

Article amendments approved unless noted:	OMPC	Owensboro	Daviess Co.	Whitesville
Revised zoning ordinance	08-Sep-1979	14-Mar-1980	27-Dec-1979	07-Apr-1980
Complete revision of Article 16	14-Nov-1985	17-Dec-1985	18-Dec-1985	?
2003 Review Committee: Added language throughout article to allow Director to approve final development plans; continued to require preliminary and final development plans submitted with zoning map amendments to be approved by OMPC; required final development plans to be approved by OMPC when there is question regarding ordinance or utility requirements, or at the Director's discretion, or when requested by the applicant; added language to require combination preliminary subdivision plats/final development plans to be approved by OMPC, but allowing minor amendments to combination plans to be approved by the Director {16-3(a), 16-4(c), 16-8(c)(4)}; added language to state requirement that fire chief and utility agency signatures be on development plans prior to submittal to OMPC office {16-4(b), 16-7(b)}; added certification requirement for signature by Director {16-6(a)(17)}; added requirement to show existing and proposed water lines and fire hydrants on development plans and to require certification by fire chief and water utility approving the water main and fire hydrant(s) {16-6(a)(18)}.	11-Dec-2003	02-Mar-2004	05-Feb-2004	06-Apr-2004

16-1 INTENT AND PURPOSE. The purpose of this Article is to establish and define development plans which may be utilized for a wide variety of planning related procedures. This Article outlines the content and procedure for submission, review, and approval of all development plans required by the Zoning Ordinance and Subdivision Regulations unless another procedure or different contents are specified elsewhere in this Zoning Ordinance.

16-2 REQUIREMENTS AFFECTING TIMING OF DEVELOPMENT ACTIVITY.

16-2(a) Approval of Development Plan and Soil Erosion Control Before Disturbance of Natural Ground Cover.

(1) For any case where a development plan is required by this Zoning Ordinance, and the subject property is one (1) acre or more in area, no grading, stripping, excavation, filling, or other disturbance of the natural ground cover shall take place before the OMPC or the OMPC Director has approved a development plan (preliminary or final as appropriate) and the city or county engineer has approved the developer's proposed soil erosion control procedures.

(2) In any case where approval of soil erosion control procedures would normally be required but, in the opinion of the city or county engineer, the typical

contents of such procedures would be insufficient to preclude adverse affects to the capacity of drainage channels and structures in the vicinity of the planned project, the city or county engineer may require that a soil erosion control plan accompany the submission and approval of a final development plan before the natural ground cover is disturbed.

(3) The contents of soil erosion control procedures and plans shall be determined by the city or county engineer, unless this Zoning Ordinance contains stricter specifications.

16-2(b) Changes to Site Topography Before Approval of Final Development Plan.

The developer is advised to proceed with caution when making changes to site topography after the required approval of a preliminary development plan and soil erosion control procedures (where no soil erosion control plan is required), but before the OMPC or the OMPC Director has approved a final development plan and, if applicable, a preliminary subdivision plat. Detailed engineering requirements for streets and other public facilities may necessitate additional changes to site topography beyond those already made by the developer.

16-2(c) Approval of Development Plan Before Building Permit.

For any case where a development plan is required by this Zoning Ordinance, no building permits shall be issued until a final development plan is

approved by the OMPC or the OMPC Director and a copy of said plan is certified to the Building Inspector by the Director of the OMPC. The approval of a development plan shall limit and control the issuance of all building and occupancy permits, and restrict the construction, location, and use of all land and structures to the conditions as set forth in the plan.

16-3 WHERE REQUIRED. Development plans shall be required as follows:

16-3(a) Development Plans Required for B-1, B-3 and MHP. All applications for zoning map amendments to the B-1, B-3 and MHP zones shall require the submission and approval by the OMPC of a preliminary development plan. The preliminary development plan shall be required to be submitted in conjunction with the zoning map amendment request. No preliminary development plan shall be required for MHP zones established prior to the enactment of this section.

The OMPC or the OMPC Director shall approve a final development plan prior to the development of the property. The developer may submit a final development plan in place of a preliminary development plan to the OMPC in conjunction with an application for a zoning map amendment if desired.

16-3(b) Development Plans Required at OMPC Discretion. The OMPC at its discretion may require the submission and approval of a preliminary development plan, a final development plan, or both, for the subject property of any zoning map amendment proposal if the OMPC finds there are existing or potential substantial flood, drainage, sewage, traffic, topographic, land-use buffering or other similar problems relating to the development of the subject property that could have an adverse influence on existing or future development of the subject property or other property in the neighborhood. Preliminary and final development plans submitted in conjunction with a zoning map amendment request shall be considered for approval by the OMPC.

