

JULY 14, 2005

PORTION OF 1213 NICHOLAS DR

ZONE CHANGE

From: B-4 - General Business		
To: R-3MF - Multi-Family Residential		
Acreage: 4.473 +/- acres		
Applicant: James L. Hawkins, Bertha Goetz Estate (0507.1599)		
Property Zone Existing Use	to North B-4 Vacant	
to West B-4 Vacant	Subject B-4 → R-3MF Vacant	to East R-3MF Multi-Family Residential
	to South B-4 Vacant & Kennel	

**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 an R-3MF Multi-Family Residential zone. The subject property is located in a Business Plan Area, where mid-density residential uses are appropriate in limited locations.

SPECIFIC LAND USE CRITERIA

(a) Building and lot patterns should conform to the criteria for “Urban Residential Development.”

(b) Existing, expanded or new sanitary sewers - Urban Mid-density Residential uses should occur only where sanitary sewer systems exist or may be expanded, or where new systems may be properly established.

(c) Logical expansions - Existing areas of Urban Mid-density Residential uses may be expanded onto contiguous land. An expansion of this use should not overburden the capacity of roadways and other necessary urban services that are available in the affected area.

(d) New locations near major streets - In Urban Residential, Professional/Service, Business, and Rural Community plan areas, new locations of Urban Mid-density Residential uses should be “major-street-oriented.”

Applicant's Findings

The Comprehensive Plan recommends Urban Mid-density residential in limited locations as an appropriate land use for this area.

All urban services, including sanitary sewers currently exist at this site.

The proposed property development will consist of building lot patterns conforming to Urban Residential Development and residential (multi-family) in character.

Existing Urban Mid-density Residential land uses exist adjacent to and immediately east of the site. Rezoning to R-3MF will be a logical expansion of said current R-3MF zone. The site is situated on the eastern side (fringe) of the current Bertha Goetz development site.

The tract located adjacent to and immediately northwardly is currently owned by a healthcare corporation. The area around the Towne Square neighborhood is a mixed-use area. The proposed rezoning is compatible with said mixed-use area.

Planning Staff Review

The subject property is located in the 1200 block of Nicholas 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 partially located in a special flood hazard area per FIRM Map 21059CO260 C. It appears that a portion of the subject property is designated as prime agricultural land according to the "Important Farmlands" map created by the US Department of Agriculture Soil Conservation Service dated March 1980. However, the Comprehensive Plan recognizes the loss of some prime farmland through urbanization. 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 part of the Bertha Goetz Estate subdivision that is currently zoned B-4 General Business. A final development plan/major subdivision preliminary plat has been submitted in conjunction with the rezoning proposal.

The property to the north, south and west is all currently zoned B-4 General Business. The majority of the property is vacant but a kennel does exist south of the subject property. Because there is a requirement for a 100' buffer from a residential zone for a veterinarian/kennel operation, rezoning of this property to R-3MF could impact the kennel/vet office plan for any future expansion. The kennel/vet did receive a variance in November 2001, to reduce the 100' buffer requirement from the apartments located east of the subject property. The plans submitted and reviewed by planning staff showed future expansion of

dog runs to the north property line. As reviewed, no variance was required along that property line since the property was zoned B-4. Also, the adjoining property owner has on file a Stream Construction permit that includes the future dog run expansion planned. The applicant should be aware the plans exist and that the operator of the kennel/vet has the right to proceed with previous plans regardless of the fact that the subject property would be zoned residential since in this instance, the residential use is encroaching on an approved use that could be considered incompatible with residential uses. Due to the potential impact, the concerns of the existing commercial use should be taken into consideration.

To the east is an existing apartment complex that is zoned R-3MF Multi-Family Residential. Although the subject property abuts an R-3MF Multi-Family Residential zone, the orientation of the lots front on different streets. Because of the difference in orientation, the expansion of the R-3MF zoning to the east does not meet the specific criteria to be deemed a "logical" expansion. The proposal is however an expansion of contiguous R-3MF zoning within the neighborhood and while not oriented toward the same street, the areas are connected via the neighborhood street network. Additionally, a development plan was approved on February 11, 1999, by the OMPC for the Sterling House and Sterling Cottage development for the property immediately north of the subject property. The development plan included the construction of 82 total residential units for an elderly and memory care facility.

The site is a new location of multi-family that is adjacent to an approved development plan for residential development, adjoins R-3MF zoning to the east and it is located near major streets. Although the property will have direct access to Sydney Lane, the overall Goetz development is served by Goetz Drive which is classified as a major collector roadway.

Two access points on Sydney Lane are proposed to serve the 58 apartment units. Since the residential development will abut existing commercially zoned property, appropriate landscape screening should be installed to buffer the varying uses. The buffer installed along the commercially zoned properties shall include a 10 foot landscape easement with a continuous six foot high planting, hedge, fence, wall, or earth mound with one tree every 40 linear feet.

SPECIFIC LAND USE CRITERIA

Sanitary sewers are currently available to the site that will serve this residential development. Although the subject property is adjacent to an R-3MF zone, due to the orientation of the lots, does not meet all criteria for a

logical expansion. However, a development has been approved for residential development of the tract north of the subject property. The existing apartments east of the subject and approved residential plans north of the subject property are all within the same neighborhood and the subject property is in the vicinity of Goetz Drive which is classified as a major collector roadway.

Planning Staff Recommendations

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

Condition:

1. Install a 10 foot landscape buffer adjacent to all commercially zoned properties with a continuous six foot high planting, hedge, fence, wall, or earth mound with one tree every 40 linear feet.
2. The owner/applicant of the subject property shall file a variance to remove the 100' buffer requirement for the kennel/vet office located at 1201 Nicholas Drive prior to the issuance of any building permits.

Findings of Fact:

1. The subject property is located in a Business Plan Area, where mid-density residential uses are appropriate in limited locations;
2. Sanitary sewers currently exist to serve the site;
3. The proposal is immediately adjacent a tract of land to the north that has an approved 82 unit residential development for an elderly and memory care facility;
4. The subject property is immediately east of an existing R-3MF Multi-Family Residential zone; and,
5. The subject property is near the intersection of Goetz Drive which is classified as a major collector roadway.