

FEBRUARY 12, 2009

6331 AULL RD

ZONE CHANGE

From: A-R Rural Agriculture
EX-1 Coal Mining

To: EX-1 Coal Mining

Proposed Use: Coal Mining

Acreage: 100.94

Applicant: Western Kentucky Minerals, Inc.;
Lewis Rhodes Estate c/o Mary Juanita
Rhodes (0902.1736)

Property Zone Existing Use	to North A-R Pasture, Residential	to East EX-1 Pasture, Residential
	Subject A-R ↔ EX-1 Pasture, Wooded	
to West A-R, EX-1 Cropland, Pasture	to South EX-1 Cropland	

**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 EX-1 Coal Mining zone. The subject property is located in a Rural Maintenance Plan Area where coal mining uses are appropriate in general locations.

SPECIFIC LAND USE CRITERIA

(a) Coal mining standards - Coal mining should conform with the following standards:

- 1) Locational Guidelines:** Coal mining activities should be located in the Rural Service Area, outside of Rural Community plan areas, in Rural Preference or Rural Maintenance plan areas. Mining activities should not occur in the 100-year floodplain. The particular location, scope, and characteristics of mining operations should be subject to **Discretionary Limits on Coal Mining**.
- 2) Site, Operational, Reclamation Plans and Procedures:** Due to the potentially adverse environmental impact of coal mining, detailed site, operation and reclamation plan information is required by the state. **State mandated procedures** must be followed. Necessary permits must be obtained from federal, state and local agencies having jurisdiction over any phase of the operation prior to the beginning of said operation. The planning commission or respective authority may require the posting of sufficient surety for maintenance and repair of those public facilities which are not otherwise bonded. The planning commission, at its discretion, may require pre-blast surveys be conducted for building on neighboring property, even beyond the requirements of state law. The planning commission may seek action to halt operations occurring in violation of state law or in violation of its discretionary requirements or limits.
- 3) Soil and Geology:** Evidence of the presence of coal should be supported by USGS Maps, core drills, etc. An investigation should be made to determining the agricultural potential of the land. **Prime agricultural land**, as defined by the U.S. Soil Conservation Service, must be protected from normal mining procedures, as required by state law.
- 4) Activity Buffers:** Coal mining should not be permitted within a minimum of **100 feet** of a public right-of-way nor within a minimum of **300 feet** of neighboring residential or nonresidential developed property, unless appropriate waivers are granted. These minimums may not be adequate in all cases and may be re-established dependent on circumstances of individual cases.

5) Transportation Plan and Access Design: A transportation plan must be prepared, and must be approved by the state highway department and the county engineer, as appropriate, showing the route to be followed in hauling coal from the site to ultimate destination in Daviess County. Surety should be provided to assure maintenance and repair of public roads and bridges. Particular attention should be given to proper and safe design of vehicular access points to public roads and highways. Access points should be located to assure adequate sight distances along through roadways and at stop legs of intersections. Such points should be altered, if necessary, to satisfy property and safe design.

(b) Discretionary limits on coal mining: Generally, mining should be permitted wherever coal exists in rural area. However, where the planning commission finds advisable, limits may be set on the mining process where deemed necessary. The establishment of limits may arise from consideration of such issues as the pattern, density and predominance of nearby, established development; the zoning of adjoining properties; the impact of past or existing mining in the vicinity; and proximity of the mining area to highways.

Applicant's Findings

1. The subject property is located in a Rural Maintenance Plan Area where coal mining uses are appropriate in general locations;
2. The subject property is located in the Rural Service Area outside of a Rural Community Plan Area;
3. The subject property adjoins existing areas of EX-1 Coal Mining zoning;
4. The Philpot-Maceo Quadrangle Map indicates the presence of coal deposits on the site: and,
5. State and county roads proposed to be used for the transportation of coal have been approved by the appropriate officials.

Planning Staff Review

The subject property is located in the 6301 block of Aull Road. 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 21059CO170 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is partially located in a special flood hazard area per map 21059CO170 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

Electricity, water and gas are available to the subject property.

Development Patterns

The subject property is located in an area of mixed rural residential, agricultural and coal mining uses. The property has coal mining zoning on three sides and the property to the north has been submitted for rezoning to coal mining. A significant portion of the subject property is already zoned for coal mining.

SPECIFIC LAND USE CRITERIA

General and specific land use criteria applicable to coal mining proposals are: location, site and mining procedures; soils, geology, and fragile areas; activity buffers; and transportation plan and access design. These items are reviewed below.

LOCATION

The subject property is located in the 6301 block of Aull Road. The subject property is in the Rural Service Area and within a Rural Maintenance Plan Area. There are numerous coal mining zonings in the vicinity that have historically been active in coal production.

SITE & MINING PROCEDURES

The subject property is a primarily flat 100 acre tract of land that has frontage along Aull Road. The applicant's attorney has indicated verbally that coal is to be mined by surface mining techniques.

SOILS, GEOLOGY & FRAGILE AREAS

A review of soils indicates that a significant amount of prime farmland may be present on site. Also, it appears that a significant 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. The applicant should be aware that state law requires protection of prime agricultural lands from normal mining practices.

The Philpot-Maceo Quadrangle Map of the U.S. Geological Survey indicates the presence of coal deposits on the site. Coal to be mined is from the Lewisport and Leadcreek coal beds with average coal seam depths are between 10 and 36 inches. Coal depths range from 10 feet to 70 feet below the surface.

The subject property does not contain any known historical or archaeological sites. According to the applicant and information contained within the adopted Comprehensive Plan, the subject property does not contain areas of steep slopes greater than 16 percent grade.

The subject property is partially located in a special flood hazard area per FIRM Map 21059CO170 C. Based on the preliminary FIRM maps dated July 7, 2007, the subject property is partially located in a special flood hazard area per map 21059CO170 D. Mining activity shall take place outside of any area within the 100-year floodplain area. Also, 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

ACTIVITY BUFFERS

Mining activities should maintain a minimum 100 foot buffer from any road right-of-way and a 300 foot buffer from any residential or nonresidential developed property. Should any mining activity be required within these buffer areas, a waiver from the state and/or property owner and a variance from the Owensboro Metropolitan Board of Adjustments would be required.

TRANSPORTATION PLAN & ACCESS DESIGN

Coal mined on the subject property is proposed to be removed from the site via Aull Road. The applicant has submitted a transportation plan that has been approved by the Kentucky Transportation Cabinet and the Daviess County Engineer for all roads that will be used to haul coal from the subject property to the Yellow Banks River Terminal. The applicant may be required by the county engineer and/or state highway official to post bond or acquire excessive weight permits for the coal transportation activities to ensure that roads are properly maintained and not damaged during transport.

Planning Staff Recommendations

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

Condition - No mining activity shall take place within the floodplain and prime farmland shall be protected from normal mining practices.

Findings of Fact:

1. The subject property is located in a Rural Maintenance Plan Area where coal mining uses are appropriate in general locations;
2. The subject property is located in the Rural Service Area outside of a Rural Community Plan Area;
3. The subject property adjoins existing areas of EX-1 Coal Mining zoning;
4. The Philpot-Maceo Quadrangle Map indicates the presence of coal deposits on the site: and,
5. State and county roads proposed to be used for the transportation of coal have been approved by the appropriate officials.