16-3(c) Development Plans Required for Multiple Principal Structures. Development plans are required by this Zoning Ordinance to permit more than one principal structure and its accessory structures on a lot or parcel of land and shall be submitted to the OMPC office, in accordance with the provisions of this Article.

16-3(d) Development Plans Required for Multi-Business Structures. Development plans are required by this Zoning Ordinance to permit construction of

multi-business structures and shall be submitted to the OMPC office, in accordance with the provisions of this Article.

16-4 DEVELOPMENT PLAN PROCEDURES. The procedure for OMPC consideration of any development plan shall be as follows:

16-4(a) Filing. To request OMPC official action on the development plan, the developer shall file with the OMPC office a completed application form, filing fee and copies of the plan as required by the terms and conditions of the OMPC's application form.

16-4(b) Review. OMPC staff and concerned agencies shall review the development plan and seek a consensus on all issues. The applicant is required to receive approval from the appropriate fire chief and utility companies prior to submitting the plan to the OMPC office.

16-4(c) OMPC Action. Unless otherwise specified in this article, the OMPC's Director or the Director's agent shall have the authority to approve final development plans which comply with ordinance regulations and any requirements of concerned agencies. The plan shall be referred to the OMPC for action at a scheduled meeting in any of the following cases: if any question arises as to compliance with ordinance regulations or any requirements of concerned agencies; or at the discretion of the OMPC's Director; or at the request of the developer/applicant; or as provided in subsections 16-3(a), 16-3(b), or 16-8(c)(4) in this Article.

No development plans shall be considered for action by the OMPC until they have been reviewed by OMPC staff and concerned agencies, and recommendations have been forwarded to the OMPC. All development plans shall be approved or disapproved within ninety (90) days of the date they are formally filed for OMPC action, unless the developer agrees to a longer time period. However, in the case of a development plan filed in conjunction with a zoning map amendment request, the OMPC may postpone the development plan until after the legislative body has made its decision on the map amendment request. For cases such as these, the OMPC shall either approve or disapprove the development plan within sixty (60) days of the date of the legislative body's action on the map amendment request unless the developer agrees to a longer time period.

The OMPC will review recommendations of the staff and concerned agencies and then act for approval, conditional approval with conditions noted, postponement, or disapproval. The OMPC may modify or disapprove the development plan if it finds the plan does not comply with the requirements of the Zoning Ordinance, and when applicable, the Subdivision Regulations; or if it finds there are existing or potential substantial flood, drainage, sewage, traffic, topographic, land-use buffering or other similar problems relating to the development of the subject property. Reasons for action of postponement or disapproval shall be fully incorporated in the OMPC's minutes. The following actions by the OMPC shall have the meanings so stated:

(1) Approval. The development plan is ready to be certified by the OMPC Chairman and Secretary with no further corrections or revisions of the plan required from the developer.

(2) Conditional Approval. The development plan cannot be certified by the OMPC Chairman and Secretary until the developer has complied with the conditions of approval set forth in the record of OMPC action on the plan.

(3) Postponement. The OMPC has deferred action until some future OMPC meeting in order that certain clarification can be made in regard to the development plan. No completely new resubmittal is required of the developer as is the case for disapproval.

(4) Disapproval. The OMPC has disapproved the plan. To request new review and action, the developer must file a new application along with a filing fee, plan copies, and other material as required under this Article.

16-4(d) Certification of Approval. Within six (6) months of OMPC approval or approval by the OMPC director, unless a time extension has been granted previous to the expiration date, the following steps shall be completed, or else OMPC approval becomes null and void:

(1) The developer shall fully comply with any conditions of approval placed on the plan by the OMPC and submit the completed original tracing of the plan to the OMPC.

(2) The plan shall be certified by the OMPC Chairman and Secretary or by the OMPC director if it is in conformance with all requirements. OMPC staff shall

have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

(3) Time Extensions and Expired Plans. In conjunction with any request by the developer for a time extension or reapproval of an expired plan, the OMPC or the OMPC director may require changes in the development plan when time has necessitated such changes for the health, safety and welfare of the residents of the community, or when applicable ordinances and regulations have been changed.

16-4(e) Timing Restrictions. The following timing restrictions shall be applicable to development plans:

(1) Final development plans shall be submitted for OMPC consideration within two (2) years of the date of OMPC action on a preliminary development plan, otherwise, no further building permits shall be issued unless and until the plan is reapproved by the OMPC.

(2) The developer shall be required to obtain building permits for all structures shown on a final development plan within five (5) years of the date of OMPC or the OMPC director's action on the development plan, otherwise, no further building permits shall be issued unless and until the plan is reapproved by the OMPC or the OMPC director.

