

**FEBRUARY 8, 2007**

**7361 DESERTER CREEK RD**

**ZONE CHANGE**

**From:** EX-1 Coal Mining

**To:** A-R Rural Agriculture

**Proposed Use:** Agricultural, Residential

**Acreeage:** 129+/-

**Applicant:** James Donald Wimsatt, et. al  
(0702.1671)

<b>Property Zone Existing Use</b>	<b>to North</b> EX-1, A-R Agricultural	
<b>to West</b> A-R Agricultural	<b>Subject</b> EX-1 ↔ A-R Agricultural	<b>to East</b> A-R Agricultural
	<b>to South</b> A-R Agricultural	

**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 A-R Rural Agricultural zone. The subject property is located in a Rural Maintenance Plan Area, where rural farm residential uses are appropriate in general locations.

**SPECIFIC LAND USE CRITERIA**

**(a) Large tracts with agricultural potential** - Each dwelling should be located on a separate, large tract that has potential for productive agricultural use.

**(b) Access to existing public road via private drive** - Each dwelling/tract should have access to an existing public road; public roads should not be created or extended to provide access. Access should be provided via private drives. No more than two dwelling/tracts should share a single private drive where it connects with a public road.

**Applicant's Findings**

The proposed zoning map amendment is in compliance with the Comprehensive Plan. Mining operations have been completed in the area and the property is now ready to be zoned back to A-R Rural Agriculture.

**Planning Staff Review**

The subject property is located in the 7301 block of Deserter Creek 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 21059CO320C. 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. 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**

Electricity, water and gas are available to the subject property. Sanitary sewage disposal would be accomplished by an on-site septic system.

**Development Patterns**

The subject property is located in an area of primarily agricultural property with some coal mining zoning to the north. There are several scattered rural residences in the vicinity of the subject property and other larger agricultural tracts.

In conversation with the applicant's surveyor, the tract may be subdivided for future possible auction into primarily large agricultural tracts. While tracts over 10 acres could be divided in an EX-1 zone, the only use permitted would be coal mining or agricultural. It is anticipated that potential buyers may want to locate a dwelling on an agricultural tract. The EX-1 zone would not permit the construction of a new home. Prospective home owners should be advised of the historical and potential for future coal mining activities in the area. According to the application, all mining activities on the property have ceased and according to the Owensboro Metropolitan Zoning Ordinance Article 12a.31, the applicant must return the property to the previous zoning.

**SPECIFIC LAND USE CRITERIA**

The applicant's proposal is in compliance with the Comprehensive Plan. The subject property is a large rural tract approximately 129 acres in size which has been used for agricultural purposes. The large tract has significant road frontage along Deserter Creek Road which is a county maintained roadway. No new roads or streets are proposed with this application.

**Planning Staff Recommendations**

Staff recommends approval because the proposal is 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 located in a Rural Maintenance Plan Area, where rural farm residential uses are appropriate in general locations;
2. The subject property is a separate, large tract of land with agricultural potential;

3. The subject property has frontage on and access to Deserter Creek Road which is an existing street with no new streets proposed;
4. Mining activities have ceased and reclamation has been completed; and,
5. The Owensboro Metropolitan Zoning Ordinance Article 12a.31 requires that property shall revert to its original zoning classification after mining.