority of the subject property is within a Business Plan Area and the remainder is within an Urban Residential Plan Area. The proposal is a logical expansion of existing B-4 zoning across the Wendell Ford Expressway to the east and also meets the criteria for a new location since the site is major street oriented and is over 15 acres in size. Based on the recommended roadway improvements in the Traffic Impact Study, the proposed development should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

### Planning Staff Recommendations

With a single access point to E Byers Avenue and construction of necessary roadway improvements, the 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. The existing center turn lane on E Parrish Avenue shall be striped for 450' of turn lane storage with a 180' taper for westbound traffic approaching the new access point on E Parrish Avenue (Access #1);

2. An eastbound right turn lane shall be constructed on E Parrish Avenue at Access #1;
3. Between Access #1 and E Byers Avenue, the existing two way left turn lane shall be widened and converted to two separate dedicated left turn lanes for eastbound and westbound traffic;
4. The Wendell Ford Expressway ramp in alignment with Access #1 should be remarked to accommodate through traffic;
5. No access to Street A as identified on the Preliminary Development Plan shall be permitted between E Parrish Avenue and Street C;
6. Access to E Byers Avenue shall be limited to a single access point in alignment with Friendship Drive;
7. A right turn decel and storage lane should be constructed at the access point in alignment with Friendship Drive on E Byers Avenue;
8. An eastbound right turn decel and storage lane should be installed on E Parrish Avenue at E Byers to KYTC specifications;
9. Access to E Parrish Avenue shall be limited to one access point located in alignment with the Wendell Ford Expressway ramp access;
10. A street access shall be stubbed to the property line for future connection with Summer Walk Court as indicated on the Preliminary Development Plan;
11. Provide a ten foot easement with a six foot high element and one tree every 40 feet where the subject property adjoins residentially zoned property;
12. Surety shall be posted for 20% of the cost for northbound Wendell Ford Expressway ramp improvements at KY 54 at the time of final platting;
13. Provide a Greenbelt connection along the west side of the development and install sidewalks throughout the entire development to promote bicycle and pedestrian activity; and,
14. Submittal and approval of a preliminary subdivision plat showing required roadway, sanitary sewer and water line improvements prior to any construction activities.

#### Findings of Fact:

1. The subject property is partially located in a Business Plan Area, where general business uses are appropriate in limited locations and partially located in an Urban Residential Plan Area where general business uses are appropriate in very-limited locations;

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2. The development of the subject property will be non-residential in nature and consistent with development patterns in commercially zoned property;
  3. The proposal is a logical expansion of existing B-4 General Business zoning located across the Wendell Ford Expressway east of the subject property;
  4. The proposal also meets criteria for a new location of General Business zoning in that it is over 15 acres in size and is major street oriented; and,
  5. With the roadway improvement conditions to the rezoning and the extension of sanitary sewer and water mains to the subject property, the development should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.