16-5 TYPES OF DEVELOPMENTS PLANS. There shall be a preliminary development plan and a final development plan, defined as follows:

16-5(a) Preliminary Development Plan. A preliminary development plan is a site plan by which, at the early stages of development design, the OMPC may consider, approve and restrict many major aspects of the development without requiring an undue amount of final design work on the part of the developer. The preliminary development plan is less detailed and specific than a final development plan in terms of exact arrangement of buildings, parking areas, open spaces, access points and any other site design features. No building permits can be issued based upon a preliminary development plan.

16-5(b) Final Development Plan. A final development plan is a site plan from which a building permit will be sought. A final development plan is intended to deal with site design issues at a detailed level and to actually dictate the approved locations of buildings, parking

areas, open spaces, access points and any other site design features.

16-6 CONTENT AND FORMAT OF DEVELOPMENT PLANS. All development plans shall be prepared on Mylar or other material capable of clear reproduction. Plans shall be legible and of a size and scale (generally not exceeding 1" = 100') which enables clear presentation of required information. Required plan information shall be as follows:

16-6(a) Contents of Preliminary Development Plan. A preliminary development plan shall contain the following information at a minimum:

- (1) A title block containing the plan name, development plan type (preliminary or final), name and address of developer and plan preparer; and a written and graphic scale.
- (2) The boundary of the subject property and the zoning and owner names for all adjoining property.
- (3) Vicinity sketch, oriented in the same direction as the design scheme.
- (4) Topography with contour intervals, grid elevations or spot elevations of sufficient detail to generally describe the lay of the land.
- (5) Location, arrangement, and approximate dimensions of existing and proposed driveways, walkways, parking areas and arrangement of spaces, dumpster pads, points of ingress and egress, and other vehicular and pedestrian right-of-way.
- (6) Location, profiles and cross-sections of any proposed or existing streets or deceleration lanes (when deemed necessary) within or abutting the subject property.
- (7) Screening, landscaping, buffering (as required by Article 17), recreational, and other open spaces.
- (8) Approximate size, location, height, floor area, area arrangement, and use of proposed and existing buildings and signs.
- (9) Approximate location of lot lines for projects anticipated to involve land subdivision.
- (10) Storm drainage areas, floodplains, conceptual drainage controls and storm water retention, and any

other designated environmentally sensitive or geologic hazard areas.

(11) Proposed and existing easements for utilities or other purposes, locations of sanitary sewers including lengths and alignments of laterals, and where known, locations of electrical service lines to buildings and yard signs.

(12) Areas of substantial existing trees including those located along fencerows and drainage areas, along with a general description of the type and size of such trees.

(13) A statistical table summarizing all pertinent site data, including site area, zoning, building coverage and floor area, parking, open spaces, etc.

(14) (For projects of one (1) acre or more in area). A note stating that no grading, stripping, excavation, filling, or other disturbance of the natural ground cover shall take place unless and until the city or county engineer has approved the developer's proposed soil erosion control procedures and, if required, a soil erosion control plan.

(15) A note stating that no building permits shall be issued unless and until a final development plan is approved by the OMPC.

(16) An owner's certification, signed and witnessed as follows: "I (We) do hereby certify that I am (we are) the only owner(s) of the property shown hereon, and do adopt this as my (our) development plan for the property."

(17) An OMPC certification to be signed by the OMPC Director as follows: "I do hereby certify approval of this development plan on (date)"; or, a development plan requiring approval by the OMPC shall contain an OMPC certification to be signed by the OMPC Chairman and Secretary if and when the plan is fully approved, as follows: "We do hereby certify that this development plan was approved by the Owensboro Metropolitan Planning Commission at its meeting held on (date)".

(18) Plan shall show existing and proposed water mains, service lines, and fire hydrants. A certification on the plan drawing shall include the signatures of the city or county fire chief and the appropriate water district manager certifying approval of the water main and fire hydrant system.

16-6(b) Contents of Final Development Plan. A final development plan shall contain all information as required for preliminary development plans under the sections above, except that the plan information shall be of an exact nature, rather than approximate or general. The city or county engineer may require that a soil erosion control plan accompany the submission and approval of a final development plan before the subject site's natural ground cover is disturbed.

16-7 AMENDMENTS TO DEVELOPMENT PLANS.

Amendments to approved development plans can be made only by official OMPC action, if originally approved by the OMPC, or by the OMPC Director, if originally approved by the Director. Contents, format and procedures shall be as for the original submission. However, development plans originally approved by the OMPC at a scheduled meeting involving amendments that fully meet the requirements set forth hereinafter for minor amendments may be approved and certified by the OMPC's Director or the Director's agent without further action by the OMPC.

