

DECEMBER 14, 2006

**2600 W 10TH ST; 1008, 1016, 1018 OMEGA
ST; 2517, 2521, 2523 LANCASTER AV**

ZONE CHANGE

From:	I-1 Light Industrial R-4DT Inner-City Residential	
To:	I-2 Heavy Industrial	
Proposed Use:	Salvage operation and automobile parts storage	
Acreage:	1.84	
Applicant:	Judson Ray and Gloria Jean Drewry. (0612.1667)	
Property Zone Existing Use	to North R-4DT, B-4 Residential and Church	
to West R-4DT, B-4 Residential and nursing home	Subject I-1, R-4DT ⇄ I-2 Salvage operation and auto parts storage	to East P-1 Dugan Best Park
	to South B-4 City Garage and Business Area	

**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 I-2 Heavy Industrial zone. The subject property is partially located in a Professional/Service Plan Area, where heavy industrial uses are appropriate in very-limited locations and partially located in a Central Residential Plan Area, where heavy industrial uses are generally not recommended.

SPECIFIC LAND USE CRITERIA

- (a) Building and lot patterns; outdoor storage areas -** Building and lot patterns should conform to the criteria for “**Nonresidential Development**” and outdoor storage yards to “**Buffers for Outdoor Storage Yards.**” Furthermore, an building or outdoor storage, loading or working areas (except for accessory parking areas) should be located at least **three-hundred (300) feet** from any urban residential area and **one-hundred (100) feet** from any other area except those containing light industrial or agricultural/forestry uses.
- (b) Logical expansions outside of Industrial Parks -** Existing areas of Heavy Industrial use that are located outside of planned Industrial Parks may be expanded onto contiguous land that generally abuts the same street(s). Such an expansion should not overburden the capacity of roadways and other necessary urban services that are available in the affected area. Also, such an expansion should be of adequate size and shape to provide the separation from incompatible uses cited in criteria (a) above.

Applicant's Findings

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

The subject property is located in a professional/service plan area (where heavy industrial uses are appropriate in very limited locations) and central residential plan area. The line that establishes the boundary between the land use plan areas indicates that the land use plan did not anticipate the consolidation of the subject parcels into a single trace with a common use. It is our contention that the professional/service land area is the appropriate plan area for this property.

Applicant, in July, 2001, rezoned part of the property at 2600 W 10th Street (0.42 acres) from B-4 General Business to I-1 Light Industrial.

Applicant, in March, 1996, rezoned part of the property at 1008, 1016, 1018 Omega Street (0.86 acres) from B-4 General Business and R-4DT to I-1 Light Industrial.

The property located at 2517 Lancaster Avenue was purchased by the applicant in 1998. The property located at 2521 Lancaster Avenue and 2523 Lancaster Avenue was purchased in 2005. The properties located at 2521 and 2523 Lancaster Avenue consisted of several dilapidated houses, piles of building material, and other debris. Since the purchase of these properties by the applicant, he has made substantial changes in the neighborhood, such as:

- 1) Clearing the debris from the property;
- 2) Removal of all old structures from the property; and,
- 3) Constructing a solid, attractive fence around the perimeter of the properties.

Applicant desires to continue the use of the subject property as an auto and truck parts storage business and as a salvage yard. Applicant has been operating a parts storage and salvage operation at 1008 Omega Street for the past ten (10) years. Applicant was unaware that he was operating a salvage yard in violation of the local OMPC regulations.

Applicant desires to expand his business operation on the properties located on Omega Street, 10th Street and Lancaster Avenue to include a salvage operation, which includes disassembling disabled vehicles and the recycling of automobile and truck parts, and to store and disassemble disabled vehicles.

A conditional use permit application has been filed with this rezoning application since the salvage operation requires said permit.

Criteria

(a) Building and Lot Patterns:

As pointed out in the staff report of the previous rezoning at 2600 W 10th Street, which is part of the subject property (July 12, 2001 rezoning from B-4 to Light Industrial), the area can be considered a mixture of residential, industrial, recreational and assembly uses. The heavy industrial use of the property has been on-going in this Mechanicsville Section of Owensboro for over 40 years. The major uses of the past 40 years of this property include but are not limited to, a salvage yard, oil field, storage yard, welding shop and auto and truck storage. The applicant has a long-standing, good relationship with his neighbors and the majority support the applicant's endeavors to rezone the subject property.

Focus Area:

In the focus area which is bounded by Crabtree Avenue, Old Henderson Road, W 10th Street and an extension of the west property line of the Davco property due south to Old Henderson Road., there are presently three salvage operations.

- 1) In October, 2002, the property at 1920 McFarland Avenue (1.84 acre tract) was rezoned from B-4 to I-2 Heavy Industrial for vehicle salvage. This rezoning also required a variance and conditional use permit.
- 2) In May, 1979, the property at 1120 Crabtree Avenue (West Side Auto, Inc. - 2.46 acres) was rezoned from R-3 and I-1 to I-2 Heavy Industrial.
- 3) In January, 1978, the property located at the 2000 block of Lancaster Avenue and the 1000 block of Graves Lane was rezoned from I-1 Light Industrial and R-3 Residential to I-2 Heavy Industrial. In December, 1994, the Owensboro Metropolitan Board of Adjustments granted a variance for the property at 2024, 2026 and 2228 Lancaster Avenue. On or about the same time, the OMBA granted a conditional use for the same property.

As part of this rezoning application, the applicant is requesting a variance. The variance criteria requires a 300-foot buffer from any urban residential area and a 100-foot buffer from any other area except those containing Light Industrial or Agricultural. The purpose of the 300-foot buffer is to protect the adjoining property owners. The applicant has made every effort to contact each property owner individually to address any of their concerns. The response from the neighbors has been supportive of this rezoning.

