



MAY 8, 2008

2800 US HIGHWAY 60 E

## ZONE CHANGE

<b>From:</b>	B-4 General Business R-3MF Multi-Family Residential	
<b>To:</b>	B-4 General Business	
<b>Proposed Use:</b>	Commercial Shopping Center	
<b>Acreage:</b>	2.954	
<b>Applicant:</b>	Wyndall's Center, Inc. (0805.1714)	
<b>Property Zone Existing Use</b>	<b>to North</b> B-4 Gas Station, Convenience Store, Bakery	
<b>to West</b> R-1A Residential	<b>Subject</b> B-4, R-3MF → B-4 Vacant	<b>to East</b> B-4 Shopping Center
	<b>to South</b> R-1A 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 an Urban Residential Plan Area, where general business uses are appropriate in very-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.

## Applicant's Findings

This zoning application is a request to rezone a 2.954-acre tract located on US Highway 60 E from R-3MF Multi-Family Residential and B-4 General Business to B-4 General Business. Part of the 2.954 acres is already zoned B-4. The east side of the subject property is surrounded by Wyndall's Shopping Center (zoned B-4 containing approximately 11.790 acres. Wyndall's Shopping Center is owned by the same entity that owns the subject property. There are residences to the south and west of the subject property and these properties are zoned R-1A. To the north is a service station, convenience store and bakery. These properties are zoned B-4.

There is a plat of the subject property which is recorded in Plat Book 25, Page 361. There are restrictive notes on said plat which state there shall be no direct vehicular access to E 6<sup>th</sup> Street and no additional access points to US 60 E and Pleasant Valley Road. The applicant agrees to abide by these restrictions.

## Findings

I. The proposed rezoning is in compliance with applicable criteria as set forth in the Comprehensive Land Use Plan.

The rezoning proposal meets the requirements of the criteria as set out under Section 11 General Business of the Land use Plan. The subject property is located in an Urban Residential plan area where commercial activities are appropriate in very limited locations.

- (a) Building and lot patterns; outdoor and storage yards - Building and lot patterns conform to the criteria for “non-residential development.”
- (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.

The proposed rezoning meets the requirements of the logical zoning expansion as set out in (b) above in that part of the property is already zoned B-4 and it is contiguous with the Wyndall’s Shopping Center consisting of 11.790 acres which is zoned B-4. In addition, the subject property abuts commercial property to the north which consists of a service station, convenience store, and bakery which is also zoned B-4.

The expansion of the general business zone to include the 2.954-acre tract will not significantly increase the extent of the zone in the vicinity of the expansion. Highway 60 E is a major arterial street. The rezoning of such a small tract will not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

In addition, the restrictive notes on the plat of record in Plat Book 25, Page 361, prohibits direct vehicular access to E 6<sup>th</sup> Street and prohibits additional access points to US Highway 60 E and Pleasant Valley Road. These restrictive provisions will prevent any additional traffic on E 6<sup>th</sup> Street and any additional access points to US Highway 60 E and Pleasant Valley Road.

## Planning Staff Review

The subject property is located in the 2800 block of US Highway 60 E. 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 21059CO140 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is not located in a special flood hazard area per maps 21059CO137 D and 21059CO139 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 a vacant tract of land that abuts residentially zoned property to the south and west and commercially zoned property to the north and east. The proposed use for the property is a commercial shopping center. The applicant also owns the Wyndall’s Shopping Center located east of the subject property.

The only road frontage for the property is from E 6<sup>th</sup> Street right-of-way which is not an improved roadway. A portion of the right-of-way is gravel with two residences utilizing it as a driveway. However, the majority of the right-of-way is unimproved. As the applicant states in their findings, access to E 6<sup>th</sup> Street is prohibited by recorded plat and the applicant is not proposing access to E 6<sup>th</sup> Street with this application. The plat also prohibits additional access to US Highway 60 E and Pleasant Valley Road neither of which this parcel fronts. Access to the tract will be limited to the existing vehicular use area of the Wyndall’s Shopping Center.

Since the subject property adjoins residential property to the south and west, the proposed zoning change to B-4 General Business will require screening as established in the Owensboro Metropolitan Zoning Ordinance. The screening should include a ten foot landscape easement with a six foot element and one tree every 40 linear feet. Also, due to the proximity to residential structures, all lighting for the subject property should be directed away from the residential structures to reduce the impact of the commercial light and glare onto the residential property. All vehicular use areas shall be paved.

#### SPECIFIC LAND USE CRITERIA

The applicant’s proposal is in compliance with the Comprehensive Plan. A portion of the subject property is currently zoned B-4 General Business and it is a logical expansion of existing B-4 zoning located immediately north and east of B-4 zoning. The expansion of the B-4 zoning should not significantly increase the extent of the zone in the vicinity of the expansion. With indirect access to US Highway 60 E and Pleasant Valley Road through the

Wyndall's Shopping Center parking lot, the expansion of the B-4 General Business zoning should not overburden the capacity of roadways or other urban services that are available in the affected area.

## 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. No access shall be permitted to E 6<sup>th</sup> Street with access to the tract limited to the existing vehicular use area of the adjoining shopping center;
2. Submission of a final development plan prior to issuance of building permit;
3. All vehicular use areas shall be paved;
4. A 10' landscape easement with a six foot element and one tree every 40 linear feet shall be installed where adjoining residentially zoned property to the south and west; and,
5. Due to the proximity to existing residential zones, all lighting for the subject property shall be directed away from the residential property to reduce the glare and impact of the lighting on the residential uses.

### Findings of Fact:

1. The subject property is located in an Urban Residential Plan Area, where general business uses are appropriate in very-limited locations;
2. A portion of the subject property is currently zoned B-4 General Business;
3. The proposal is a logical expansion of B-4 zoning located immediately north and east of the subject property; and,
4. With no access to E 6<sup>th</sup> Street, US Highway 60 E or Pleasant Valley Road, the expansion of the B-4 zoning 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.