16-7(a) Minor Amendments Defined. Minor amendments are intended to expedite approval in those situations where amendments are of minor significance and generally relate to the shifting of previously approved spaces. Such amendments

- (1) shall not decrease the overall land area in yards or other open spaces;
- (2) shall not increase building ground area coverage, floor area, or height; or increase the number of dwelling units;
- (3) shall not change the location or cross section of any street and shall not increase the number or change the location of street access points on arterial or high-traffic collector streets;
- (4) may include a reduction in parking spaces only when an associated reduction in floor area or number of dwelling units would permit a lesser number of minimum required off-street parking spaces than required for the original development plan. To qualify as a minor amendment, this reduction may be equal to but not exceed the difference in minimum required parking between the original plan and the proposed minor amended plan. For any case, where parking in excess of the minimum requirement was provided on the original development plan, that same number of

spaces shall be provided in excess of the minimum requirement for the proposed minor amendment plan.

16-7(b) Procedures for Minor Amendments.

(1) **Filing.** To request approval of minor amendments to development plans, the developer shall file with the OMPC office a completed application form, filing fee and copies of the plan as required by the terms and conditions of the OMPC's application form. The applicant is required to receive approval from the appropriate fire chief and utility companies prior to submitting the plan to the OMPC office.

(2) **Review.** OMPC staff shall review the plan for compliance with all applicable requirements and ordinances and shall consult with concerned agencies as appropriate to assure proper plan review. Upon determination that all requirements have been met, the OMPC Director or the Director's agent shall certify the plan as approved. If any questions arise as to compliance, however, the plan shall be referred to the OMPC for action.

(3) **Certification.** Upon certification of approval by the OMPC Director or the Director's agent, OMPC staff shall have copies of the plan prepared and distributed to other public agencies at the expense of the developer, and return the original plan tracing to the developer.

16-7(c) Content and Format of Minor Amendments.

Minor amendments shall have the same content and format requirements as the original development plan, except that

- (1) the title shall indicate the plan is a minor amendment;
- (2) a note shall be added listing the exact nature of the requested changes; and
- (3) the following will be the required language for the OMPC Director's certification: "I do hereby certify that this development plan amendment complies with Zoning Ordinance provisions regarding amendments to development plans."

16-8 RELATIONSHIP TO SUBDIVISION REGULATIONS.

The relationships between development plans and the Subdivision Regulations are established as follows:

16-8(a) Applicability of Subdivision Regulations.

Although development plans are not subdivision plats, quite often the development plan does indicate a need or intent to subdivide property. For any such development plan, the design and improvement standards contained within the Subdivision Regulations shall be applied to proposals contained on the development plan.

16-8(b) Development Plans Required by the Subdivision Regulations. Development plans required by the Subdivision Regulations are required to conform with the provisions of this Article of the Zoning Ordinance.

16-8(c) Development Plans and Preliminary Subdivision Plats May Be Combined. It is recognized that for certain development situations it can be advantageous to both the developer and the OMPC to combine the functions and requirements for development plans and preliminary subdivision plats in order to streamline the development approval process while not reducing the quality of the review. The following provisions shall be applicable to any such combined plan:

- (1) The developer shall meet with the OMPC staff on later than five (5) working days in advance of the filing deadline to discuss the appropriateness of filing a combined plat.
- (2) The plan shall show all information required for a development plan (preliminary or final as appropriate) and all information required for a preliminary subdivision plat as set forth in the Subdivision Regulations.
- (3) Provisions relating to the timing of public or private streets or other public or common use improvements in relation to the timing of building permit issuance may be required.
- (4) The plan shall be considered for approval by the OMPC at a scheduled meeting and not by the OMPC Director. However, minor amendments to development plans as defined in this Article may be approved by the OMPC Director.

16-8(d) Preliminary or Final Subdivision Plat May Be Substituted for Development Plans Required in Conjunction with Map Amendment. It is recognized that in certain cases a preliminary or final subdivision plat would be as appropriate or more appropriate to be considered in conjunction with a map amendment

request than would a development plan. Generally, such situations involve developments where placement of structures will be tightly controlled by the streets, lot pattern, and requirements for placement of structures within the zone, and where the developer sees fit to have plans prepared at the required level of detail for subdivision plats prior to receiving a zone change approval. When a developer is required at the discretion of the OMPC to provide a development plan in conjunction with a zoning map amendment request, the developer may file a subdivision plat in place of the development plan, if deemed appropriate by the OMPC and OMPC staff. In any disputed case, the OMPC shall make the final judgment as to whether a development plan or a subdivision plat is required. Development plans required by this Article for zoning change requests to B-1, B-3 or MHP zones may be combined with subdivision plats where appropriate, but such a development plan shall not be replaced by a subdivision plat alone.