(b) Logical Expansion Outside of Industrial Parks:

Although the proposed rezoning is not a logical expansion of heavy industrial zoning, because it is not contiguous, there is a logical expansion of many mixed uses and heavy uses within the focus area.

(c) Industrial Parks:

This criteria is not applicable.

Type II Findings

In the alternative, the existing zoning classification given to the subject property is inappropriate and the proposed zoning classification is appropriate.

The Comprehensive Land Use Plan and corresponding land use areas did not fully take into consideration the wide range of mixed uses and heavy industrial uses already existing throughout this area. The predominant land use in this area is non-residential. There is a history of heavy industrial uses in this area for over 40 years, but more importantly for this rezoning request, the principal land use in the area is industrial, both light and heavy.

There has been a history of I-2 Heavy Industrial rezoning with conditional uses and variances for salvage operation in the immediate area for many years.

Directly across the street of the subject property is located the Dugan Best City Park which was formerly the city dump.

Planning Staff Review

The subject property is located in the 2600 block of W 10th Street, the 1000 block of Omega Street and the 2501 block of Lancaster Avenue. 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 21059CO120C. 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 not in the vicinity of 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 located in an area of mixed residential, commercial, professional/service and industrial land uses. The property to the north and west are zoned B-4 and R-4DT, the property to the south is B-4 and the property to the east is P-1. Uses include a nursing home, city park, city garage, church, and limited retail uses. The subject property is partially zoned I-1 light industrial and partially zoned R-4DT.

These same zoning classifications, with the addition of I-2 zoning, are present within the focus area the applicant describes in their finding. OMPC has prepared a map showing the focus area which includes the street right-of-way, parcel boundaries and zonings which is included as an exhibit with this staff report. Based on the boundary of the focus area, as defined by the applicant, the applicant states that the predominant land use in this area is non-

residential. However, there is approximately 72.15 acres of land within the focus area and 54.01% is currently zoned R-4DT Inner-City Residential. The next highest percentage is 26.59% zoned either I-1 Light Industrial or I-2 Heavy Industrial with the majority of the industrial zoning being in the heavy industrial category. The remaining acreage included 10.43% zoned P-1 Professional/Service and 8.97% zoned B-4 General Business. As these numbers demonstrate, the area is composed of a variety of land uses and zonings, but more than half of the property is zoned residential while industrial zonings only account for a little more than one quarter of the overall total.

As the applicant stated in their findings, portions of the subject property have been rezoned on two different occasions. The first rezoning was in March 1996 for 1008, 1016, and 1018 Omega Street. At that time that applicant indicated the use for the property was the expansion of a truck repair business that had been in operation for approximately one year. The second rezoning was located at 2600 W 10th Street in July 2001, at which time the applicant stated that the intended use for the property was for a transmission repair shop. There was no mention of using the property as a salvage yard, or any other heavy industrial use, in either previous rezoning application. The use of the property as a salvage yard is not a permitted use under an I-1 zoning classification and it is difficult to argue for the continuation of a business that has been in violation of the zoning ordinance, especially when the use of the property as a salvage yard was started without the required application and permitting processes followed and considering the applicant has previously stated on two separate occasions that the property would be used for purposes other than the uses stated within this application.

Land-Use Intensity, Clusters and Buffers

In I-2 Heavy Industrial Zones, any building or outdoor storage, loading or working areas (except accessory parking areas) should be located at least **three-hundred (300) feet** from any urban residential area and **one-hundred (100) feet** from any other area except those containing light industrial or agricultural/forestry uses. The location of residential zoning to the west and north requires a 300-foot buffer to be established in those locations. Since the property is surrounded by non-industrial zones, the buffer requirements would be required if the rezoning is approved. The applicant does state in their findings that an application for variance to reduce the required buffers has been submitted. At the time of preparation of this staff report, neither a conditional use permit application nor variance application has been submitted. However, we anticipate their submittal to the Owensboro Metropolitan Board of Adjustments based on the applicant's statements.

The zoning ordinance requires a minimum 8-foot high solid wall or fence around salvage yards in accordance with Section 17.311 of the Owensboro Metropolitan Zoning Ordinance. Salvage yards are defined in Section 14.51 of the Zoning Ordinance as inclusive of auto wrecking yards. A fence has already been installed around the property which appears to meet this requirement. However, one tree per 40 linear feet is also required as part of the landscape screening which may the applicant to plant additional trees.

SPECIFIC LAND USE CRITERIA

The proposal does not meet the specific requirements of the Comprehensive Plan. It appears as though the required outdoor storage yard screening requirements could be established but the buffering requirement from incompatible land uses cannot be met without the issuance of a variance. The proposal is not a logical expansion of a contiguous heavy industrial zone that abuts the same street. Though the area is characterized by a mixture of uses, that does not substitute for the logical expansion criteria as stated within the Comprehensive Plan. A conditional use permit would also be required for the use of the property as an automobile salvage yard.

Planning Staff Recommendations

Staff recommends denial because the proposal is not in compliance with the community's adopted Comprehensive Plan. The findings of fact that support this recommendation include the following:

Findings of Fact:

1. The subject property is partially located in a Professional/Service Plan Area, where heavy industrial uses are appropriate in very-limited locations and partially located in a Central Residential Plan Area, where heavy industrial uses are generally not recommended.;
2. The proposed rezoning is not a logical expansion of a contiguous heavy industrial zoning;
3. The use of the property as a automobile salvage yard does not fit into the character of the surrounding properties; and,
4. Two previous rezoning applications for portions of the subject property did not indicate any intended use of the property as an automobile salvage yard although that use of the property was started in violation of the zoning ordinance.