

OCTOBER 8, 2009

2901 VEACH RD	
ZONE CHANGE	
From: B-4 General Business	
To: R-1B Single-Family Residential	
Proposed Use: Single-Family Residence	
Acreage: 0.193	
Applicant: William and Joan Kolok (0910.1763)	
Surrounding Zoning Classifications:	
North: B-4	South: B-4
East: B-4	West: B-4

Proposed Zone & Land Use Plan

The applicant is seeking an R-1B Single-Family Residential zone. The subject property is located in a Business Plan Area, where urban low-density residential uses are appropriate in very-limited locations.

SPECIFIC LAND USE CRITERIA

- (a) **Building and lot patterns** - Building and lot patterns should conform to the criteria for “Urban Residential Development” (D6).
- (b) **Existing, expanded or new sanitary sewer** - Urban low-density Residential uses should occur only where sanitary sewer systems exist or may be expanded, or where new systems may be property established.
- (c) **Only logical expansions** - In Business plan areas, completely new locations of Urban Low-density Residential use should not be established. However, existing areas of this use may be expanded onto contiguous land.

Planning Staff Review

GENERAL LAND USE CRITERIA

Environment

- It appears that the subject property is not located in a wetlands area per the US Department of Agriculture Soil Conservation Service dated March 6, 1990.
- The subject property is located in a special flood hazard area and floodway per FIRM Map 21059CO276 D.
- It appears that the subject property is outside the Owensboro Wellhead Protection area per the GRADD map dated March 1999.
- The developer is responsible for obtaining permits from the Division of Water, The Army Corp of Engineers, FEMA or other state and federal agencies as may be applicable.

Urban Services

All urban services, including sanitary sewers, are available to the site.

Development Patterns

The subject property is surrounded by B-4 General Business zoning classification on all sides. The B-4 zoned property to the north is an existing single-family residence. All other surrounding land uses are consistent with B-4 zoning classifications.

The applicant states in their findings that the property to the south is a single-family residence being used as an insurance office. An insurance office is permitted within a B-4 zoning classification and although the structure may have been a single-family residence at one point, it has been converted to a commercial structure. The subject property also has a history of commercial use. It appears as though the property has been used as a gifts and ceramics shop since around 2001.

The applicant proposes to use the subject property as an art studio and single-family residence and to construct an addition on the existing structure. The use of the property as an art studio with an accessory dwelling is permitted in a B-4 General Business zoning provided that required parking can be met on site. The applicant was unable to develop a plan with sufficient parking due to a tree on the property that the applicant did not want to remove.

The applicant is seeking a residential zone in order to eliminate on-site parking that would be required in the B-4 zone. An art studio could also be conditionally permitted in an R-1B zone allowing employees and customers, but under the conditional use permit, parking requirements must be met. An art studio can be accomplished as a home occupation within a residential zone provided that specific requirements of the zoning ordinance are followed. The following criteria apply:

1. The use is clearly incidental and secondary to use for dwelling purposes;
2. The use is conducted entirely within a dwelling and not in an accessory building;
3. The use is carried on only by residents of the dwelling, with no non-resident employees or agents;
4. No commodities are sold except as are produced on the premises;
5. The use does not require external alteration of the dwelling; and,
6. The use does not adversely affect the use permitted in the immediate neighborhood by excessive traffic generation or noise.

If used as a home occupation, the applicant should be aware of each criterion and understand that customers are not permitted, retail sales is not permitted, and no

additional employees other residents of the dwelling are permitted.

The rezoning of the subject property to a residential zone will require a ten foot landscape easement, six-foot element and one tree every 40 linear feet where adjoining commercial zoning to the north, east and south. The applicant has submitted a variance in conjunction with the rezoning to eliminate all buffers and screening requirements as stated. If developed under the commercial zoning classification, the proposed use of the property would not require any screening from the adjoining properties.

In the vicinity of the subject property, Veach Road is classified as a major collector roadway with a 250' access spacing standard. The site currently shares a drive with the property to the south.

The subject property is located within the floodway. The applicant proposes to construct an addition to the existing structure on the subject property. Since the addition will be within the floodway, a conditional use permit is required along with supporting documentation from appropriate regulating agencies for construction in a floodway. The applicant has submitted an application for conditional use permit.

SPECIFIC LAND USE CRITERIA

The applicant's proposal is not in compliance with the Comprehensive Plan. The surrounding property is zoned entirely B-4 General Business which is appropriate within a Business Plan Area. With the exception of the property to the north which is still maintained as a single-family residence, land uses in the vicinity are consistent with B-4 zoning classification. The subject property has a history of use for non-residential purposes. The use of the property as proposed by the applicant can be accomplished within the current zoning classification if adequate parking is provided on-site. The subject property does not adjoin any single-family residential zoning and is therefore not a logical expansion.

Planning Staff Recommendations

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. This recommendation is made subject to the findings of fact that follow:

Findings of Fact:

1. The subject property is located in a Business Plan Area, where urban low-density residential uses are appropriate in very-limited locations;
2. The current zoning of the property and all surrounding properties is B-4 General Business which is consistent with the Business Plan Area in which the property is located;

3. With the exception of the property to the north, land uses in the vicinity are consistent with B-4 zoning;
4. The subject property has a history of non-residential use as a gifts and ceramics shop;
5. The proposed use of the property can be accomplished under the current zoning classification;
6. The proposed rezoning does not satisfy the logical zoning expansion criteria of the Comprehensive Plan; and,
7. The current zoning is appropriate for the proposed use and accessory dwelling and the proposed zoning is less appropriate.